

## THE LEGAL FRAMEWORK FOR GEORGIAN PRIVATE HIGHER EDUCATION

*(Outline by Marie Pachuashvili)*

The legal framework for Georgian private higher education must be understood within the context of the country's overall higher education framework, but with special attention to provisions that target private higher education. The first phase of higher education restructuring in post-communist Georgia was characterized by overall governmental inaction and a set of haphazard innovatory attempts initiated mostly at the institutional level. Among the most noteworthy legal acts of this period are: *The Decree of the Supreme Council of the Republic of Georgia* (1991), facilitating private higher education development, and *The Decree of the State Council of Georgia* (1992), conferring autonomy to higher education institutions. An additional significant change came about in 1993 when public institutions were authorized to admit self-financed students.

The beginning of the second phase was marked by the approval of "*State Program for Education Reform and a Plan for its Realization*" in 1995. Arguably, it constituted the first consistent document issued from the Ministry of Education intended to accommodate higher education reform. It also formed the basis for *Education Law* (1997). With respect to higher education, one of the major aims that the Education Law sought was to fill in a legislative void and sanction practices initiated from below at the institutional level already in operation. For instance, it elucidated the regulatory regime with regard to private institutions and provided firmer legal grounding for the widespread policy of admitting self-financed students into public institutions. It also approved the two-level system of undergraduate and graduate studies which had been first launched by the Tbilisi State University in 1994-95s. The Law also envisaged curriculum reform, defined the state education standards and provided basis for introducing quality assurance mechanism. However, as it lacked necessary depth and detail, many aspects of the Law were not implemented. The document was further followed by numerous governmental decrees and ministerial orders mostly aimed at regulating the private enrolment growth via licensing, attestation, and accreditation procedures. Among these governmental efforts most notable are establishment of the Licensing Committee, developing

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the guidelines for a new accreditation procedure and the 1999 Ministerial decision to renew giving out licenses for private institutions after a pause of two years. The uncertainty surrounding the licensing procedure was partially resolved by the enactment of *the Law of Georgia on Licensing Entrepreneurial Activities* in 1999, which elucidated terms and requirements for licensing of entrepreneurial undertakings in general and of educational activities in particular. Finally, important was *the Presidential Decree* in 1999, following the proposal of the Ministry and the Rectors' Council, which authorized the Professors' Council to confer academic titles.

The third phase of the legislative reform dates from summer 2001 when the groundwork for a new law on higher education was laid down. The 2001 initiative came from the Georgian Parliament and was supported by the Council of Europe and the Open Society - Georgia Foundation. Outlining the keystones for future Georgian higher education involved a group of local and international experts, government officials, politicians and higher education institution representatives. The draft law was further refined and developed by the new, post "Rose Revolution" (November 2003) ministry of education working group. *The Law on Higher Education of Georgia* was passed in December 2004. The most important changes include: introducing new financial mechanisms based on vouchers, separation of administrative and academic functions in (public) university governance, and setting up accreditation and unified national examination procedures.

*The Law on Higher Education* (2004) together with *the Law of Georgia on Entrepreneurial Activities* (1999) and *the Civil Code of Georgia* (1997) regulate private institutions. According to these documents, the state and local self-government bodies may not be founders, interest holders or members of an institution established as a legal entity of private law. On the whole, the Law on Higher Education does not differentiate between private and public higher education institutions, though private institutions are subject to less governmental power and control (Chapter II on "Management of Higher Education System"). The Law grants private institutions with more self-rule in organizing institutions and defining hiring policies. For instance, Chapter IV on "Structure of Higher Education Institutions" and Chapter V on "Personnel of Higher Education Institutions" (with the exception of articles 32 and 35) do not apply to private institutions. Chapter XIV on "Property of Higher Education Institutions" also excludes privately owned educational organizations.