

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report

Universal Periodic Review: 3rd Cycle, 37th Session

GEORGIA

I. BACKGROUND INFORMATION

Georgia ratified the *1951 Convention Relating to the Status of Refugees* and its *1967 Protocol* (hereinafter collectively referred as the *1951 Convention*) in 1999. Georgia acceded to the *1954 Convention Relating to the Status of Stateless Persons* (the *1954 Convention*) in December 2011 and to the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*) in July 2014. Georgia has not yet signed the *Council of Europe 1997 European Convention on Nationality*.

As of December 2019, Georgia was host to 3,638 refugees, asylum-seekers and stateless persons, including 1,126 asylum-seekers, 504 refugees, 856 humanitarian status holders, 593 persons in refugee-like situation and 559 stateless persons. Currently there are also 286,216 internally displaced persons (IDPs) including persons in an IDP-like situation. UNHCR has been operating in Georgia since 1993 and has been working closely with the governmental counterparts on issues related to protection and assistance of IDPs, asylum-seekers, persons granted international protection (refugees and humanitarian status holders), stateless persons (incl. de facto stateless persons).

The key legislative act regulating asylum in Georgia is the *Law on International Protection*¹ (LoIP), adopted on 1 December 2016, that entered into force on 1 February 2017, which brought the national legislation closer in line to the international standards.

The statelessness-related issues are regulated by the *Organic Law of Georgia on Georgian Citizenship* (2014) and the *Law on the Legal Status of Aliens and Stateless Persons* (2014).

In 2007, the Government adopted the *State Strategy for Internally Displaced Persons* which lays out conditions for dignified and safe return and includes the improvement of the socio-economic conditions of IDPs as one of its key goals. The accompanying *IDP Action Plan* translated the goals of the *State Strategy for IDPs* into concrete measures. After 2014 *IDP Action Plan* was extended and currently, the *IDP Action Plan for 2019-2020* is operational. The *Law of Georgia on Internally Displaced Persons from the Occupied Territories of Georgia* was adopted in 2014 in close cooperation with international and local non-governmental organizations. IDP issues are a high priority on the Government's agenda. IDPs have full access to documents, social assistance and health care, on equal footing with other citizens.

In July 2018, UNHCR's main governmental counterpart, the Ministry of Internally Displaced Persons from the Occupied Territories, Refugees and Accommodation (MRA), was dismantled and functions were assumed by separate Government authorities. The asylum portfolio was transferred to the Division of International Protection Issues under the Migration Department of the Ministry of Internal Affairs (MIA), while the socio-economic and integration portfolios and the IDP-related functions were transferred to the newly formed Ministry of the Internally Displaced

¹ Georgia: *Law on International Protection (2018)* [Georgia], 1 December 2016, available at: <https://www.refworld.org/docid/58c6a5d54.html> [accessed 13 November 2019]

Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia (hereinafter MIDPLHSA).

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Issue 1: The protection of refugees and asylum-seekers

Linked to 2nd cycle UPR recommendation no. 117.19: “Harmonize the law with the Convention relating to the Status of Refugees (Honduras)”²

The Law on International Protection and its by-laws constitute a positive development in the region as they improved the protection framework for refugees and asylum-seekers in Georgia. The Law created a Refugee Status Determination Unit, as well as Country of Origin Information and Quality Control and Assurance units within the Division of the International Protection Issues of the Migration Department of MIA of Georgia. Staff of these units were trained in various EASO and UNHCR training modules related to international refugee law and asylum procedure.

Moreover, a Government-run Integration Centre for persons granted international protection was established in 2017.³ The centre provides free Georgian language classes, cultural orientation and civic education as integration support measures; its services are expected to be extended to stateless persons, while the Georgian language classes only are to be made available to asylum-seekers. As of 2016, asylum-seekers have access to free legal aid provided by the Legal Aid Service (LAS) in the judicial proceedings of the asylum procedure, while legal counselling and assistance for the entire duration of the asylum procedure is not yet available.

Issue 2: The protection of stateless persons

Linked to 2nd cycle UPR recommendation no. 117.87: “Establish a system for birth registration that covers all children without discrimination by reason of race, ethnicity or nationality, sex or religion (Paraguay).”

Georgia has improved its legislation, policy and practice regarding prevention and reduction of statelessness with the establishment in 2012 of a specific Statelessness Determination Procedure (SDP), the first in the South Caucasus region. Moreover, UNHCR commends the pledges made by Georgia at the High-Level Segment on Statelessness of the UNHCR’s 70th Executive Committee in 2019 which reads as follows:

- facilitate naturalisation through reduced period of residence from 10 to 5 years
- facilitate access to the SDP through the reduced fee (from 50 to 25 GEL)
- provide state legal aid during the entire SDP including court representation
- provide access to emergency outpatient/impatient care under the state universal healthcare program for the persons in SDP
- conduct “door-to-door” campaign aiming at identifying and documenting stateless persons
- within the framework of #iBelong campaign cooperate with UNHCR to raise awareness and foster common understanding about statelessness, among others through implementing relevant obligations under the 2030 Agenda for Sustainable Development which Georgian government already nationalized.

UNHCR stands ready to support the Government of Georgia in the implementation of these pledges.

² “Report of the Working Group on the Universal Periodic Review: Georgia,” A/HRC/31/15, 13 January 2015, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/005/04/PDF/G1600504.pdf>.

³ More information on the Center available at: <https://rig.ge/about-center/?lang=en> [accessed 13 Nov 2019]

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: Access to the territory and non-penalization for illegal entry

Linked to 2nd cycle UPR recommendation no. 117.118: “Continue to keep the principle of non-refoulement and limit the use and duration of detention for asylum seekers (Republic of Korea)”.

Ensuring access to the asylum procedure and to the territory and abiding by the principles of non-penalization for irregular entry and non-refoulement require further attention to ensure that Georgia’s policy and practice are in line with the international standards. In 2018 and 2019, UNHCR became aware of cases of asylum-seekers who were penalised for irregular entry into the country, as well as of confirmed and unconfirmed reports of potential direct or indirect refoulement.

Recommendations:

UNHCR recommends that the Government of Georgia:

- a) Ensure the principle of *non-refoulement* is observed and penalties for irregular entry are not imposed on individuals applying for asylum in line with the conditions set out in Article 31 of the *1951 Convention*;
- b) Ensure that the Border and Patrol Police assumes a pro-active role in the identification of persons in need of international protection in view of respecting the right to seek asylum, including through provision of information related to the asylum procedure in Georgia; and
- c) Establish a fair and effective intra-ministerial referral mechanism of asylum-seekers from border to asylum authorities.

Issue 2: Local Integration

Linked to 2nd cycle UPR recommendation no. 117.117: “Take the necessary steps to address concerns over the rights of vulnerable groups, including internally displaced persons, refugees and migrants, and carry forward measures to integrate them effectively into the broader social and political systems (Republic of Korea)”.

Integration of asylum-seekers and persons granted international protection is part of the State Migration Strategy 2016 – 2020 and its Action Plan. The development of the Action Plan has been stalled by the ongoing reorganization of the MIDPLHSA with no Action Plan on Integration elaborated to-date.

The reception conditions in Georgia have improved in the last years but continue to require substantial investment in relation to effective access to rights to achieve self-reliance, including specialized procedures and assistance for persons with specific needs. There is a need to raise awareness among service providers, asylum-seekers and refugees on related rights.

State integration services are currently limited to Georgian language classes, civic education and cultural orientation courses only, without consideration for a broader range of essentially important services and activities to promote better integration of refugees in Georgia. The services are only available in Tbilisi, although there are a number of persons granted international protection outside Tbilisi.

In 2019, Georgia took steps to facilitate the recognition of refugees’ educational and professional qualifications obtained abroad. Non-formal education is also recognized. Diplomas can be obtained even in the absence of relevant documents/certificates by passing exams in relevant skills. With regard to formal education, the amendments allow for the recognition of

education/qualification for persons granted international protection who do not possess relevant documents.

Recommendations:

UNHCR recommends that the Government of Georgia:

- a) Establish a national mechanism for early identification, referral and specialised assistance for persons with specific needs;
- b) Ensure the integration of persons granted international protection into the National Action Plan on Integration supported by adequate budgetary allocations;
- c) Enhance efforts to include asylum-seekers as well into the public social services and all persons of concern to UNHCR in development projects for vocational skills trainings, job qualification enhancement, and employment support coupled with free language courses as these efforts are expected to strongly facilitate the integration process in Georgia;
- d) Introduce entrance exams for the Vocational Training Schools in additional languages; and
- e) Ensure that relevant strategies for socio-economic integration prioritize support for youth among asylum-seekers, persons granted international protection and stateless people.

Issue 3: The protection of internally displaced persons

Linked to 2nd cycle UPR recommendation no. 118.53: “Ensure greater participation of internally displaced persons in decision-making related to projects affecting them, particularly those concerning access to adequate housing (Spain)” and **no. 118.54:** “Strengthen protection of the economic and social rights of internally displaced persons, including by protecting against unlawful evictions and resolving issues related to legal ownership of living spaces currently inhabited by internally displaced persons (Canada)”.

The Government of Georgia continues to provide durable housing in line with the defined housing allocation criteria. The process, however, remains slow due to the lack of required funds compared to increased number of IDPs and their needs. UNHCR continues to monitor and assess situation of IDPs and plays an advisory role to the Government.

The Government was expected to initiate the IDP allowance reform in 2019 by shifting from “status based” to “needs based” assistance, however, progress is yet to be seen due to continuous government reorganisation. The IDP allowance reform can trigger further changes to the IDP law and policy.

Georgia has contributed to the GP20 Plan of Action that was submitted to the Global Protection Cluster and incorporated the commitments of the Georgian Government *vis-à-vis* the implementation of Global Plan of Action. There are 4 thematic priorities and related activities: (i) IDP allowance reform (change from “status” to “needs based” assistance); (ii) establish a mechanism for increasing the communication with IDP communities; (iii) provide accommodation for IDPs under the durable housing program; and (iv) increase access to livelihood opportunities.

The conference devoted to the national celebration of the 20th anniversary of the Guiding Principles on Internal Displacement identified 4 action points that require follow up: (i) establishing an efficient community-based communication and information dissemination mechanism to enhance the existing systems; (ii) improved interagency coordination mechanism through the reinvigorated Steering Committee; (iii) further mainstreaming of IDPs in existing livelihood programs, need for investing in self-reliance and sustainability (i.e. SDG/Agenda 2030); (iv) switching from “status” to “needs based” assistance for IDPs, as suggested by the Special Rapporteur on Human Rights of IDPs.⁴ It is important to make a reform process

⁴ Report of the Special Rapporteur on the human rights of internally displaced persons on his mission to Georgia, 4 April 2017, available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/G1708324.pdf>

consultative, more inclusive for all relevant stakeholders and to decide on the model of the reform without further delay.

Recommendations:

UNHCR recommends that the Government of Georgia:

- a) Consider re-launching discussions regarding the IDP allowance reform and find the most suitable model for implementation of the reform;
- b) Further mainstream IDPs in existing public and government livelihoods programs to ensure that the needs of IDPs are analysed and addressed in the spirit of “leaving no one behind”;
- c) Improve the interagency coordination mechanism within the Government; and
- d) Further improve inter-agency coordination and communication mechanisms to reach out to the IDP communities.

Additional protection challenges

Issue 4: Fair and efficient asylum procedures (national security concerns)

Rejection of asylum applications on national security grounds remains an issue of serious concern to UNHCR. The lack of procedural safeguards, as well as insufficient attention given to international protection considerations over national security concerns, undermines the important progress made in the field of asylum.

As per Article 67 of the LoIP, MIA can request from the State Security Service (SSS) recommendations on matters related to a potential threat to the national security linked to an asylum-seeker or a person granted international protection who had illegally entered the territory of Georgia. However, as the practice shows, MIA requests recommendations from SSS also in cases when individuals enter Georgia legally and generally rejects cases with national security negative recommendations. The rejection decisions of MIA do not elaborate on the reasons for rejections, and while MIA states that the person meets the grounds for international protection in accordance with Article 15 of the LoIP, it states at the same time that the person is denied international protection based on *sufficient grounds to believe that s/he endangers the state security of Georgia in accordance with Article 17 (1) (b) of the same law*. The decision does not indicate the particular grounds provided by Article 69 (2) of the LoIP on why a person is considered to be a threat to the state security resulting in individuals not having a possibility to effectively challenge this decision and benefit from a fair trial.

At the judicial review stage of the asylum procedure judges can request access to the classified information provided by SSS. As per information available to UNHCR, the courts overturned a limited number of cases, granting them a form of international protection or sending the cases back for re-examination to the administrative authority.

A recent trend observed by UNHCR is the non-issuance or non-extension of the ID cards for newly registered asylum-seekers or asylum-seekers already in the procedure, for reasons not provided to them, in contravention with national legislation. The lack of IDs hinders the access of asylum-seekers to all the rights provided by the national legislation, leaving them in a very precarious situation, including potential *refoulement*.

Recommendations:

UNHCR recommends that the Government of Georgia:

- a) MIA to seek advice from the State Security Service on asylum cases only when strictly provided for by the *Law on International Protection*⁵;

⁵ Article 67 (2)(b) of the LoIP reads as follows: “*apply, if required, to the State Security Service of Georgia to receive recommendations on matters related to a potential threat to the state security of Georgia created by asylum seekers and persons holding refugee or humanitarian status, who have illegally entered the territory of Georgia*”.

- b) MIA to provide the legal grounds whenever any negative asylum decisions are issued on the basis of national security concerns, in line with the *Law on International Protection*⁶;
- c) Ensure that in accordance with due law process principles, asylum-seekers are offered the opportunity to rebut information provided by the State Security Service as to potential security concerns, and/or provide for a specific exclusion procedure;
- d) Amend national legislation to ensure that lawyers representing asylum-seekers are able to obtain the necessary security clearance to review all information used against their clients;
- e) Ensure that the Legal Aid Service provides free legal assistance for the entire refugee status determination procedure, including legal counselling, assistance for submitting an asylum application;
- f) Consider establishing specialized judges on migration and asylum related issues that would allow the judicial review to take place in an efficient procedure in line with the international and regional human rights standards.

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⁶ Article 69 (2) of the LoIP reads as follows: “*potential threat to the state security of Georgia provided for by paragraph 1 of this article involves such cases where there are sufficient grounds to believe that an asylum seeker or an internationally protected person has connections with: a) the armed forces of a country and/or an organisation which has a hostile attitude towards the defence and security of Georgia; b) the intelligence services of other countries; c) terrorist and/or extremist organisations; d) other criminal organisation (including, transnational criminal organisations) and/or connections with the illegal circulation of armaments, and/or weapons of mass destruction, or their components*”.