

Decree №100 of the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia

Tbilisi, August 16, 2012

On the Procedures for Granting Refugee or Humanitarian Status

Pursuant to the “Georgian Law on Refugee and Humanitarian Status” (Art. 35, Para. 2, subpara. “c”), the General Administrative Code of Georgia (Art. 61) and the regulation of the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia (Art. 4, Para. 2 (R)) adopted by the government decree №34 on February 22, 2008:

I declare:

1. The enclosed provision on “Procedure of Granting Refugee and Humanitarian Status” shall be adopted according to annex 1.
2. The questionnaire form for asylum-seeker shall be adopted according to annex 2.
3. The decree No117 on the “Procedures for Granting Refugee and Humanitarian Status” passed by the Minister of Internally Displaced Persons From the Occupied Territories, Accommodation and Refugees of Georgia on October 27, 2008 reads; No 576 “On approval of the questionnaire form of persons seeking Refugee status ” passed by the Minister of Internally Displaced Persons from the Occupied Territories on October 7, 2005 and No 570 “On the Refugee certificate form and approval of regulations of the refugee certificate” passed by the Minister of Internally Displaced Persons from the Occupied Territories on October 3, 2005 shall be declared annulled.
4. The decree enters into force upon its publication.

Minister: D. Khomeriki

Regulation on the Procedures for Granting Refugee and Humanitarian Status

Article 1. General Provisions

1. The regulation defines the registration of asylum-seekers, rules for granting, cessation and cancellation of refugee or humanitarian status, as well as their rights and obligations.
2. Refugee Status in Georgia shall be granted to a person if the conditions prescribed in Art. 2 of the Georgian law on Refugee and Humanitarian Status (Hereinafter the law) exist.
3. Humanitarian Status in Georgia shall be granted to a person if the conditions defined in Art. 4 of the Georgian law on Refugee and Humanitarian Status are present.
4. Georgia supports the principle of family reunification of refugee and humanitarian status holders.
5. The family members of refugee or humanitarian status holders include: a spouse of a person with refugee or humanitarian status, children below the age of 18, child or adult with disability, or elderly parent (pension age) or any other person under custody/guardianship.
6. All the issues pertaining to asylum-seekers, refugees and humanitarian status holders that are not provided by this provision shall be settled pursuant to Georgian legislation.

Article 2. Procedure on Application for Asylum

1. An asylum-seeker submits the application for asylum to the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia (hereinafter: the Ministry).
2. In the case where a family is seeking asylum, application is submitted to the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees, by the family member of full legal age and who has a valid reason to request asylum.
3. The data about the underage family members who arrived in Georgia with a person of full age shall be included in the application of one of the parents; if the parents are missing – the minor's guardian/custodian or accompanying other adult family member or relative should be noted in the application.
4. If a child arrives alone in Georgia, request is made by the protocol/minute and the asylum application is lodged by a guardian/custodian who shall be appointed based on the established procedures taking into consideration all circumstances of the case and the best interest of the child. The Ministry shall immediately address in a written form the relevant guardianship/custodianship state body on the accommodation of a minor and appointment of a guardian/custodian during his/her stay in Georgia (before reaching legal age).
5. The application shall be deemed received upon its registration in the Ministry.
6. The application shall be attached with identity cards, as well as with other documents (if available) certifying the substantiality of the applicant's claim.

7. The authorized officer of the Ministry is obliged to inform the applicant on the rule of making decision and explain his/her rights and obligations.
8. The form for asylum-seekers shall be completed at the Refugee and Repatriation Division (Hereinafter – the division) of the Department of Migration, Repatriation and Refugee Issues of the Ministry (Hereinafter – the department) and in accordance with relevant rules, fingerprinting can be exercised.
9. If an individual lawfully residing in Georgia is willing to file application for asylum, he/she is obliged to approach the Ministry personally.
10. In the case where a person has a legal right to stay on the territory of Georgia he/she is authorized to apply for refugee or humanitarian status given that the situation in the country of his/her citizenship (or permanent residence) has changed and as a result the person is unable or unwilling to go back pursuant to the Articles 2 and 4 of the law.
11. Given that there are no preventing factors, an asylum-seeker is obliged to address any State authority within 24 hours if he/she illegally crossed Georgian state border.
12. Asylum requests received by any authority are recorded in a written form and the copy of which is sent to the Ministry within 3 days and made available to the individual asylum-seeker.

Article 3. Procedure for Granting Refugee or Humanitarian Status

1. The division of the Ministry shall consider the asylum application within 6 months after the date of registration of the application. The division may decide to prolong consideration of the application for no more than 3 months. If this is the case, the division notifies the applicant in writing.
2. The Ministry shall preliminarily review the application submitted by the asylum-seeker residing in Georgia within 10 days and immediately issues the certificate on the registration of the asylum application.
3. Within 10 days after the asylum application is submitted the Agency shall conduct profiling of the asylum-seeker on the basis of a standard questionnaire form. Notification of the date of profiling shall be given to the asylum-seeker on the date of submission of the asylum application.
4. The data about underage family members who arrived in Georgia accompanied with a family member of full legal age is included in the application of one of the parents, if the child arrives unaccompanied - the minor's guardian/custodian or accompanying other adult family member or relative should be noted in the application.
5. The department renders decisions on registration or denial of registration as an asylum-seeker and within 5 days of the decision issuance, asylum-seekers and his/her family members are provided with a certificate valid for 6 months with possible extension in certain cases as defined by the law. The Certificate of the minors will be provided to his/her authorized representative.
6. Upon receiving the asylum-seeker certificate, an asylum-seeker is obliged to hand over his/her national ID cards to the Ministry, which will be returned in cases where:

- a) He/she is rejected from receiving refugee or humanitarian status
 - b) refugee or humanitarian status is suspended or cancelled
 - c) other cases defined by the law.
7. Within 10 days after registration as an asylum-seeker a person is obliged to undergo a medical check-up in the medical institution.
 8. The decision on registration as an asylum-seeker is the basis for granting rights and obligations prescribed in Article 18 of the law on asylum-seekers and his/her family members.
 9. Within 5 months from the date of registration of the application, the Ministry shall conduct an interview with the asylum-seeker. The applicant must be notified about the date of the interview 3 days in advance through written notification sent by the Ministry to the address defined by the applicant in his/her application.
 10. The Ministry ceases the case consideration if the asylum-seeker fails to attend the interview twice without valid reasons, after being duly notified.
 11. The Ministry is obliged to provide the asylum-seeker with qualified interpreter's services. The interpreter is obliged to maintain confidentiality and not to reveal any information protected in the applicant's personal file.
 12. If possible asylum-seekers shall be interviewed by a Ministry staff member of the same sex and provided with the translation services of a qualified interpreter of the same sex. In case there is a need to specify certain facts identified in the application an additional interview may be conducted.
 13. Interview is held in a specially allocated room (where strangers are not allowed) by the relevant staff of the agency. The room should be equipped with a phone. There should not be hard, sharp and other such objects, which can create a threat to the health or life of the person attending the interview.
 14. Representatives of the United Nations High Commissioner for refugees (Hereinafter-UNHCR) or its partner organizations may attend interviews with asylum-seekers as observers, who have the right to ask additional questions to asylum-seekers which will be reflected in the interview transcript. Without special permission by the department, other persons/organizations have no right to attend interviews with asylum-seekers.
 15. Before the interview the relevant representative of the Ministry is obliged to:
 - Introduce himself/herself to the participants of the interview;
 - Ask the asylum-seeker whether he/she has any objections with regards to the interpreter;
 - Explain to the asylum-seeker that all information received during the interview is confidential and it is not allowed to provide this information to governmental or non governmental agencies of his/her citizenship/country of origin, to media or private persons, without the interviewee's written permission;
 - Explain to the asylum-seeker that he/she should provide precise and exhaustive answers to each question. Explain the results of providing false information, refusal to provide information and providing false documents and reports.
 16. For identification purposes of asylum-seekers, and for the verification of facts provided by the applicant during the case consideration and for studying the situation in applicant's

country of origin, the Ministry is authorized to address local or international, governmental or non-governmental organizations, except in the country of origin.

17. If the Ministry decides to deny registration, the rendered decision is handed or sent to the asylum-seeker within 3 days. The decision shall include procedures for the appeal of the grounds and decision of rejection.
18. If the applicant does not appeal the denial decision he/she is obliged to leave Georgian territory, together with his/her family members, within 1 month after receipt of notification on denial, given that there are no other legal grounds for him or her as well as for his/her family members to stay in Georgia.

Article 4. Decision Making

1. After a thorough investigation of the case, the division prepares conclusions and the draft of the decision on granting or refusal to grant asylum, which is based on:
 - (a) Profiling of the asylum-seeker;
 - (b) interview with the asylum-seeker;
 - (c) analysis of the credibility of the provided information and facts, in terms of their consistency and persuasiveness, also analysis of the credibility of his/her behavior;
 - (d) Thorough examination and review of information provided by the applicant and his/her family members;
 - (e) Reliable and most recent applicable country of origin information of the asylum-seeker;
 - (f) Results of the overall assessment of the circumstances of flight from the country of origin, transit through a third country as well as entry and stay in Georgia.
2. As a result of a thorough study of the case, a written conclusion of the division shall be prepared and should include:
 - a) A brief summary of the application;
 - b) Assessment of credibility, including reality of information provided by the applicant, assessment of well-known facts and reliable information about the country of origin;
 - c) Assessment of determination criteria in accordance with the requirements of refugee status and in combination of admissibility criteria/explanations, including existence of reasonable fear or risk and grounded fear of persecution and criteria determined under the concept of refugee law;
 - d) In the case of discrepancy with the criteria of refugee status, assessment of criteria for humanitarian status is necessary;
 - e) Assessment of the possible usage of exclusion criteria;
 - f) Recommendation/Draft Decision.
3. The conclusion/decision of the division along with enclosed documents shall be presented to the head of department for the final decision.
4. The head of the department shall consider the conclusion prepared by the division, in the case where the head of the department does not agree with the conclusion, he/she gives the relevant instructions and after that takes a decision on the granting of or refusal to grant asylum to the applicant.
5. Based on the conclusion/draft decision or additional circumstances of the case on the granting of or refusal to grant asylum, the head of department decides whether the asylum-seeker meets the criteria established in Article 2 of the present Law. If the

applicant fails to meet the named criteria, the department shall consider the issue of applicability of criteria for granting humanitarian status provided in Article 4 of the present Law. If an asylum-seeker does not meet any of the defined criteria of Articles 2 and 4 of the Law, the head of department makes a decision on the rejection of refugee or humanitarian status to the asylum-seeker.

6. The issue to use paragraphs “a)”, “b)”, “c)”, “e)”, “f)”, “g)”, „H” of the law as a basis for the rejection to grant refugee or humanitarian status to the asylum-seeker shall be considered only after the discussion of the requirements of paragraph 5 of Article 4 of this regulation.
7. Refugee status shall not be issued to a person, whose application on request for asylum is under consideration in any other signatory countries to the UN 1951 Convention on refugee status and he/she can return to this country and continue the mentioned procedure.
8. Refugee or humanitarian status holders are provided with a Temporary Resident Permit and in case of rejection the relevant decision will be sent or handed over (Georgian version and translation in a language familiar to him/her) to the applicant within 3 days after the decision is made. The decision shall include procedures for appeal of the decision and reasons for rejection.
9. A temporary residence permit is issued to a humanitarian status holder for the duration of his/her humanitarian, herewithin, in the case of prolongation of the status, the document is issued again; for refugee status holders, the residence permit is initially issued for the duration of 3 years.
10. The refugee or humanitarian status holder (if a person with humanitarian status does not possess an ID document and/or it is impossible to obtain such a document) upon the Ministry’s written request shall be provided with a temporary residence permit and travel document as defined by the Articles 27 and 28 of the 1951 UN Convention on the Status of Refugees.
11. The rejection decision of the Ministry on granting refugee or humanitarian status can be appealed within 10 days to the Court according to the laws defined by Georgian legislation. Before the decision of the court enters into legal force the applicant enjoys rights and guarantees set out in Articles 18 and 21 of the Law.
12. The rights and obligations of refugee or humanitarian status holders within Georgian Territory are determined by the law of Georgia on Refugee and Humanitarian Status.
13. The refugee or humanitarian status holder will be informed of the start of the cancellation procedure as defined by the law and procedures, once a decision to cancel his/her status has taken place. Upon notification, the refugee/humanitarian status holder can appeal the decision. Interviews will be held with the refugee/humanitarian status holder within 1 month of the initiation of the cancellation procedure.
14. Interviewing procedures determined by paragraph 13 of Article 4 of this regulation do not refer to the specific provisions defined in paragraphs “a)”, “c)”, “g)” of Article 15 and paragraph 2 of Article 16.

15. The decision on the cancellation of refugee or humanitarian status is also applicable to all family members who were granted the given status on the basis of Articles 6 and 7 of the Law.
16. If a person does not appeal the decision on cessation or cancellation of refugee or humanitarian status, or if a person does not have any other basis for lawful stay in Georgia, he/she is obliged to leave the territory of Georgia along with family members, within 1 month from the date of notification on the decision.

Article 5. Family Reunification

1. Refugee or humanitarian status holders have a right to apply to the Ministry for family reunification
2. The application is considered in the Division, which prepares the conclusion on the validity of the family reunification on the basis of an interview and Art.7 of the law.
3. Refugee status holders will be granted the right to reunify with the family within 1 year after submission of the application on this issue, and humanitarian status holders with the condition that family reunification was not possible within one year after receiving a status and reunification is also not feasible in any other country.
4. In the case of a positive decision on family reunification, the Ministry requests support from other stakeholders as defined by the Law.
5. If the Ministry takes a decision to reject family reunification, the decision shall be sent to the applicant within 3 days. The decision shall include the reasons for rejection and procedures for appeal.

Article 6. Situation in mass influxes, registration of asylum-seekers and the granting of refugee or humanitarian status pursuant to the *prima facie* principle

1. According to Articles 2 and 4 of the Law of Georgia on Refugee and Humanitarian Status, during a mass influx of non-citizens of Georgia, the Ministry makes decisions about granting them the refugee or humanitarian status on the grounds of the existing overall situation in their country of origin.
2. Based on paragraph 1 of the present Article, asylum-seekers are registered and their cases are considered according to the *prima facie* principle, by the committee set up in the Ministry according to Georgian legislation. In case of complications, or if there is lack of necessary information or documents, or if the committee is not capable of making a decision on how to proceed and for further advice, , the committee is authorized to address relevant government bodies and agencies, as well as non-governmental or international organizations, or invite the representatives of these bodies to work jointly on the matter.
3. The work of the committee members set out in par.2 of the present Article is not reimbursed.
4. The asylum cases for granting refugee or humanitarian status on the bases of the *prima facie* principle shall be considered within one month. In case of necessity, it can be prolonged but no longer than for two months.

5. Identification documents and the interview are the basis for the registration and status determination of an asylum-seeker. If a person does not possess identification documents or provided documents are considered as doubtful, an identification procedure is conducted by the committee mentioned in the 2nd paragraph of the present Article.
6. Pursuant to this Article, asylum-seekers of legal age shall present identification documents – passport indicating place of permanent residence or in case of lack of such document – any document that substitutes it and is issued by the relevant authorities of the country of origin (temporary ID card, military certificate, driver’s license).
7. Pursuant to this Article, for minors under 16 who seek asylum, birth certificate shall be provided.
8. Pursuant to this Article, asylum-seeker who became of legal age in Georgia, in the case of absence of a passport, as an exception, might be registered with the birth certificate.