

# LAW OF GEORGIA

## On International Protection

This Law is based on the Constitution of Georgia, international treaties to which Georgia is a party, as well as fundamental human rights and freedoms in line with international law.

### Chapter I

#### General Provisions

#### Article 1. Scope of the Law

This Law defines:

- a) the conditions of entry, stay and standards of treatment on the territory of Georgia of aliens and stateless persons, who do not have stateless status in Georgia (hereinafter: stateless persons), who have requested international protection pursuant to this Law;
- b) the legal status, rights and obligations, as well as social and economic guarantees of asylum-seekers, refugees, humanitarian status holders and persons under temporary protection;
- c) the grounds and procedures for granting refugee and humanitarian statuses and temporary protection to aliens and stateless persons in Georgia, as well as grounds and procedures for cancellation, cessation, revocation and exclusion from the status;
- d) the competencies of the state agencies in ensuring asylum procedures.

#### Article 2. Purpose of the Law

The purpose of this Law is to:

- a) establish legal framework for asylum procedures;
- b) ensure human rights protection to asylum-seekers, refugees, humanitarian status holders and persons under temporary protection;
- c) establish procedural guarantees of international protection as prescribed by this Law.

#### Article 3. Definition of terms

For the purposes of this Law, the terms used therein shall have the following meaning:

- a) **Ministry** – the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia;

- b) ***Request for International Protection*** - a direct or indirect, oral or written expression of intent/desire by an alien or a stateless person, to seek international protection in Georgia;
- c) ***Asylum Procedure*** - a legal process, which includes undertaking of all the necessary activities for the implementation of this Law by the responsible state agencies, from the moment of requesting asylum until the final decision regarding international protection is made, including entry into force of the judgment of a court.
- d) ***Application for International Protection*** - an official written application submitted by an alien or a stateless person to the Ministry seeking refugee or humanitarian protection in Georgia;
- e) ***Asylum-seeker*** - an alien or a stateless person who has made a request for international protection to a agency in respect of which a final decision has not yet been taken by the Ministry or the decision has not yet entered into force;
- f) ***International Protection*** – ensuring access to asylum procedure and protection of rights of refugee, humanitarian status holder or person under temporary protection pursuant to this Law;
- g) ***Asylum-seeker Certificate*** - a document, which certifies that person applied for international protection and legal stay in Georgia;
- h) ***Refugee*** - alien or stateless person who has been granted refugee status on the basis of Article 15 of this Law;
- i) ***Humanitarian Status Holder*** - alien or stateless person, who has been granted humanitarian status based on Article 19 of this Law;
- j) ***Person under temporary protection*** – alien or stateless person who has been granted temporary protection based on Article 21 of this Law;
- k) ***Person under international protection*** – refugee, humanitarian status holder or person under temporary protection;
- l) ***Best interest of a minor*** – security, well-being, protection of health, education, development, social-economic and other interests are determined in accordance with international standards and taking into consideration the individual characteristics of the child and his/her opinion and which is in line with the 1989 United Nations Convention on the Rights of the Child;
- m) ***Country of Origin*** - a country of nationality or, for stateless persons, of habitual residence;
- n) ***Competent Official*** - an employee of the relevant structural body of the Ministry which exercises the responsibilities pursuant to this Law based on the authority delegated by the individual administrative act of the Minister of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia.
- o) ***Detention*** - restriction of freedom of movement by placing an asylum-seeker at the temporary accommodation center of the Migration Department of the Ministry of Internal Affairs of Georgia;
- p) ***Illegal Entry to the Territory of Georgia*** - crossing the state border of Georgia through the use of forged documents, or other illegal methods;

q) **Internal Flight Alternative** – possibility of internal relocation to a particular area of the country of origin, where an asylum-seeker has no well-founded fear of being persecuted or is not at risk of suffering serious harm or has access to effective and durable protection of state authorities against persecution or serious harm, and can travel safely and gain legal admittance to this part of the country, and can reasonably be expected to settle there, including with regard to the situation of respect for human rights and the possibility for economic survival;

r) **Family Members** –spouses or partners of asylum-seeker or of a person under international protection in unregistered marriage, minor children of these persons from legal or unregistered marriage, including those adopted legally under the laws of country of origin, mother, father or a legal representative (guardian) of a person under international protection appointed in accordance with the laws or common practice of a country of origin, parents of an applicants or his/her spouse and dependent unmarried adult children.

s) **Family Reunification** - legal entrance and residence in Georgia extended to the family members of a person having international protection in Georgia, for the purpose of respecting the principle of family unity;

t) **Derivative status** - a status granted to a family member of a person with international protection based on the principle of family unity;

u) **Mass Influx** - a considerable number of persons crossing the border of Georgia and applying for asylum that overwhelm absorption or response capacity, particularly during an emergency, such that individual asylum procedures are unable to assure the assessment of such large numbers;

v) **Voluntary Repatriation** - voluntary decision of person under international protection – free of physical, psychological or material coercion to return to the country of origin in conditions of safety and dignity;

w) **Person with Specific needs** - minor, unaccompanied minor, disabled person, elderly, pregnant woman, single parent with minor children, victims of trafficking, a person with serious physical or mental illness, victims of post traumatic disorder or consequences of torture, rape or other serious forms of psychological, physical or sexual violence, also other persons who need special procedural guarantees to enjoy the rights and take responsibilities prescribed by this Law;

x) **Reception Center** - a place of temporary accommodation for asylum-seekers;

y) **Refugee Travel Document** - a document defined under Article 28 of 1951 Convention Relating to the Status of Refugees;

z) **Travel Passport** - a travel document of a humanitarian status holder;

z<sup>1</sup>) **Temporary Identity Card** - a document defined under paragraph “r”, Article 2 of the Law of Georgia on the Legal Status of Aliens and Stateless Persons;

z<sup>2</sup>) **Unaccompanied Minor** - a minor who has entered Georgia without being accompanied by a legal guardian or an authorized adult; and at the time of submission of an application for international protection, does not benefit from guardianship/custodianship/support provider; or a minor who finds him/herself without a guardian/custodian/support provider after entering Georgia;

z<sup>3</sup>) **Minister** – Minister of the Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia;

z<sup>4</sup>) **Database** – database of asylum-seekers and persons under international protection, which is administrated by the Ministry.

z<sup>5</sup>) **State Agencies Responsible for Implementation of this Law** – administrative agencies defined under Chapter X of this Law;

z<sup>6</sup>) **State Agency** – any agency funded under the state budget.

Z<sup>7</sup>) **Single Parent** – An asylum-seeker or a person under international protection who is a mother or father with minor child or children.

## **Chapter II**

### **General Principles and Procedural Guarantees of Asylum Procedure**

#### **Article 4. Legal guarantees**

1. Rights of asylum-seekers and persons under international protection are protected by the state.
2. Decisions of the state agencies or authorized public servants that contradict this Law are void and do not result in any legal consequences.

#### **Article 5. Principle of confidentiality**

1. Information regarding an asylum-seeker and persons under international protection, as well as data and information concerning their application for international protection remains confidential and may not be released in any manner without their written consent to mass media, other organizations, government agencies and citizens of the country of origin, or citizens of Georgia or persons who have a stateless status in Georgia.
2. The obligation to observe the principle of confidentiality applies to all state agencies that carry out activities in the field of international protection, as well as to third parties involved in the asylum procedure. State agencies shall be guided with the requirements provided in the Law of Georgia on Protection of Personal Data.
3. Exchange of information can be conducted in accordance with obligations under the international treaties related to extradition or terrorism, ensuring the protection of the information on asylum claim.

#### **Article 6. Access to the territory of Georgia and asylum procedures**

State agencies responsible for the implementation of this Law shall guarantee that, any alien or stateless person who makes a request for international protection shall have access to the territory of Georgia and the asylum procedures.

#### **Article 7. Exemption from criminal responsibility for illegal entry**

1. Alien or stateless person is exempted from criminal responsibility for the illegal entry to the territory of Georgia, violating the rules of Law of Georgia on Occupied Territories, or for illegal crossing of the state border, or preparation, use or purchasing of forged identity card or other official documents, seal, stamp or blank, for keeping such documents for later use (except for the acts related to sale of forged official documents, seal, stamp or blank forms) if he/she has fled to Georgia from the country where he/she was threatened in accordance with Article 1 of 1951 Convention relating to the Status of Refugees, illegally stays on the territory of Georgia and asks state authorities of Georgia for international protection, if there are no other offences in his/her actions.

2. In the circumstances listed under the first paragraph of this Article, alien or stateless person is exempted from criminal responsibility only if he/she addresses the state agencies of Georgia without delay and provides reasonable explanation on the reasons for committing this act.

3. Alien or stateless person who has committed the act envisaged under the first paragraph of this Article due to being a victim of trafficking, before acquiring the status of a victim of trafficking is also exempted from the criminal responsibility.

4. If the final decision on providing individual an international protection determines that alien or stateless person is not in need of protection, the exemption from criminal responsibility provided under paragraph 1 of this Article is not extended to him/her.

#### **Article 8. *Non-refoulement***

1. Asylum-seeker or person under international protection shall not be returned or expelled in any manner whatsoever to the border of the country where their life or freedom would be threatened on account of their race, religion, nationality, membership of a particular social group or political opinion.

2. The benefit of the paragraphs 1 of this Article may not, however be claimed by asylum-seeker or person under international protection whom there are reasonable grounds for regarding as a danger to the security of Georgia or who, having been convicted by a final judgment of a serious or particularly serious crime on the territory of Georgia and constitutes a danger to the community of Georgia.

#### **Article 9. Detention**

1. Detention shall be used as a last resort, shall not be discriminatory and shall only be justified for a legitimate purpose.

2. Asylum-seeker is detained, when:

- a) there is a threat that he will abscond and/or will not cooperate with authorized official;
- b) if identity of a person cannot be established;
- c) if there are serious reasons to believe that person might be a threat to state security.

3. In cases of detention of asylum-seeker general rules for detention of an alien and placement him/her in the temporary accommodation center pursuant to Georgian legislation are used.

4. Detained asylum-seeker shall be placed separately of detainees on different grounds. Men and women should be segregated unless they are family members. Adults and minors shall be segregated

unless they are family members. Family unity shall be maintained if there are no security grounds for their separation.

5. Procedure and rules of placement of the asylum-seeker at the temporary accommodation center of the Migration Department of the Ministry of Internal Affairs of Georgia is regulated by the joint normative act of the Minister of Internal Affairs of Georgia and Minister of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia.

### **Article 10. Non-discrimination**

The provisions of this Law shall apply to asylum-seekers, and persons under international protection without discrimination as to race, colour of skin, language, sex, nationality, origin, place of birth, place of residence, property or social status, religion, national, ethnic and social affiliation, profession, family status, health, disability, sexual orientation, gender identity and expression, political or other opinions, or other grounds.

### **Article 11. Family unity**

1. The Government of Georgia shall ensure the family unity of a person under international protection.
2. All family members have right to individual consideration of their application for international protection.
3. If refugee, humanitarian or temporary protection was granted, or the term of humanitarian status or temporary protection was extended to an alien or stateless person, then his family members who arrived together with him as well as minors, whose legal representative he is, in absence of grounds stipulated in Article 17 and/or Article 18 of this Law, shall also be granted refugee or humanitarian status or temporary protection or the term of humanitarian status or temporary protection granted to them shall be extended.

### **Article 12. Best interest of a minor**

Any decision relating to minors shall be in accordance with 1989 UN convention on the Rights of a Child and shall consider the best interest of the child. In assessing the best interest of the child, state authorities shall in particular take due account of the principle of family unity, the minor's well-being and social development, safety and security considerations and the views of the minor in accordance with his or her age and maturity (including development level, perception and communication skills).

### **Article 13. Benefit of the doubt**

Where aspects of the statements of the asylum-seeker are not supported by documentary or other evidence, those aspects shall not need confirmation when the following conditions are collectively met:

- a) the asylum-seeker has made genuine efforts to substantiate his application for international protection;
- b) all relevant elements at the disposal of the asylum-seeker have been presented and the absence of such elements have been justified in a reasonable manner;

- c) the asylum-seeker statements are coherent and plausible and do not run counter to available country of origin information;
- d) the applicant has applied for international protection at the earliest possible time, unless the applicant can demonstrate good reason for not having done so;
- e) the general credibility of the asylum-seeker has been established.

### **Chapter III**

## **Reasons for Granting and Denial of Refugee Status, Humanitarian Status or Temporary Protection**

#### **Article 14. Forms of international protection**

Pursuant to this Law, the following forms of international protection are granted in Georgia:

- a) refugee status;
- b) humanitarian status; and
- c) status of a person under temporary protection.

#### **Article 15. Reasons for granting refugee status**

1. Refugee status shall be granted to an alien or stateless person, who is outside the country of origin due to well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, and is unable or, owing to such fear, is unwilling to avail himself of the protection of the country of origin.
2. In case of mass influx of people who meet criteria specified in this Article, the Ministry may make a decision to recognize refugees on a group basis (*prima facie*) considering their overall situation in their country of origin.

#### **Article 16. "*Sur place*" applications for international protection**

1. International protection needs may be based on a significant change of circumstances in the country of origin at a time when an asylum-seeker is in Georgia, or on activities which the asylum-seeker has engaged in since his departure from the country of origin.
2. Without prejudice to the 1951 UN Convention on the Status of Refugee, in cases when a person files a subsequent application, he/she may not be granted refugee status if the risk of persecution is based on circumstances which the applicant has created by his or her own decision since leaving the country of origin.

#### **Article 17. Reasons for denial of refugee status**

1. Alien or stateless person shall be denied refugee status if:

- a) he/she does not meet the criteria pursuant to Article 15(1) of this Law;
  - b) there are reasonable grounds to consider that the person represents a threat to state security, territorial integrity, as well as public order;
  - c) convicted by a final judgment of a particularly serious crime in Georgia.
2. Alien or stateless person may not be in need and shall be denied the refugee status if:
- a) he has already been recognized as a refugee in a different country and does not have a well-founded fear of persecution as per Article 15 in that country;
  - b) he holds citizenship of two or more countries and is able to benefit from the protection of one of his countries; or
  - c) an internal flight alternative is available in the country of origin;
  - d) who does not qualify for international protection under the Article 1(d) of the 1951 UN Convention on Status of Refugees;
  - e) has been granted the same rights and obligations by the authorized body of third country as other citizens of that country and therefore was not in need of international protection.

#### **Article 18. Exclusion from refugee status**

1. An alien or stateless person shall not be recognized as a refugee if he qualifies for the status provided under Article 15 of this Law but there are serious reasons for considering that he:
- a) has committed a crime against peace, war crime, or crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
  - b) has committed a serious or particularly serious non-political crime outside Georgia prior to their admission to Georgia as a refugee; or
  - c) has been guilty of acts contrary to the purposes and principles of the United Nations.

#### **Article 19. Criteria for granting humanitarian status**

1. Humanitarian status is granted to an alien or stateless person, who does not qualify as a refugee under Article 15, but in respect of whom there are reasons to believe that upon return to the country of origin, the person will face a real risk of suffering serious harm pursuant to Article 32(3) of this Law.
2. Humanitarian status is granted for the period of one year. It can be extended with the decision of the Ministry, for the same time repeatedly if the grounds for granting such status still exist.

#### **Article 20. Reasons for denial of humanitarian status**

1. Humanitarian status shall not be granted if:



- a) A person does not meet the criteria specified in Article 19(1) of this Law;
- b) There are grounds stipulated in Article 18 of this Law;
- c) If there are grounds stipulated in Article 17 (1)(b)(c) and (2) of this Law.

### **Article 21. Reasons and procedures for granting temporary protection**

1. The Ministry registers persons who arrive to Georgia in the event of a mass influx and makes a decision to grant the members of the group status of a person under temporary protection, if they are in need of international protection and are unable to return to the country of origin on account of indiscriminate violence, external aggression, international or internal armed conflicts or mass violation of human rights.
2. For the purposes of granting temporary protection under paragraph 1 of this Article, an individual administrative act of the Minister is issued.
3. Temporary protection is granted for one year. Where the reasons for which temporary protection was granted persist, the duration of temporary protection can be extended with the decision of the Ministry, for the same time repeatedly if the grounds for granting such status still exist.
4. After the registration of persons in the event of mass influx, competent official issues them documents which certifies their temporary protection status and legal stay on the territory of Georgia.
5. A person under temporary protection is eligible to apply only for the refugee status in case of existence of circumstances under Article 15 of this Law.
6. After the rejection by the Ministry to grant temporary protection to an alien or stateless person, or after final judgement of the court if appealed, alien or stateless person should leave the territory of Georgia in accordance with the Law of Georgia on Legal Status of Aliens and Stateless Persons, if there are no other legal grounds for his stay on the territory of Georgia.

### **Article 22. Reasons for denial of temporary protection**

Status of a person under temporary protection shall not be granted if:

- a) a person does not meet the criteria pursuant to Article 21 of this Law;
- b) there are reasonable grounds to consider that the person represents a threat to state security, territorial integrity, as well as public order of Georgia;
- c) a person falls under one of the clauses pursuant to Article 17 (1)(b)(c), (2) and 18 of this Law.

## **Chapter IV**

### **Request for International Protection in Georgia**

#### **Article 23. Request for international protection**

1. An alien or stateless person, may submit a request for international protection at the border, while entering Georgia, or while being on the territory of Georgia.
2. In case of illegal entry or stay in Georgia, a person shall apply for international protection to any state agency without delay and is exempted from the criminal responsibility pursuant to Article 7 of this Law.
3. State agencies responsible for the implementation of this Law shall provide interpretation arrangements for an alien or stateless person to the extent necessary to ensure access to asylum procedures. Procedures are regulated by the Decree of the Minister.
4. Request for international protection, received by any state agency, is recorded in written form. The original request is forwarded to the Ministry within three working days and a copy is given to an alien or stateless person unless it is not required other way by the legislation.
5. The State agency admitting the application for international protection composes a protocol and refers an alien or stateless person to the Ministry.
6. When required, asylum-seeker is accommodated at the reception center or other place pursuant to the normative act issued by the Minister.

**Article 24. Request for international protection made at the MIA agencies, prosecutor's office and at, the penitentiary establishments of the Ministry of Corrections of Georgia**

1. An alien or stateless person who is detained for illegal entry, or is arrested for expulsion or on an extradition request may make a request for international protection, either in person or through an authorized representative, to the relevant MIA agencies, prosecutor's office, administration of penitentiary establishments of the Ministry of Corrections of Georgia or the Ministry.
2. An alien or stateless person shall be able to make a request for international protection and communicate with authorized official of MIA, prosecutor's office, penitentiary establishment of the Ministry of Corrections of Georgia or other detention facility in a language that he understands and in which he is able to communicate clearly.
3. Competent official of the agencies mentioned in this Article provides information to an alien or stateless person on the possibility to request international protection and on asylum procedures.
4. In case of extradition or expulsion proceedings initiated against an alien or stateless person, he/she may file an application for asylum to any state authority within 15 calendar days from the day a person has been notified in writing about the right to file an application for asylum by the competent official of the authority which is in charge of extradition proceedings or, in case of expulsions, by authorized body of the MIA in a language he/she understands. In case of circumstances beyond the control of an alien or stateless person that hinder the request for international protection, the timeframe could be extended only throughout the period of such circumstances in force. During the extradition procedures or when considering the expulsion case from Georgia, authorized employee of state agency is obliged to provide a person without a delay an information about the right to seek asylum in written form in the language he/she understands.
5. Authorized official of MIA, prosecutors office or penitentiary establishment of the Ministry of Corrections of Georgia shall inform the Ministry about the identified alien or stateless person who has requested international protection without delay and submit his/her request within three working days.

## **Article 25. Request for international protection submitted by a person with specific needs**

1. Request for international protection made by the persons with specific needs shall be referred by the responsible agencies for implementation of this law to the Ministry immediately.
2. Upon request for international protection made by the persons with specific needs Ministry shall ensure his transportation to and accommodation in the reception center, as for unaccompanied minors their accommodation shall be done taking into consideration the best interests of the child.
3. The Ministry shall immediately inform the guardianship/custody institution when an unaccompanied minor is identified and the institution will appoint a guardian/custodian without a delay pursuant to the legislation. As for the persons with disability, appointment of guardian/custodian will take place according to the needs of an individual.
4. If a request for international protection is made by an unaccompanied minor or by a person with disability who needs a legal representative, he shall immediately be registered as an asylum-seeker by the competent official, by filling a proper document. Submission of the application for international protection shall occur after assigning a guardian/custodian. The period of the application for international protection starts from the day the application is registered.
5. When possible, the Ministry shall undertake efforts to trace the family members of unaccompanied minors as soon as possible with due regard for their best interests.

## **Chapter V**

### **Procedures for Examination of Application for International Protection**

#### **Article 26. Main procedural standards**

1. Application for international protection shall be examined individually, objectively and impartially by competent officials of the Ministry.
2. Application for international protection is examined under the regular or accelerated procedures.
3. Application for international protection is examined under the accelerated procedures only in cases when it is:
  - a) manifestly unfounded;
  - b) there is the abuse of asylum system by the applicant though providing the ministry false information.
4. Application is considered manifestly unfounded, when:
  - a) it does not relate to the requirements of Article 15 and 19 of this law;
  - b) information provided by the applicant is inapplicable, contradictory or irrelevant for establishing the grounds of persecution;
  - c) the applicant hides the information about his identity and/or country of origin; and

d) the applicant is not willing to cooperate with the Ministry or provide a detailed information.

5. The reasons for granting of refugee or humanitarian status are examined in a single procedure in a successive manner using the refugee definition criteria pursuant to Article 15 of this law. In case a person does not qualify for refugee status, the examination of criteria for granting humanitarian status pursuant to Article 19 of this law is undertaken.

**Article 27. Registration of application for international protection, issuance of an asylum-seeker certificate and initial profiling interview**

1. Application for international protection shall be prepared in written form with assistance of a competent interpreter when needed. The application for international protection submitted to the Ministry is registered immediately and asylum-seeker's certificate is issued. Information about the minor family members is also included in the application of international protection. Form and rules of its issuance and change of the asylum-seeker's certificate is adopted and changed by the normative act of the Minister.

2. In case of an unaccompanied minor or person with disability who needs a legal representative, an authorized guardian/custodian/support provider acting in their best interests, shall be responsible for submission of the application for international protection.

3. In case of an unaccompanied minor or person with disability who needs a legal representative, asylum-seeker's certificate is issued to his/her legal guardian/custodian.

4. Initial interview for completion of a profiling questionnaire is conducted with each adult family member individually within 10 days from the date of filing. On the day of submission of the application for international protection, the asylum-seeker is notified about the date of the profiling interview in a language the asylum-seeker understands.

5. Profiling is done in written form and audio recording is used to guarantee the accuracy of the profiling documentation. Audio recording of profiling is kept in the individual case file of asylum-seeker, pursuant to rules of the Law of Georgia on Personal Data Protection.

6. Upon registration of the application for international protection, the asylum-seeker shall be provided information regarding his rights and obligations, as well as the asylum procedures to be followed as stipulated in this Law. The asylum-seeker is required to provide his residential address and other contact information and to inform the Ministry if they are changed. He shall be provided notice that if he unjustifiably disregards notification from the Ministry and/or fails to attend profiling or the interview twice, his case may be closed.

7. After registration of the application for international protection, the Ministry shall take fingerprints from all asylum-seekers over the age of fourteen years. Data shall be kept in an individual case file and its processing is allowed only by a written consent of the applicant pursuant to the Law of Georgia on Personal Data Protection. Taking fingerprints and processing personal data is regulated by the relevant normative act of the Minister.

8. The registration of application derives the duties and responsibilities for the applicant enshrined in Articles 56 and 57.

9. In accordance with the Article 26(3) and (4) of this law, after the profiling is done, application for international protection is examined under the regular or accelerated procedure.

10. Throughout the consideration of the case under the accelerated procedures pursuant to Article 29(4) of this Law, requirements established for the regular procedures are applicable.

11. If throughout the accelerated procedures additional circumstances are revealed that needs to be further examined and it is impossible to meet the deadlines established for the accelerated procedures pursuant to Article 29(4), the application shall be examined under the regular procedures pursuant to Article 29(1) of this law.

### **Article 28. Burden of proof**

1. An asylum-seeker shall submit all information (including information on country of origin) and proof in support of his application for international protection, cooperate with the competent Ministry officials, and is obliged to credibly explain the reasons for any lack of supporting information or proof.

2. The burden of proof is equally shared between the asylum-seeker and competent official of the Ministry. The competent official of the Ministry, in cooperation with the asylum-seeker, shall assess all presented material facts and evidence related to the application for international protection individually, impartially and objectively.

3. The competent official of the Ministry shall facilitate the interview process by guiding the asylum-seeker in providing relevant information (including collected country of origin information) and material evidence.

### **Article 29. Period for review of application for international protection**

1. The competent official of the Ministry shall consider the application under the regular procedures for international protection within 6 months. The Ministry may extend the timeframe for no more than 9 months when:

a) complex factual or legal issues are revealed;

b) large number of aliens or stateless persons simultaneously apply for international protection to the Ministry, making it difficult to review the application within 6 months.

2. By way of exception, in duly justified circumstances time limits for consideration of the application for international protection laid down in the first paragraph of this Article can be extended for no more than 3 months, to ensure adequate and complete consideration of the application for international protection.

3. Review of the application for international protection may be postponed when it is impossible to review it in time limits set in paragraphs 1 and 2 of this Article, due to an uncertain situation in the country of origin which is temporary in nature.

(a) conduct reviews of the situation in that country of origin at least every six months;

(b) inform the applicants in 3 days after the decision to extend the consideration of application is made, about the reasons for the extension with the use of means given in Article 35(5) of this law.

4. Considering paragraphs 2 and 3 of this Article, time limit for consideration of an application for international protection should not exceed 21 months from the day it was submitted.

5. If the consideration of the application for international protection is not possible in 6 month time limit set in the paragraph 1 of this Article, the competent official must inform the applicant in 3 days after the decision to extend the consideration of application is made, about the reasons and time of extension with use of means given in Article 35(5) of this law.

6. The consideration of an application for international protection submitted by a person under the expulsion procedures shall be processed within one month after its registration.

7. The consideration of an application for international protection submitted by a person under the extradition procedures shall be processed within one month after the receipt of extradition documentation by the Ministry.

8. The consideration of an application for international protection under the accelerated procedures shall be processed within one month after its registration.

### **Article 30. Review of application for international protection**

1. The competent official of the Ministry shall carry out review of each application for international protection on an individual basis and assess the relevant elements of the application for international protection, including all the documentation at the disposal of the asylum-seeker regarding his age, background, that of relevant family members, identity, nationality(ies), country(ies) and place(s) of previous residence, previous asylum applications, information of circumstances of travel to Georgia, reasons for leaving the country of origin.

2. In case of well-founded applications, meeting the requirements provided under Articles 15 and 19 of this law, request for international protection is examined in a prioritized procedure.

### **Article 31. Assessment of well-founded fear or serious harm**

When assessing the well-founded fear of being persecuted or subjected to serious harm, the competent official of the Ministry shall rely not only on the events which have taken place prior to the flight of the asylum-seeker from the country of origin, but also those that have taken place subsequent his flight.

### **Article 32. Acts of persecution and serious harm**

1. Acts considered to be persecution, within the meaning of Article 15 of this Law, shall:

a) be sufficiently serious by their nature or repetition as to constitute a severe violation of fundamental human rights.

b) be an accumulation of various measures, which are sufficiently severe to be considered as grave violation of human rights.

2. Acts of persecution as qualified in paragraph 1 can, inter alia, take the form of:

a) acts of physical or mental violence, including acts of sexual violence;

b) legal, administrative, police and/or judicial measures and acts which are in themselves discriminatory or which are implemented in a discriminatory manner;

- c) prosecution or punishment which is disproportionate or discriminatory;
- d) denial of judicial redress resulting in a disproportionate or discriminatory punishment;
- e) prosecution or punishment in a conflict, where refusal to perform certain actions would include crimes or acts falling within the scope of Article 18 of this Law;
- f) acts of a gender-specific or child specific nature.

3. Serious harm consists of:

- a) the death penalty or threat to execution; or
- b) torture or inhuman or degrading treatment or punishment of an asylum-seeker in the country of origin; or
- c) serious and individual threat to a person's life by reason of indiscriminate violence, aggression in situations of international or internal armed conflict or mass violation of human rights.

### **Article 33. Actor(s) of persecution and serious harm**

Actor(s) of persecution and serious harm include:

- a) the State;
- b) groups or organizations controlling the State or a substantial part of the territory of the State;
- c) non-State actor(s), if it can be demonstrated that the actors mentioned in points a) and b) of this Article, including international organizations, are unable or unwilling to provide protection against persecution or serious harm pursuant to Article 32 of this Law.

### **Article 34. Actor(s) of protection**

1. Protection against persecution or serious harm can only be provided by:

- a) the State if they are willing and able to offer protection against persecution or serious harm in effective and of a non-temporary nature; or
- b) groups or organizations, controlling the State or a substantial part of the territory of the State if they are willing and able to offer protection against persecution or serious harm in effective and of a non-temporary nature.

2. Protection against persecution is effective when actor(s) of protection take reasonable steps to prevent the persecution or suffering of serious harm, and when the asylum-seeker has access to such protection.

### **Article 35. Interviewing asylum-seekers**

1. An interview is conducted with asylum-seeker in regard to his application for international protection.

2. The interview shall serve to clarify aspects necessary for the assessment of the application for international protection and include the reasons for departure and non-return to the country of origin, as well as any other information relating to the determination of the application for international protection.
3. The competent official of the Ministry shall provide for interpretation arrangements in order to ensure effective communication with the asylum-seeker in his mother tongue or language that the asylum-seeker understands.
4. The competent official of the Ministry shall interview the asylum-seeker within 4 months from the moment of registration of the application for international protection. In case of applications reviewed under accelerate procedure pursuant to Article 29(8) the interview with the asylum-seeker should be conducted within the timeframe set by the competent official.
5. The asylum-seeker shall be notified about the interview three working days in advance, by sending written notification to the address indicated in his case files. In case the address of applicant is unknown, the notice can be made by phone or other technical means. Competent official contacts the asylum-seeker by sending him notification by telephone or other technical means, the competent official of the Ministry shall record the minutes of such communication and sign it duly. If a competent interpreter is involved during such communication, the interpreter shall also sign the document.
6. When the asylum-seeker contacts or appears at the Ministry within a reasonable time after the date of the scheduled interview and demonstrates that his failure to attend the interview was for good reason, the Ministry shall continue the review of application.
7. The asylum-seeker may be interviewed in the presence of his/her legal representative/lawyer. In cases when asylum-seeker is in the penitentiary establishment of the Ministry of Corrections and Probation of Georgia – in presence of his lawyer.
8. The asylum-seeker if possible, shall be interviewed by a competent official of the same sex, and shall be provided with the services of a competent interpreter of the same sex, unless requested otherwise by asylum-seeker.
9. In time limit according to the Article 29 of this Law, asylum-seeker shall be given the opportunity to provide explanations regarding elements which may be missing and/or inconsistencies/contradictions in his statements, as well as in relation to inconsistencies/contradictions between evidence put forward by him and other sources of relevant information, including country of origin information.
10. The interview is recorded in writing in an interview note and with use of audio recording to ensure accuracy and quality of the interview transcript. Audio recording of profiling is kept in the individual case file of asylum-seeker, pursuant to rules of the Law of Georgia on Personal Data Protection.

### **Article 36. Assessment of application for international protection**

1. The competent officials of the Ministry shall assess the application for international protection taking into account:
  - a) all relevant facts as they relate to the country of origin information, including laws and regulations of the country of origin and the manner in which they are applied;



b) relevant statements and documentation presented by the asylum-seeker in application for international protection, including information on whether the asylum-seeker has been or may be subject to persecution or serious harm;

c) personal information of the asylum-seeker;

d) whether the activities of the asylum-seeker expose the asylum-seeker to persecution or serious harm if returned to that country;

e) whether the asylum-seeker could reasonably be expected to avail himself of the protection of another country where he could assert citizenship;

2. The fact that an asylum-seeker has already been subject to persecution or serious harm, or direct threats of such persecution or such harm, is a serious indication of his well-founded fear of persecution or real risk of suffering serious harm, unless there are substantial reasons to consider that such persecution or serious harm will not be repeated.

### **Article 37. Collection and examination of relevant information and material evidence**

1. The competent official of the Ministry shall take all reasonable measures with a view to collect necessary information and available material evidence for the assessment of the application for international protection.

2. The evidence gathered independently by the competent official of the Ministry, as well as oral and documentary evidence provided by the asylum-seeker shall be analyzed and taken into consideration during the examination of the application for international protection and decision-making process.

3. The competent official of the Ministry shall analyze collected country of origin information.

4. After receiving the decision of the Ministry on the application for international protection, the asylum-seeker and his legal representative shall have access to the information and documentation linked with the application for international protection, and the competent official is obliged to provide such information and documentation in accordance with Georgian legislation.

### **Article 38. Review of application for international protection submitted by unaccompanied minor**

1. Applications for international protection submitted by unaccompanied minors shall be reviewed in accordance with the procedures under this Law and with the consideration of the best interests of the child.

2. Interviews with unaccompanied minors shall be conducted in presence of a representative/lawyer/guardian/custodian. If the legal representative of the minor is detained in the penitentiary establishment of the Ministry of Corrections of Georgia interview is conducted in presence of his lawyer. Interview is conducted by a competent official of the Ministry who has the necessary knowledge and skills with regard to interviewing minors with specific needs.

3. Throughout the asylum procedures the competent official of the Ministry shall take into consideration the age and skills (including maturity, communication and perception possibilities) of unaccompanied minors.

### **Article 39. Review of application of survivors of torture or violence**

1. When an asylum-seeker provides information of being a survivor of torture or other inhuman or degrading treatment or violence, or there are signs that a person might have been the survivor of torture, the person shall have an access to medical and psychological assistance before processing with his application for international protection.

2. Application for international protection submitted by a person with specific needs pursuant to the paragraph one of this Article, shall be examined in a prioritized procedure.

### **Article 40. Review of application of asylum-seekers with mental/intellectual disorder**

1. The ministry shall address the custody establishment without delay in accordance to Georgian legislation if there is serious doubt about the mental/intellectual capacity of the asylum-seeker for considering the needs for expertise and appointment of guardian/custodian, when necessary.

2. The examination of the application shall be suspended until the appointment of the guardian. Throughout the suspension of the asylum procedure, the asylum-seeker is entitled to the rights granted to asylum-seekers.

3. The interview and profiling of the persons mentioned in the first paragraph of this Article shall be conducted by a competent official of the Ministry with special training or when required with a specialist of relevant skills, to interview persons with specific needs.

4. The personal interview may be omitted where an asylum-seeker is not able or not capable to be interviewed because of long-term circumstances that are beyond his control. In such cases the decision on granting international protection is made based on other information and documentation acquired as provided by this Law.

### **Article 41. Withdrawal of application for international protection**

1. The asylum-seeker may withdraw an application for international protection in writing signed by the asylum-seeker or the legal representative/lawyer/guardian/custodian before the decision on the application.

2. The competent official of the Ministry shall inform the asylum-seeker about the consequences of the withdrawal in a language the asylum-seeker understands and the protocol is drafted. The competent official of the Ministry and asylum-seeker or his legal representative/guardian/custodian sign the protocol.

3. After withdrawal of an application, competent official takes the decision to close the application within 7 days after the signature of the protocol by an asylum-seeker. The decision (in Georgian and translated in the language asylum-seeker understands) is sent to an asylum-seeker or his legal representative within 3 working days, with the information about appeal procedure.

4. After the decision to close the application based on withdrawal is made, asylum-seeker shall leave the territory of Georgia in the timeframe set by Georgian legislation, unless there are other legal grounds for his stay in the country.

5. Following withdrawal of an application for international protection, an asylum-seeker can re-apply to the Ministry with the application for international protection if there are new circumstances to his

claim and they became known to him after the withdrawal of an application for international protection and the Ministry shall provide the asylum-seeker with access to a fair and effective asylum procedure. If an asylum-seeker wants to reopen the application, he/she should explain the reasons for the withdrawal and re-applying.

#### **Article 42. Suspension, discontinuation and reopening of review of application for international protection**

1. The competent official suspends the review of the application for international protection if it is impossible to contact asylum-seeker pursuant to rules set in Article 35(5) and he has not crossed the state border. In this case the examination of the application for international protection will be suspended for 6 months.

2. The competent official shall discontinue the examination of the application for international protection, when the asylum-seeker:

a) explicitly withdraws his application for international protection as specified in Article 41 of this Law;

b) asylum-seeker refuses to cooperate with the ministry;

c) has not appeared for a profiling or personal interview twice, and failure to appear is not justified;

d) has left the territory of Georgia or changed a place of residence without contacting the Ministry within three months;

e) refuses to undergo fingerprint registration;

f) is deceased.

g) will not approach the ministry within the timeframe set by the first paragraph of this Article.

3. When an asylum-seeker with mental illness fails to comply with the provisions of the subparagraph “e” of paragraph 2 of this Article, his application for international protection shall not be discontinued.

4. The asylum-seeker who reports to the Ministry after a decision to suspend or discontinue the examination for international protection has been made, shall have the opportunity to explain any failure to comply with a procedural obligation and is entitled to have his case re-opened if this explanation is reasonable.

#### **Article 43. Decision on application for international protection**

1. Competent official shall state in writing the reasons for a grant or denial of either refugee status and/or humanitarian status.

2. Justified decision is sent to an asylum-seeker within 3 days (in Georgian and in language the person understands), with a reference to the appeal procedure and to free legal assistance service pursuant to the Law of Georgia on Legal Aid.

3. If a decision is not delivered to an asylum-seeker due to his culpability, the decision will be deemed as delivered after receiving a note of non-delivery by the Ministry and/or the competent official.
4. Where the application for international protection of family members is based on the same grounds, the Ministry shall take one single decision, covering all family members or dependents.
5. The decision on denial of refugee or humanitarian status shall be based on the material facts of the claim, and evidences that that let to rejection.
6. Asylum-seekers, who was denied refugee status or humanitarian protection, or whose refugee status or humanitarian protection were cancelled or withdrawn may receive a temporary stay permit as described under Article 60 of the Law of Georgia on Legal Status of Aliens and Stateless Persons, if it is not possible to remove, return or expel them to the country of origin.
7. In case of negative decision, the Ministry shall send the conclusion on the case to the authorized unit of the Ministry of Internal Affairs for its revision and final decision in accordance with Georgian legislation.
8. After rejection by the ministry to grant the refugee or humanitarian status to an asylum-seeker, or after the refusal by the court to grant refugee or humanitarian status enters into force, alien or stateless person shall leave the territory of Georgia in accordance with the Law of Georgia on Legal Status of Aliens and Stateless Persons, if there are no other legal grounds for his stay on the territory of Georgia.

#### **Article 44. Decision on denial on extension of humanitarian status**

Decision on denial of extension of humanitarian status shall be made by the Ministry based on material facts of the case and taking into consideration existing circumstances.

#### **Article 45. Subsequent application for international protection and procedural guarantees**

1. An alien or stateless person whose refugee or humanitarian status has been revoked or discontinued or in case the status determination procedure in Georgia has been completed may submit a subsequent application for international protection when:
  - a) changed circumstances in the country of origin give raise to a protection need;
  - b) new circumstances, which were not reviewed during initial consideration of the application for international protection arise and that were not presented without the applicant's fault.
2. The competent official is responsible for conducting preliminary examinations of subsequent applications for international protection and shall examine further representations or the elements of a subsequent application in order to ensure that applicants are not sent to a country of origin or country of former habitual residence in breach of the principle of *non-refoulement* or in breach of the legal obligations under international human rights law.
3. In case of new circumstances, competent official starts the examination of application for refugee or humanitarian status pursuant to the procedures enshrined in this Law.
4. The competent official shall assess the subsequent applications for international protection and make decision in a prioritized manner.

5. In case it is determined that the subsequent application does not contain the circumstances listed in paragraph 1 of this Article, the decision on refusal to access the application will be made without further examination of the case.

#### **Article 46. Family reunification**

1. In order to initiate a family reunification procedure, the person under international protection shall apply to the Ministry with a family reunification request in writing.

2. In case of unaccompanied minors, the competent official with the consent of a guardian/custodian and the minor shall start procedures of family reunification immediately after granting one of the forms of international protection. The competent official shall, as part of the examination of the best interest determination, consider and provide the possibility for children to be reunited with other family members.

3. In support of the application for family reunification, the refugee or other person in need of international protection shall submit evidences of the family relationship, if available.

4. The Ministry shall consider the application for family reunification and supporting documents, if available, on an individual basis within one month.

5. In case of need, the competent official of the Ministry may request assistance of ICRC for family tracing.

6. In case of established family relations, the competent official shall request assistance of the Ministry of Foreign Affairs of Georgia for family tracing purposes and with the request of the issuance of a visa, when needed.

7. Family members, who arrive in Georgia based on family reunification grounds, shall be granted the same international protection as the person who initiated the family reunification in compliance with the family unity principle.

8. A person can be refused family reunification, if with regards to the family member, there are conditions stipulated under Articles 17 (1) (b) and 18 of this Law.

#### **Article 47. Appeal of the decision**

1. Any decision of the Ministry made in accordance of this Law can be appealed within one month after official notification of the decision in accordance with Georgian legislation.

2. Before a final decision of the court, persons enjoy the rights and guarantees provided by this Law.

#### **Article 48. Application for refugee and humanitarian status by a person under temporary protection**

According to paragraph 5 of Article 21 of this Law, a person under temporary protection may submit an individual application only for refugee status and during the examination of the application, the person shall benefit from the rights and guarantees of an asylum-seeker pursuant to this Law.

## **Article 49. Guarantees provided to unaccompanied minors applying for temporary protection**

Unaccompanied minors under temporary protection shall be:

- a) immediately identified and registered, as well as a legal representative/guardian/custodian shall be appointed within ten working days, in accordance with Georgian legislation;
- b) considering best interest of the child shall be placed according to the provisions listed under paragraph 2 of Article 25 and shall be assisted with tracing parents and relatives.

## **Chapter VI**

### **Cessation, Cancellation and Revocation of Refugee or Humanitarian Status or Temporary Protection**

#### **Article 50. Grounds for cessation of refugee status**

1. Refugee status shall be ceased, if a person:

- a) has been granted citizenship of Georgia; or
- b) has voluntarily re-availed himself of the protection of the country of origin; or
- c) having lost his nationality, has voluntarily re-acquired it; or
- d) has acquired a new nationality, and enjoys the protection of the country of his new nationality; or
- e) has voluntarily re-established himself in the country which he left or outside of which he remained owing to fear of persecution;
- f) he can no longer refuse to avail himself of the protection of the country of origin, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist;
- g) applies with a personal statement to the Ministry for ceasing the refugee status;
- h) cannot be contacted in accordance with paragraph 5 of Article 35 of this Law and he has crossed the state border of Georgia.
- i) is deceased.

2. Subparagraph “f” of paragraph one this Article does not apply to a refugee who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of origin.

3. In circumstances under the subparagraph “h” of the paragraph one of this Article, refugee status will be ceased in one year, after the expiration of residence permit.

4. Cessation of a refugee status is a ground for cancelation of the temporary residence permit and travel document which was granted to a person.

#### **Article 51. Grounds for cessation of humanitarian status or temporary protection**

1. Humanitarian status or temporary protection shall be ceased, if a person:

- a) has been granted citizenship of Georgia or permanent residence;
- b) has acquired a new nationality, and enjoys the protection of the country of his new nationality;
- c) has voluntarily re-established himself in the country which he left or outside of which he remained owing to fear of mass violation of human rights or significant breach of public order;
- d) he can no longer, because the circumstances in connection with which he has been granted a humanitarian status or temporary protection have ceased to exist, continue to refuse to avail himself of the protection of the country of origin;
- e) was granted a refugee status;
- f) applies with a personal statement to the Ministry for ceasing the refugee status;
- g) cannot be contacted in accordance with paragraph 5 of Article 35 of this Law and he has crossed the state border of Georgia;
- h) is deceased.

2. Subparagraph “d” of paragraph one this Article does not apply to a refugee who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of origin.

3. In circumstances under the subparagraph “g” of the paragraph one of this Article, humanitarian or temporary protection status will be ceased six months, after the expiration of residence permit.

4. Cessation of a humanitarian or temporary protection status is a ground for cancelation of the temporary residence permit and travel passport which was granted to a person with humanitarian status and the ground for cancelation of temporary residence permit granted to a person under temporary protection.

#### **Article 52. Grounds for cancelation and revocation of international protection**

1. International protection shall be canceled if the Ministry has established and there are serious reasons to believe that the initial decision on granting the relevant form of international protection pursuant to Articles 15, 19 and 21 was incorrect as a result of substantial fraud because:

- a) the individual misrepresented or concealed material facts; or
- b) new evidence arises revealing that the person ought not to have been provided international protection;

c) the person was not in need of international protection because he was recognized by the competent authorities of another country, in which he has taken residence, as having the rights and obligations attached to the possession of nationality of that country; or

d) the person was not in need of international protection or there were serious reasons for considering that the person had committed acts falling within the scope of Article 18 of this Law;

2. International protection may be revoked if after being granted protection, the person was convicted for a serious or particularly serious crime, constitutes a danger to the society of Georgia and there are reasonable grounds to consider that the person represents a threat to state security, territorial integrity, or public order of Georgia.

3. Cancellation or revocation of the international protection to a person, is a ground for cancellation of the temporary residence permit and travel document/passport which was granted to him.

### **Article 53. Cessation, Cancellation and revocation procedure for persons under International Protection**

1. The cessation, cancellation or revocation procedure for international protection shall be initiated by the Ministry.

2. The competent official shall notify the person with international protection about the initiation of procedures for the cessation, cancellation or revocation in the language they understand.

3. The competent official of the Ministry shall arrange an individual interview with each adult person under international protection within one month after the initiation of the cessation, cancellation or revocation procedure to give them opportunity to provide information and explain or challenge the facts upon which the cessation, cancellation or revocation procedure has been initiated, or raise other information regarding the continued need for international protection.

4. If a person has been duly notified about the cessation, cancellation or revocation procedure according to paragraph 4 of Article 35, but does not attend the interview, a determination of the appropriateness of cancellation, cessation or revocation of international protection may be made on the basis of the available information.

5. When the person with international protection contacts or appears at the Ministry within a reasonable time after the date of the scheduled interview and demonstrates that his failure to attend the interview was due to circumstances for good reason, the competent official may issue an individual administrative act to invalidate the decision made under paragraph 4 of this Article and schedule the interview.

6. If possible, the person under international protection shall be interviewed by a competent official of the preferred sex, and shall be provided with the services of the competent interpreter of the preferred sex.

7. When required, person under international protection shall be interviewed in the presence of his /her legal representative/guardian/custodian/support provider.

8. The interview shall be recorded in writing in an interview note and with use of audio recording to ensure accuracy of the interview transcript. The competent official shall maintain the interview



transcripts in the personal file of the person. Information acquired in accordance with this paragraph shall be kept pursuant to rules of the Law of Georgia on Personal Data Protection.

9. During the cessation, cancellation or revocation interview, competent official shall assess the irrefutable information collected by him, which justifies the legality of cessation, cancellation or revocation of the status granted to a person. Competent official shall also assess the evidence and information provided by the person under international protection.

10. A Person under international protection shall benefit from all rights in accordance with their status until the finalization of the cessation, cancellation or revocation procedure.

#### **Article 54. Decision on cessation, cancellation or revocation of international protection**

1. The competent official shall notify the person with international protection in writing (in Georgian and in a language they understand) and provide the reasons supporting the cessation, cancellation or revocation decision within 3 working days, and with an indication of appeal procedure as per the Law of Georgia on Legal Aid.

2. After a cessation, cancellation or revocation of international protection to an individual, by the ministry, or after entry into force of the negative decision of the court on cessation, cancellation or revocation, he and his family members should leave the territory of Georgia in accordance with the Law of Georgia on Legal Status of Aliens and Stateless Persons, if there are no other legal grounds for his stay on the territory of Georgia.

3. In case of failure to meet requirements stipulated in paragraph 2 of this Article, expulsion of an alien or stateless person from Georgia is regulated by the relevant provisions of the Law of Georgia on Legal Status of Aliens and Stateless Persons.

#### **Article 55. Cessation, cancellation or revocation of derivative status**

1. Cessation, cancellation and revocation of international protection may result in the cancellation or revocation of the derivative status of family members of the individual concerned. Cancellation, cessation or revocation of derivative status of the family members is considered on individual basis by the authorized official of the Ministry, in accordance with the normative act of the Minister.

2. The competent official shall notify persons whose derivative status is ceased, cancelled or revoked and inform them that the decision does not affect their right to apply for international protection in Georgia.

## **Chapter VI**

### **Rights and Obligations of Asylum-seekers, Refugees, Humanitarian Status Holders, and Persons under Temporary Protection**

#### **Article 56. Rights of an asylum-seeker**

1. An asylum-seeker shall have rights to:

- a) not be removed or extradited from the territory of Georgia or expelled until his application for international protection is determined or until the final judgment of the court;
- b) receive information on rights and obligations and procedures for examination of application for international protection;
- c) if possible, be interviewed, upon request, by a person of the same sex and be provided with interpreter (translation) of the same sex;
- d) receive free interpretation during the asylum procedures;
- e) receive free legal aid related to court proceedings involving issues of granting international protection, as provided by the Law of Georgia on Legal Aid;
- f) stay in the reception center during procedures for examination of an application for international protection, except the cases when he/she is detained in the penitentiary establishment of the Ministry of Corrections, temporary detention facility or center of temporary accommodation of migration department of MIA;
- g) be issued an asylum-seeker certificate and temporary identity card during procedures for examination of an application for international protection; temporary identification card will not be issued in case if an asylum-seeker is at penitentiary establishment of Ministry of Corrections or at temporary accommodation center of the migration department of MIA;
- h) after requesting international protection be provided with social-economic assistance and living conditions pursuant to Georgia legislation;
- i) pre-school, general education as provided for citizens of Georgia; have access to professional and higher education in accordance with Georgian legislation;
- j) receive health care from the Universal Healthcare Program as provided for citizens of Georgia, with exceptions pursuant to Georgian legislation;
- k) withdraw the application for international protection on a voluntary basis;
- l) be exempted from any fees for appeal against a decision related to the application for international protection;
- m) have the right to employment pursuant to Georgian legislation. In particular, be employed or self-employed independently;
- n) have right to address administrative bodies and courts pursuant to Georgian legislation;
- o) be informed of the possibility to contact UNHCR;
- p) enjoy other rights envisaged by Georgian legislation for aliens, unless this Law provides otherwise.

#### **Article 57. Obligations of an asylum-seeker**

An asylum-seeker shall be obliged to:

- a) comply with the Constitution of Georgia, this Law and other normative acts of Georgia, respect local culture, traditions and customs, and the rights and freedoms of citizens of Georgia;
- b) remain on the territory of Georgia during the entire period of procedures for examination of application for international protection; except of those situations when leaving the territory of Georgia is related to his vital interests and he notifies the Ministry about the reasons and time period for leaving Georgia in written form;
- c) substantiate his application for international protection, present all available documents and evidence relevant to examination of the application: including information regarding his identity, citizenship, previous country(ies) and place(s) of residence, transit itineraries, identity and travel documents and the reasons for which a form of protection is sought;
- d) be truthful and cooperate with the Ministry to establish the relevant circumstances pertaining to his application for international protection;
- e) make efforts to support his declarations with any available evidence and offer justifications for the absence of evidence provided under sub-paragraph “c” of this article;
- f) provide to competent official identity documents, including travel documents, and any other relevant documents that he holds;
- g) after receiving an asylum-seeker certificate, the asylum-seeker is obliged to leave his/her travel document, in case of existence of such document, to competent official which is returned to him/her after applying to the Ministry for withdrawal of consideration of his application for International protection, or discontinuation of the consideration by the Ministry, or upon the decision of the Ministry to refuse a person to refugee or humanitarian status, or when appealing the Ministry’s decision in accordance with legislation, after the entry of the final judgment of the court to refuse on refusal to grant refugee or humanitarian status;
- h) during profiling, provide competent official with his address. Within 10 calendar days inform competent official of any change of residence, legal status, civil status and of any loss or deterioration of identity documents issued by the competent authorities in Georgia;
- i) undergo photographing, fingerprinting, mandatory registration, and upon request of competent official undergo relevant medical examination;
- j) comply with the internal regulations of the reception center if placed there;
- k) after missing the deadline to appeal the negative decision to grant refugee, humanitarian or temporary protection status, individual must leave the territory of Georgia within one month after the decision of rejection of his application for international protection enters into force;

#### **Article 58. Rights of a refugee or humanitarian status holder**

1. A refugee or humanitarian status holder shall have the right to:

- a) be informed about the form of protection granted under this Law and his rights and obligations;
- b) receive a temporary residence and refugee or humanitarian status holder certificate;

- c) choose a place of residence and move freely, except as may be warranted by national security, public order or public health considerations;
- d) registration of civil acts pursuant to Georgian legislation;
- e) remain in the reception center or in special cases – other temporary placement allocated by the Ministry during one month after receiving status;
- f) benefit from the right of protection of personal data as provided by the Law of Georgia on Personal Data Protection;
- h) receive monthly allowance as determined by Georgian legislation;
- i) apply to the legal entity of public law Public Service Development Agency of the Ministry of Justice of Georgia for citizenship of Georgia, according to the Organic law of Georgia on Citizenship;
- k) travel to another country except for his country of origin or the countries where he and his family members are not considered to be safe ;
- l) pre-school and general education as provided for citizens of Georgia; have access to professional and higher education in accordance to Georgian legislation, have access to the procedure of recognition of education and qualification received abroad;
- m) Universal Healthcare Program benefits or social assistance as provided for citizens of Georgia, with exceptions pursuant to Georgian legislation;
- n) have the right to employment. In particular, be employed or self-employed independently as provided for citizens of Georgia;
- o) family reunification;
- p) appeal all administrative decisions to the court as provided for citizens of Georgia;
- q) enjoy other rights envisaged by Georgian legislation for aliens residing in Georgia, unless otherwise stipulated in this Law.

2. Upon request of the Ministry, a refugee shall be provided with a temporary residence permit valid for three years and travel document according to Articles 27 and 28 of the 1951 UN Convention on Status of Refugees.

3. Upon request of the Ministry, a humanitarian status holder shall be provided with a temporary residence permit for relevant period of time and travel passport.

4. Form and rules for issuing travel passport and travel document is determined by the Ministry of Justice.

#### **Article 59. Obligations of a refugee or humanitarian status holder**

A refugee or humanitarian status holder shall be obliged to:

- a) comply with the Constitution of Georgia, this Law and other normative acts of Georgia, respect local culture, traditions and customs, and the rights and freedoms of citizens of Georgia;
- b) notify the Ministry of change of address and contact details;
- c) contact the competent official regarding the expiry of residence permit at least 30 calendar days prior to expiration, and, in case of loss or damage, immediately;

#### **Article 60. Social-economic guarantees of a refugee or humanitarian status holder**

1. Social-economic guarantees for persons holding refugee or humanitarian status are ensured with the involvement of the state agencies responsible for implementation of this Law in accordance with Georgian legislation. The Ministry coordinates activities of the state executive agencies for providing assistance to persons holding refugee or humanitarian status.

2. Issuance of monthly assistance described under Article 58(h) shall be suspended for refugee or humanitarian status holder if he:

- a) leaves Georgia for longer than 1 month;
- b) is placed at the penitentiary establishment of the Ministry of Corrections of Georgia according to the judgment of the court;
- c) refused to receive assistance pursuant to Georgian legislation.

3. Monthly allowance suspended in accordance of the paragraph 2 of this Article will be restored in one month after the circumstance under the paragraph 2 of this Article no longer exist, on basis of the personal application of a refugee or humanitarian status holder from first day of next calendar month.

#### **Article 61. Rights of a person under Temporary Protection**

A person under temporary protection shall have the rights to:

- a) be informed about the form of international protection he was granted under this Law and his rights and obligations;
- b) be provided with a temporary residence permit valid for the period temporary protection is granted;
- c) receive medical assistance in accordance with Georgian legislation;
- d) pre-school, general and high education in accordance with Georgian legislation, have access to the procedure of recognition of education and qualification received abroad.
- e) have right to address administrative bodies and courts pursuant to Georgian legislation;
- f) enjoy other rights envisaged by the legislation of Georgia for aliens and stateless persons, unless this Law provides otherwise.
- g) be provided with the food and shelter or with financial assistance pursuant to the Ministers decree.

## **Article 62. Obligations of persons under temporary protection**

A person under temporary protection shall be obliged to:

- a) comply with the Constitution of Georgia, this Law and other normative acts of Georgia, respect local culture, traditions and customs, and the rights and freedoms of citizens of Georgia;
- b) notify the Ministry regarding change of address and contact details;
- c) cooperate with the competent official;
- d) undergo photographing, fingerprinting, mandatory registration, and upon request of competent official relevant medical examination;
- e) contact the competent official regarding the expiry of residence permit at least 30 calendar days prior to expiration, and, in case of loss or damage, immediately;

## **Article 63. Covering Costs Related to International Protection**

Costs for the activities related to the international protection will be covered according to competences of the public agencies responsible for the implementation of this Law with the assignees provided to them from the state budget.

# **Chapter VIII**

## **Durable Solutions for Refugees and Humanitarian Status Holders**

### **Article 64. Voluntary Repatriation**

In order to carry out voluntary repatriation of refugees and humanitarian status holders, the Ministry shall observe the following conditions:

- a) repatriation shall be of a voluntary nature and shall be conducted by the authorities responsible for the implementation of this Law;
- b) the will of the refugee or humanitarian status holders to repatriate shall be expressed in writing;
- c) the refugee shall be provided with all the available information and conditions in his country of origin and informed about the consequences of his return.

### **Article 65. Local Integration**

The Ministry, in cooperation with public agencies responsible for the implementation of this Law shall develop programs for social integration of refugees and humanitarian status holders, and shall ensure their access to integration programs.

# **Chapter IX**

## **Timeframes for keeping personal data**

## **Article 66. Timeframe for Keeping Personal Data**

Personal data processed in accordance with this Law will be destroyed in accordance with Georgian legislation from the moment of the decision of the Ministry on refusal to grant refugee or humanitarian status to an asylum-seeker, after the decision on refusal to grant temporary protection to an alien or a stateless person, also after cessation, cancelation or revocation of refugee, humanitarian or temporary protection status of a person, or after the final negative decision of the court enters into force, after expiry of timeframes provided under relevant by-laws.

## **Chapter X**

### **Authority, Responsibilities of the Administrative Bodies of Georgia and International Cooperation**

#### **Article 67. Ministry**

1. Ministry ensures enjoyment of right to International Protection under this Law.
2. In order to execute the responsibilities provided under this Law, Ministry:
  - a) addresses the State Security Service of Georgia in case of necessity to receive advice regarding an asylum-seeker who enters Georgia illegally, or persons holding refugee or humanitarian status or temporary protection on the issues of potential threat to national security;
  - b) addresses the Ministry of Internal Affairs of Georgia in case of necessity to receive advice regarding an asylum-seeker who enters Georgia illegally, or persons holding refugee or humanitarian status or temporary protection on the issues of potential threat to public order or;
  - c) addresses the Ministry of Internal Affairs of Georgia and the State Security Service of Georgia in case of necessity to seek help with identification of an asylum-seeker, if the Ministry cannot identify the asylum-seeker itself;
  - d) informs the Ministry of Justice of Georgia's State Service Development Agency on the negative decision of the Ministry to grant one of the forms of international protection or on the entry into force of the final decision of the court which rejects a claim of asylum-seeker to be granted international protection;
  - e) provides the LEPL Public Service Development Agency of the Ministry of Justice of Georgia, the list of asylum-seekers, refugees, and holders of humanitarian status or persons under temporary protection in order to issue temporary identification or residence card. Informs the same agency on refusal to an asylum-seeker to protection under this Law, cessation, cancellation, and revocation of refugee, humanitarian status or temporary protection, in order to annul a temporary identification card, a temporary residence permit and travel documents/travel passports;
  - f) in order to ensure implementation of rights of the asylum-seekers or persons under international protection cooperates with state authorities responsible for the implementation of this Law, international organizations including the UNHCR office in Georgia;

- g) provides UNHCR with the information on asylum-seekers and persons under international protection;
  - i) administers the database of asylum-seekers and persons under international protection;
  - j) covers the costs of the relevant medical examination of an asylum-seeker and person under temporary protection based on the request of the competent official
  - k) takes other responsibilities in accordance with this Law.
3. On the responsibilities of the Ministry under this Law, the minister is entitled to issue relevant normative acts in accordance with Georgian legislation.

## **Article 68. Ministry of Internal Affairs of Georgia**

### 1. Ministry of Internal Affairs of Georgia:

- a) Upon the request from the Ministry assists in identification of asylum-seekers and verification of the facts provided during status determination procedures. Provides information regarding potential threats to public order from asylum-seeker or person under international protection who entered the territory of Georgia illegally.
- b) When the application for international protection is submitted at the state border check-point, explains rights, obligations and asylum procedures envisaged by the legislation of Georgia to asylum-seekers in a language they understand
- c) Assures the reception of asylum-seekers on the territory of Georgia and does not expel them from Georgia, protecting the principle of *non-refoulement* as mentioned in Article 8 of this Law;
- d) in case of request of international protection by an alien or stateless person conducts the initial interview with him;
- e) upon request for international protection by an alien or stateless person accepts the application not considering absence of travel or identification documents. In case an asylum-seeker does not have valid travel or identification documents, the application for international protection shall be filled with the information provided by him;
- f) Sends the information and documentation related to the request of international protection by an alien or stateless persons related to paragraphs “d” and “e” of this article, to the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia within no later than three working days.
- g) Informs the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia about detention of asylum-seeker, persons under international protection or them being wanted, within 1 week;
- h) Upon receipt of the information from the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia, starts expulsion procedures pursuant to the Georgian legislation regarding a person who is refused international protection by final judgment of the court or where the granted status has been ceased, cancelled or revoked according to this Law.



i) informs the Ministry within 2 week timeframe about the entry into force of the decision of the court on commission of serious or particularly serious crime by an asylum-seeker, refugee or humanitarian status holder on the territory of Georgia;

j) checks the documentation of the asylum-seeker at the border point in accordance with established rules and procedures.

2. Information under the sub-paragraph “a” of this article shall be provided to the Ministry in a form that does not undermine state secret, national security and/or public order.

### **Article 69. State Security Service of Georgia**

1. Upon the request from the Ministry the State Security Service of Georgia assists in identification of asylum-seekers within its competence and verification of the facts provided during status determination procedures and provides information regarding potential threats to national security and public order from asylum-seekers or persons under international protection.

2. The potential threat to national security, enshrined in the paragraph 1 of this Article, shall constitute situations when there is a sufficient ground to believe that an asylum-seeker, refugee or holder of other forms of international protection is related to:

a) the country/organization that is hostile towards the self-defense and security of Georgia;

b) the security services of other countries;

c) the terrorist and extremist organizations; and

d) other crime affiliated organizations (including transnational crime affiliated organizations) and/or to the illegal circulation of arms, weapons of mass destruction and their components.

3. Information under the paragraph 2 of this article shall be provided to the Ministry in a form that does not undermine state secret, national security and/or public order.

### **Article 70. Public Service Development Agency**

Public Service Development Agency:

a) Issues a temporary identification card for asylum-seekers and residence permit for persons under international protection based on the status certification document issued by the Ministry in accordance with the legislation of Georgia;

b) Issues a travel document/travel passport to persons under international protection in accordance with the legislation of Georgia;

c) Issues a relevant certificate and registers civil acts upon the request of asylum-seeker or person under international protection in accordance with the Georgian legislation;

### **Article 71. Prosecutor’s Office of Georgia**

1. Prosecutor's office is responsible to explain the possibility to seek asylum at any state authority to the person, who is the subject to extradition, in writing and in a language he/she understands.
2. Prosecutor's office immediately informs the Ministry about application for asylum from the person under extradition proceedings.
3. Prosecutor's office provides the Ministry with the copies of the extradition related documentation of the person mentioned under paragraph 2 of this article.

#### **Article 72. The Ministry of Corrections of Georgia**

The Ministry of Corrections of Georgia:

- a) Upon request for international protection by an alien or stateless person identifies his request, and provides him with the information and documentation about the right to seek asylum in accordance with Georgian legislation, in written form, in a language he understands and immediately sends information and documentation related to the request for international protection to the Ministry.
- b) Informs the Ministry about the expected release of an asylum-seeker or a person under international protection two weeks prior to the release date in case of expiry of term, or in case of release on other grounds within three working days.
- c) Ensures organization of a meeting of a competent official to asylum-seekers and persons under international protection in detention or penitentiary facilities in accordance with Georgian legislation.
- d) In case of request from competent official(s), as prescribed by Georgian legislation, shares the copies of the documentation of asylum-seekers, including travel documents, in case of their existence.
- e) Provides the Ministry information, including record of fingerprinting, about an asylum-seeker or person under international protection detained in the penitentiary establishment.

#### **Article 73. The Ministry of Foreign Affairs of Georgia**

The Ministry of Foreign Affairs of Georgia:

- a) Upon request, by the Ministry provides the information necessary for the examination of the request on international protection in accordance with the Article 5 of this Law.
- b) In accordance with the Article 46 of this Law upon the request of the Ministry assists the person under international protection in family reunification, issues visas to family members of persons under international protection who wish to travel to Georgia for family reunification purposes.
- c) Upon the request of the Ministry, within its competence and with the help of diplomatic representations and consulates assists a refugee or humanitarian status holder in voluntary repatriation in the country of origin.

#### **Article 74. Ministry of Labor, Health and Social Affairs of Georgia**

The Ministry of Labor, Health and Social Affairs of Georgia:

- a) Ensures the enjoyment of rights set out in Articles 56(j), 58(k) and 61(c) of this Law by asylum-seeker on person under international protection.
- b) Upon request of the Ministry provides an unaccompanied minor or a person with disability who is in need of a guardian, with guardian/custodian/support provider and accommodates the unaccompanied minor taking into consideration the best interest of the child.
- c) Cooperates with the Ministry on issues related to local integration.

#### **Article 75. Ministry of Education and Science of Georgia**

The Ministry of Education and Science:

- a) In order to facilitate the access to general education for asylum-seekers and persons under international protection, implements the educational program of Georgian language. The rules for applying and enrolling in this program, as well as the content of the program, implementation deadlines and ways of financing will be prescribed by the decree of a Minister of Education and Science of Georgia.
- b) Ensures the enjoyment of rights set out in Articles 56(i), 58(j) and 61(d) of this Law by asylum-seeker on person under international protection.
- c) Considering the paragraph “a” of this Article regularly provides information to the Ministry about the enjoyment of rights set out in Articles 56(i), 58(j) and 61(d) of this Law by asylum-seeker or person under international protection.
- d) Cooperates with the Ministry on the issues related to local integration.

#### **Article 76. LEPL - Legal Aid Service**

Legal entity of Public law –Legal Aid Service, provides legal assistance to asylum-seekers and persons under international protection on granting, cassation, cancellation and revocation of status.

#### **Article 77. Collaboration of Georgia with other governments and international organizations**

- a) The Ministry cooperates with other states as well as UNHCR or other international organizations on issues related persons under international protection.
- b) The Ministry cooperates with UNHCR in accordance with the agreement between UNHCR and Georgian government signed on 11 September 1996. For the family reunification purposes under the Article 46 of this Law the Ministry shall cooperated with the International Committee of Red Cross.

## **Chapter XI**

### **Transitional and Final Provisions**

#### **Article 78. Measures related to the enactment of this Law**

1. By 1 February 2017 the Government of Georgia shall ensure the compliance of other legislative acts with this Law.
2. By the 1 February 2017 the Ministry shall prepare and Minister shall adopt:
  - a) form of an asylum-seeker certificate and the rules for issuing and replacing it;
  - b) asylum procedures;
  - c) rules for the placement at reception center or other places of accommodation;
  - d) rules for taking fingerprints of asylum-seeker and processing this personal data;
  - e) timeframes for keeping data processed in accordance with this law.
3. Until 1 February 2017 Ministry of Justice of Georgia shall prepare and Minister of Justice shall adopt the form and rules of issuance of the travel document for humanitarian status holder.
4. Ministry and Ministry of the Internal Affairs of Georgia shall prepare and adopt the bilateral order on rules and procedures for the placement of asylum-seeker in the temporary accommodation center of the Department of Migration of the Ministry of Internal Affairs.

#### **Article 79. Normative acts declared null and void**

This Law declares null and void the Law of Georgia on Refugee and Humanitarian Statuses of December 6, 2011, №5370-III (Parliament Messenger ([www.matsne.gov.ge](http://www.matsne.gov.ge)) 20.12.2011, registration code: 010170000.05.001.016513).

#### **Article 80. Enactment**

1. This Law is to be activated from the moment of promulgation, except the Articles 1-77 and 79.
2. Articles 1-77 and 79 of this Law is to be activated from 1 February 2017.

President of Georgia

Giorgi Margvelashvili

Kutaisi  
1 December 2016  
N42-III