

**The Bilateral Order of the Minister of Internal Affairs of Georgia and the Minister of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia No. 1033-No. 2975**

**23 December 2014**

**Tbilisi**

**Approving the rule of cooperation between the Ministry of Internal Affairs of Georgia and the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia on identification, reception at the state border, referral of asylum-seekers and exchange of information**

Pursuant to paragraph 5.3.2.3 (Proposals/Recommendations) of the Government of Georgia Decree N°226 on the Approval of the Georgian State Border Management Strategy of 13 March 2014, and according to the paragraph 2.5 of the action plan approved by the Decree N°335 of 6 May 2014 of the Government of Georgia on Approval of the 2014 – 2018 Action Plan on the Implementation of the Georgian State Border Management Strategy, we **declare the following:**

**Article 1**

The attached rule on bilateral cooperation in the field of identification of asylum-seekers, their reception at the state border, referral and information exchange between the Ministry of Internal Affairs of Georgia and the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia shall be adopted;

**Article 2**

The order shall come into effect upon its publication.

**The Minister of Internal Affairs of Georgia**

**Aleksandre Tchikaidze**

**The Minister of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia**

**Sozar Subari**

# **Rule on cooperation between the Ministry of Internal Affairs of Georgia and the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia in the field of identification, reception at the state border, referral of asylum-seekers and exchange of information**

## **Chapter I General Provisions**

### **Article 1**

1. The Ministry of Internal Affairs of Georgia and the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia (MRA) guarantee protection of the rights of asylum-seekers, refugees and humanitarian status holders, the procedures of border crossing and the principle of *non-refoulement*. The above mentioned is in accordance with the Constitution of Georgia, international agreements, contracts and the requirements of the Law of Georgia on Refugee and Humanitarian Statuses;
2. This Rule defines the cooperation mechanism, directions and other issues concerning the identification and reception of asylum-seekers at the state border, their referral, and information sharing between the Ministry of Internal Affairs of Georgia and the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia.

### **Article 2**

The following Rule is based on the legislation of Georgia, the Constitution of Georgia, the Law of Georgia on Refugees and Humanitarian Statuses, the 1948 Universal Declaration of Human Rights, the 1951 UN Convention relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, the 1966 International Covenant on Civil and Political Rights and the 1996 Agreement between the Government of Georgia and the United Nations High Commissioner for Refugees.

### **Article 3**

Terms used in this Rule are defined as follows:

- a) An authorized body of the Ministry of Internal Affairs (MIA) of Georgia –Patrol Police department and the subordinate state agency-Border Police of the Ministry of Internal Affairs;
- b) Department of Migration, Repatriation and Refugee Issues (hereinafter – the Department) – a structural entity of the MRA;
- c) UNHCR – the United Nations High Commissioner for Refugees Representation in Georgia;
- d) Partner non-governmental organization – UN association of Georgia;
- e) Asylum Request – expression of will (in any form) by a person at the State border to obtain legal protection based on the Law of Georgia on Refugee and Humanitarian Statuses;

- f) Asylum-seeker – a person who is requesting legal protection verbally or in written form based on the Law on Refugee and Humanitarian Statuses granting refugee or humanitarian status;
- g) Unaccompanied Minor – a minor (under the age of 18) who is a citizen of a foreign country or a stateless person who entered Georgia alone, not accompanied by a legal guardian or authorized adult and who has no guardianship at the time of filing an application, or a minor who is no longer accompanied by a legal guardian or authorized adult after entering Georgia;
- h) Family Member – a spouse, child under the age of 18, an adult incapable child lacking legal capacity, incapable or elderly (pensioner) parent or another person being under guardianship or dependent of a refugee or a person with humanitarian status;
- i) Country of Origin – the country of citizenship or permanent residence of an asylum-seeker, refugee or humanitarian status holder;
- j) Principle of *non-refoulement*– the responsibility of the State not to return an asylum-seeker, holder of refugee or humanitarian status to a country or border of the country where the life or freedom of such person would be threatened on account of his/her race, religion, faith, nationality, membership to a certain social group, political views or because of violence, external aggression, occupation, internal conflicts, mass violation of human rights or other significant violations of public order.

## **Chapter II**

### **The Ministry of Internal Affairs of Georgia**

#### **Article 4**

The authorized body of the Ministry of Internal Affairs of Georgia guarantees:

- a) The right of asylum-seeker to receive information about his/her rights and procedures defined by the Georgian legislation at the state border and to exercise the right to legal protection;
- b) The right of an asylum-seeker to be accepted/received at the state border and not to be expelled from the state territory according to the principle of *non-refoulement* as stipulated in this order;
- c) Provision of information to an asylum-seeker at the state border on the right to request an asylum;
- d) To conduct an initial interview with an asylum-seeker.

**Chapter III**  
**The Ministry of Internally Displaced Persons from the Occupied Territories,  
Accommodation and Refugees of Georgia**

**Article 5**

1. The Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia is the sole administrative body responsible for the revision of asylum applications and making decisions;
2. The Representative of the Department shall have unimpeded access to an asylum-seeker identified at the state border and to his/her asylum application with the purpose of immediate meeting and interview;
3. The Representative of the Department upon receiving information from the Ministry of Internal Affairs, shall immediately take a decision on the registration of the asylum application according to the procedures established by the Law on Refugee and Humanitarian Statuses;
4. The Ministry is responsible for reception of asylum-seekers and supporting vulnerable asylum-seekers to be accommodated in the reception centre.

**Chapter IV**  
**Identification of asylum-seekers  
at the state border and their referral mechanisms**

**Article 6**

1. An authorized body of the Ministry of Internal Affairs of Georgia guarantees the provision of information on all the rights/obligations and asylum procedures to the asylum-seeker in the language he/she understands;
2. An authorized body of the Ministry of Internal Affairs shall conduct an initial interview with the asylum-seeker in order to identify reasons for leaving the country and any obstacles of his/her return (Annex II);
3. Before starting the initial interview, the asylum-seeker shall be explained by an authorized body of the Ministry of Internal Affairs of Georgia about the confidentiality of the interview, inaccessibility of the records of the interview to the applicant's country of origin or any third person;
4. An authorized body of the Ministry of Internal Affairs of Georgia guarantees examination of documents provided by an asylum-seeker at the border check points and the sub-units of the border police in accordance with the established rules and procedures;
5. Absence of travel or identification documents shall not be an obstacle for filing an asylum application. In case an asylum-seeker does not have travel or other identification documents, the asylum application shall be filled out based on the information provided by the foreigner;

6. If there are reasonable grounds found to suspect that the asylum-seeker is hiding relevant documents, an authorized body of the Ministry of Internal Affairs of Georgia has the right to hold the person and to conduct an external examination of the asylum-seeker within his/her competence;
7. If a foreigner wishes to seek asylum at the state border, authorized body of the Ministry of Internal Affairs of Georgia guarantees collection and storage of copies of all the relevant documents;
8. When possible, the asylum-seeker shall be interviewed in a separate location by a same- sex representative of an authorized body of the Ministry of Internal Affairs of Georgia in presence of an interpreter, as and when necessary. Unauthorized persons shall not have the right to be present during the interview;
9. An authorized body of the Ministry of Internal Affairs of Georgia shall draft the initial interview protocol. The protocol must contain information provided by the asylum-seeker (Annex III);
10. In case when a family requests for asylum, all adult family members should be interviewed individually;
11. Upon request of an authorized body of the Ministry of Internal Affairs of Georgia, the Department should immediately provide information about the country of origin of an asylum-seeker.

## **Article 7**

1. After the asylum request is made by a foreigner, an authorized body of the Ministry of Internal Affairs of Georgia is responsible to verbally inform the Department as soon as possible, and should send the asylum application within 3 days without delay. Herewith, if the asylum-seeker is a minor, the notification shall be done immediately;
2. An authorized body of the Ministry of Internal Affairs of Georgia is responsible to share interview materials, available documents (originals and/or copies) with authorized personnel of the Department;
3. An authorized representative of the Department should immediately go to visit the asylum-seeker at his/her location (with a qualified interpreter if needed) and/or provide transportation for the asylum-seeker to the Ministry of Internally Displaced Persons, Accommodation and Refugees in order to conduct relevant procedures envisaged under the Law of Georgia on Refugee and Humanitarian Statuses;
4. After taking a decision on the registration of the asylum application, the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia is responsible to inform the asylum-seeker about the asylum procedure in Georgia, as well as their rights and obligations, including appeal mechanisms;
5. An asylum-seeker in need of accommodation should be assisted by the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia as

soon as possible in order to ensure his/her basic needs (accommodation, basic food, water, sanitary needs, medical assistance, etc.).

## **Chapter V**

### **Rule of exchange of information**

#### **Article 8**

1. The Ministry of Internal Affairs of Georgia and the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia are responsible to grant the UNHCR and its NGO partner staff quick and unimpeded access to asylum-seekers, their possible locations and their applications;
2. Special attention shall be paid to the identification of particular vulnerable cases. Information sharing on such cases shall be immediate to address special needs without delay;
3. The Ministry of Internal Affairs of Georgia is responsible to register/collect received statistical data on asylum requests and upon request to submit it to UNHCR and the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees, except for the data/information available in mass media;
4. The Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia is responsible to collect and share statistical data by country of origin, sex and age of asylum-seekers with the Ministry of Internal Affairs of Georgia quarterly.

## **Chapter VI**

### **Ethical norms of treatment of asylum-seekers at the state border**

#### **Article 9**

An authorized body of the Ministry of Internal Affairs of Georgia and the Department, within their competencies, are responsible to:

- a) Consider the person as asylum-seekers (until proven otherwise) and provide him/her with the possibility to seek asylum legally, if he/she in any form demonstrates a possibility of threat to return to the country of origin, the country of actual or previous habitual residence;
- b) Immediately inform the asylum-seeker on the possibility of addressing the relevant responsible body; (Annex 1)
- c) Conduct interview, external examination and observation, in a separate location, with particular care, fully respecting his/her human dignity;
- d) Treat minors with special care considering their age;

- e) Conduct interview by paying special attention to those vulnerable potential asylum-seekers who have crossed or attempted to cross the state border illegally;
- f) Within the competence, provide aid to persons in danger/need of assistance at the state border;
- g) Keep asylum-seekers separate from illegal migrants and illegal border crossers, if possible.

## **Annex I**

Before an initial interview, an authorized person shall provide an asylum-seeker with the following information:

- Interview is conducted by an authorized body of the Ministry of Internal Affairs;
- The initial interview Protocol will be composed;
- The Protocol will be one of the important sources of information to be used during the status determination process by the relevant administrative body;
- Provided information by the asylum-seeker is confidential and it will not be shared with the country of origin of the asylum-seeker or a third person;
- The asylum-seeker has the right to use services of interpreter;
- Provision of false information by the asylum-seeker will have a negative impact on the status determination process;
- Correction or alteration of any information received about the identification of the person will be possible only after the issuance of relevant document by an authorized body;
- Provision of false information about the identification of a person may affect such issues as family reunification or granting Georgian citizenship;

By signing the protocol, the asylum-seeker confirms that he/she is familiarized with his/her rights and obligations, the information provided in the protocol is accurate and was provided in a language understandable to him/her.

## **Annex II**

List of Questions for Identification of Asylum-seekers (*non-exhaustive*)

- Why did you leave your country of origin?
- Is there any reason why you cannot return to your country of origin?
- Will you have any concerns if we now send you back to your country of origin?
- Have you ever been detained in your country of origin?
- Have your rights ever been violated in your country of origin?
- Have you ever evaded military service (desert the army)?
- Have you been involved in any military, political, religious or social activities?

***This is a non-exhaustive list of questions therefore you may ask additional, more specific questions, which will help you to identify an asylum-seeker.***

***Please draw attention to the behaviour and reaction of the person asking for asylum.***



**Annex III**

**Interview Protocol with Asylum-Seeker**

<b>1. DETAILS OF THE PROTOCOL</b>	
a) Date of composing the protocol (Day/Month/Year):	b) Place of composing the protocol and Conducting the Interview:
c) Person in charge of filling out the Protocol (Name/Last name/Position):	

<b>2. PERSONAL INFORMATION OF AN ASYLUM-SEEKER</b>				
a) Name (In Latin):		b) Last name (In Latin):		
c) Sex: Male <input type="checkbox"/> Female <input type="checkbox"/>	d) Date of Birth:		e) Marital Status:	
f) Citizenship:	g) Nationality:		h) Ethnic Origin:	
i) Religion:	j) Education:		k) Employment:	
l) Number of Accompanying Persons:				
Name/Last name	Relationship	Sex	Date of Birth	Representative (if applicable)
		Male <input type="checkbox"/> Female <input type="checkbox"/>		
		Male <input type="checkbox"/> Female <input type="checkbox"/>		
		Male <input type="checkbox"/> Female <input type="checkbox"/>		

<b>3. RIGHTS/OBLIGATIONS</b>
a) Explained about the right to use services of an interpreter: Yes <input type="checkbox"/> No <input type="checkbox"/>
b) Explained about the confidentiality of the interview: Yes <input type="checkbox"/> No <input type="checkbox"/>
c) Explained about the consequences of providing false information: Yes <input type="checkbox"/> No <input type="checkbox"/>

**d) Reasons for leaving the country of origin:**

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**e) Will you have any threat if you are sent back to your country of origin?**

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**5. RESULTS of INTERVIEW:**

Entrance was denied  Referred to the MRA

**6. Attached documents (Provided documents by an asylum-seeker):**

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*The person (asylum-seeker) was explained about his/her right under the article 18 of the Law of Georgia on the Refugee and Humanitarian Statuses` and the possibility of appealing the act of the police officer under the article 56 of the Law of Georgia on Police.*

**7. SIGNATURES**

**a) Asylum-Seeker:**

**(Signature/Refusal to Sign)**

*By signing, I hereby confirm that provided information in the protocol was interpreted in the language I understand and is correct.*

**b) Interpreter (In case of Translation): .....**

*By Signing, I hereby confirm that the content of the protocol was fully and correctly interpreted to the asylum-seeker.*

**c) Authorized person in charge of filling out the Protocol: .....**

*By signing, I hereby confirm that provided information in the protocol was interpreted in the language I understand and is correct.*

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