“FOREIGNERS IN THE USSR: THE INS AND OUTS OF SOVIET LAW’’ OR RECENT DEVELOPMENTS IN SOVIET LEGISLATION ON THE LEGAL STATUS OF FOREIGNERS.

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1. Introduction

In his speech at the occasion of the enactment of the new 1977 Soviet Constitution, President Leonid Brezhnev referred to the need to examine "the entire legislation in operation" and when necessary to improve existing legislation and to enact new laws. He further underscored the fact that the adoption of the 1977 Constitution – the fundamental law of developed socialism – was an historical event not only for the Soviet Union but also "an event of broad international significance. Its implementation will have long-lasting and deep influence far abroad the borders of our homeland".

In commenting upon these statements, the Soviet scholar V.F. Gubin has written that the arrival of Soviet society at the stage of developed socialism and the adoption of the new Soviet Constitution permit the expansion, enrichment, and strengthening of the legal and social status not only of Soviet citizens but also of those foreign citizens and stateless persons who find themselves located within the territory of the Soviet Union.

Since the adoption of the 1977 Constitution, detailed timetables of legislative activity have been published and Soviet law makers have been kept busy updating old and drafting new laws in order to bring the statute books into conformity with the provisions of the 1977 Fundamental Law. As part of the flurry of legislative activity in the USSR since 1977 in general and apparently as part of that expansion, enrichment, and strengthening of Soviet legislation concerning foreigners and stateless persons in particular, a milestone was reached on 24 June 1981 when the USSR Supreme Soviet enacted the first all-union, comprehensive Law on the Legal Status of Foreign Citizens in the

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2. L. Brezhnev in Konstitutsiia, op.cit., note 1, 39.
USSR; this was followed in 1984 by the publication on 10 May of Rules for
the Sojourn of Foreign Citizens in the USSR. Yet while only two years prior
to the enactment of the 1981 Law, two Soviet scholars had deplored the
scant attention which had been paid to the legal status of foreigners in the
Soviet Union, this does not mean that the boundaries to this subject are
limited solely to the text of new Law or the few writings which were pub-
lished prior to that date. Indeed, it should be made clear at the outset that
the legal status of foreigners in the USSR encompasses elements from several
branches of Soviet law — constitutional, public and private international,
civil, criminal, administrative, etc.

With this in mind, we have chosen to concentrate our attention within the
scope of this article upon one particular aspect of the legal status of foreign-
ers, i.e., the legislation on the entry, exit, and sojourn of foreigners in the
USSR. We shall begin with a survey of the history of Soviet legislation in
this area and then proceed to an examination of the recent legislation; there-
after, we will turn to the policy considerations which may have inspired the
promulgation of these new statutes. Finally, we shall attempt to outline the
practical considerations of such new legislation. It should be noted, how-
ever, that the question of the admission of foreigners to the Soviet Union
by way of a grant of asylum — while closely connected with this subject —
is nonetheless best treated as a separate subject of enquiry and will thus not
be dealt with here in extenso.

While this article is concerned primarily with domestic Soviet legislation
governing the exit, entry, and sojourn of foreigners, it would nevertheless
be inappropriate to neglect mention of parallel developments as regards this
subject in the area of Soviet public international law. The general relevance
of international agreements to this subject is mentioned prominently in
Article 2, para.3, of the 1981 Law: "The legal status of foreign citizens in
the USSR may also be determined on the basis of international treaties of
the USSR." Already in the mid- to late 1960s, the Soviet Union had con-

4. "Zakon o Pravovom Polozenii Inostrantsev v SSSR", Ved.SSSR 1981 No.26 item 836;
transl. in W.E. Butler, Collected Legislation of the USSR and the Constituent Union
Republics, Dobbs Ferry, NY, II-9, 1-12.
5. "Pravila Prebyvaniia Inostrantsev v SSSR", SP SSSR 1984 No.21 item 113; transl. by
of foreigners through the Soviet Union were also enacted at the same time and have been
translated by Butler, ibid., but will not be considered within the context of this article.
6. A.M. Arbuzkin, O.F. Muramets, Printsipy Pravovogo Regulirovaniia Prebyvaniia v SSSR
Inostrantsev, Moscow 1979, 5.
7. Mironov makes two significant conclusions regarding the wording of Article 2 of the 1981
Law: First, that unlike other branches of Soviet law, e.g., Article 129 of the federal Prin-
ciples of Civil Legislation, Article 2 does not contain any affirmation of the priority of
norms in an international treaty to which the USSR is a party where such treaty norms con-
FLICT with the provisions of the 1981 Law. The priority provision "is not a general norm or
general principle of Soviet law and is applied only to those spheres of regulation provided
for in laws containing such a norm ". Second, as a result where there is a relevant inter-