

## **Legal Status of Aliens and Stateless Persons**

### **100 Questions**

#### **Regarding the New Law**

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This document was prepared by the Ministry for Justice, the Ministry for Internal Affairs and the Ministry for Foreign Affairs of Georgia at the request of the State Commission on Migration Issues.

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March, 2014

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## **Introduction**

This document has been prepared by the State Commission on Migration Issues and is intended to inform society with regard to the main new provisions of the new law of Georgia on Legal Status of Aliens and Stateless Persons.

### **1. Why was it necessary to prepare the law?**

The law was prepared because of unregulated immigration processes created in the country by an extremely open visa policy. At the same time, correct and sensible management of migration processes acquires special importance in the process of rapprochement with to the European Union (EU), which should be carried out by means of appropriate visa procedures.

In order to regulate the existing situation, first of all it was necessary to change the existing visa policy, review the grounds for entry and stay of aliens in Georgia to comply with and fulfil international obligations while considering the interests of the country. To carry out the required changes, it was also necessary to introduce effective mechanisms for removal in compliance with international standards, which did not previously exist.

### **2. Does the new law intend to tighten the visa regime for aliens entering Georgia?**

Developing tourism and creating and maintaining an even more favourable environment for investments is a major priority for Georgia. At the same time, against the background of contemporary challenges and within the framework of the ongoing visa dialogue with the European Union, special importance is given to the effective management of migration processes. Considering these priorities and factors, the law does not intend to tighten the visa regime, but rather to create a necessary legislative framework and mechanisms for better management of the flow of aliens entering the country.

### **3. Did the draft law undergo evaluation by international expertise?**

Qualified experts were invited from the EU to evaluate the draft law. They offered important recommendations and conducted effective consultation to bring the project into compliance with EU standards. According to the final opinion of the experts, the law complies with the basic standards established by the European Union.

**4. Were governmental and non-governmental organisations involved in preparing the law?**

After preparing the first draft version of the law, international and local non-governmental organisations that had consultant status with the commission became involved in the drafting at the invitation of State Commission on Migration Issues. Most recommendations of these organisations have been taken into account and included in the final version of the law.

**5. When will the new law enter into force?**

The new law will enter into force on 1 September 2014.

**6. What measures are in place in case of illegal crossing of the State Border of Georgia?**

There are no changes in this regard: illegal crossing of the State Border of Georgia is still punishable under criminal law as provided for by the legislation of Georgia.

**7. Will aliens be able to obtain a visa on the territory of Georgia at the Legal Entity under Public Law (LEPL) - Public Service Development Agency within the Ministry for Justice of Georgia?**

According to the new law, the LEPL Public Service Development Agency within the Ministry for Justice of Georgia will no longer issue Georgian visas.

**8. Will aliens who had obtained a residence permit and a relevant certificate before the enactment of the new law still be able to enter Georgia without a visa?**

Aliens, who had obtained a residence permit (card) before the enactment of the new law, can enter the territory of Georgia without a visa for the entire period of validity of the residence permit (card).

**9. Will it be possible to obtain a Georgian visa at the State Borders upon entering the country?**

A Georgian visa can be obtained at the State Border of Georgia only in special cases under the law.

**10. What caused the restriction of issuing visas at the border?**

Currently, Georgian visas are mainly issued at border checkpoints and this creates significant difficulties with respect to alien data administration. According to the new law, this practice will change and visas will mainly be issued by consular offices of Georgia abroad. This decision was made for the purpose of effective consideration of visa applications and improvement of migration process management.

**11. Can entry into Georgia be denied to aliens having the right of visa-free entry to Georgia?**

There are no changes in the law in this regard. As before, aliens enjoying such right may be denied entry to Georgia, if: they are banned from entering the country; they have not paid the penalty for an unlawful stay in Georgia; they do not have health and accident insurance; they do not have sufficient funds to reside in Georgia and to return to their point of origin; they do not provide or the provide false information regarding their identity and the purpose of their visit, etc.

**12. Does the new law provide for any liabilities for carrier companies if their passengers are denied entry to Georgia?**

The carrier companies are obliged to check alien travelling documents, submit them for inspection at border checkpoints and return aliens who are denied entry to Georgia. If a carrier company fails to fulfil this obligation, administrative liability shall be imposed. In particular, an administrative sanction for each passenger transported in violation of the procedures provided for by law shall be GEL 300 in the case of land-transport, GEL 1,000 in the case of maritime transport, and GEL 1,500 in the case of air-transport.

**13. Where can aliens obtain a Georgian visa?**

Georgian visas are issued by diplomatic missions and consular offices of Georgia abroad.

**14. Where can aliens obtain a Georgian visa if there is no diplomatic mission or consular office of Georgia in their country of citizenship?**

In that case, aliens can apply for a Georgian visa to the diplomatic mission or consular office of Georgia in neighbouring countries.

**15. Can a foreign citizen, who is in another country, apply to the embassy of Georgia in that country?**

Aliens, in whose country of citizenship Georgia has a diplomatic mission or a consular office, and who are in a third country, may apply for a Georgian visa to the diplomatic mission or consular office of Georgia located in or accredited to the country of their stay, provided they have a valid multiple entry and exit visa or a valid residence permit for the country of their stay. When issuing Georgian visas to the aliens falling into this category, the validity period of visas or residence permits for the country of their stay must exceed the validity period of the Georgian visa by at least three months.

**16. What categories of visas are issued under the new law?**

Under the new law, visas are divided into the following categories: A – diplomatic, B – special, C – ordinary, D – immigration and T – transit.

**17. For what purpose is a diplomatic visa issued?**

A diplomatic, or A category visa, is issued to: officials of legislative and executive bodies of foreign countries coming to Georgia on state, official, business, friendly, unofficial visits, members of the highest and high level delegations, accompanying family members of these persons, employees of diplomatic and other equivalent representative offices accredited to Georgia, and to consular officials of consular offices and their family members; to employees of representative offices of international organisations located in Georgia who were granted a diplomatic status by Georgia and to their family members; to diplomatic couriers, persons visiting Georgia on special diplomatic missions, to honorary consuls of Georgia (if they are foreign citizens), to persons who hold work/special or ordinary passports visiting Georgia on various missions due to state interests of Georgia.

#### **18. For what purpose is a special visa issued?**

A special, or B category visa is issued to: members of foreign delegations, their accompanying family members and other persons, administrative-technical and service personnel of foreign diplomatic missions, consular staff and service personnel of consular offices, and to their family members and private domestic-workers, employees of international and humanitarian organisations in Georgia and their family members who live with them, persons visiting Georgia on the basis of international bilateral and multilateral treaties of Georgia, members of peace-keeping forces and other military contingents deployed on the territory of Georgia under international treaties, persons holding work/special or ordinary passports and visiting Georgia on various missions due to state interests of Georgia.

#### **19. For what purpose is an ordinary visa issued?**

An ordinary, or C category visa is issued to: persons visiting Georgia for tourism purposes and to visit relatives and friends; freelancers (persons, whose purpose of visiting Georgia is not a paid labour activity), persons coming to Georgia for business meetings and negotiations; the participants of scientific workshops, conferences and other scientific-research, pedagogical, cultural or sports events; persons coming to Georgia to perform journalistic activity; crew members of ships anchored in Georgian harbours if a visa-free movement of the ship crew members is not provided for by international treaties of Georgia; persons coming to Georgia to provide humanitarian aid, perform charitable activities in the case of life and health threatening circumstances. Category C visa shall also be issued to persons visiting Georgia for treatment, or to visit the graves of relatives and close persons; to guardians or custodians of citizens of Georgia or to persons who are under guardianship or custody of a citizen of Georgia; to persons coming to Georgia for pilgrimage, or on scientific, sports, cultural, and educational missions.

#### **20. For what purpose is an immigration visa issued?**

An immigration, or D category visa is issued to: persons who visit Georgia to conduct labour activities; representatives, consultants of companies or firms visiting Georgia to perform work duties; workers of mass media who visit Georgia to perform work duties; aliens who visit Georgia on the basis of labour contracts; persons who visit Georgia to conduct entrepreneurial activity under the Law of Georgia on Entrepreneurs; aliens who come to Georgia to study at educational institutions and to reunite with their families.



**21. Are immigration visas always issued for a long-term?**

An immigration or D category visa is a precondition for issuing a residence permit and for diplomatic accreditation. Immigration visas are always issued for a long-term.

**22. For what purpose and period is a transit visa issued?**

A transit or T category visa is issued when transiting Georgia to enter a third country. The period of validity of the transit visa shall not exceed five days.

**23. What types of visas will exist under the new law?**

A visa can be short-term or long-term.

**24. What is the main difference between short-term and long-term visas?**

A short-term visa may be single-entry, valid for up to 30 days, or multiple-entry, valid for up to five years, with the right of stay for 90 days in any 180 day period. Aliens holding a short-term visa do not have the right to obtain a residence permit in Georgia for work, educational and family reunification purposes or the right to obtain diplomatic accreditation. A long-term visa is issued with the right of multiple entry and exit and is a precondition to receive diplomatic accreditation or a residence permit.

**25. What is the validity period of a short-term visa?**

A short-term, single-entry visa is issued according to the number of days specified in the visa application, but not more than 30 days. A short-term, multiple-entry visa may be issued for a maximum of five years, in which case the total period of stay of an alien in Georgia shall not exceed 90 days in any 180 day period. A short-term, multiple-entry visa shall be issued to those aliens who obtained at least one Georgian visa in the previous year, used that visa in accordance with the legislation of Georgia and have grounds to request a multiple-entry visa.

**26. Can a single-entry visa be issued for up to 90 days validity period?**

A single-entry visa cannot be issued for 90 days, because it is issued only for a short-term, with a maximum of 30 days validity. A visa issued with 90 days validity will be a multiple-entry visa.

**27. What is the validity period of a long-term visa?**

A long-term visa is issued with the right of multiple-entry for 90 days validity and is a precondition to receive diplomatic accreditation or a residence permit.

**28. What does a term ‘the right to stay for 90 days in any 180 day period’ mean?**

The holder of this type of visa has the right to stay on the territory of Georgia for only 90 days in any 180 day period (the 90 days may be continuous or consist of several-day periods 30+30+30; 10+15+35+30, etc.). The periods and days shall commence from the first day of entry.

**29. Has the 360 day visa-free stay been reduced?**

Yes, it has been. Under the new law, the period of visa-free stay in Georgia is 90 days in any 180 day period. This change is based on the current practice in the EU, in particular within the Schengen area.

**30. What is the difference between the visa validity period and the period of stay specified in a visa?**

A visa validity period is a general period during which an alien is entitled to enter and stay in Georgia, while the period of stay is the period, during which a person is entitled to stay on the territory of Georgia from date of first entry. For example, a visa validity period may be one year – from 1 January 2014 to 1 January 2015, while the period of stay may be 30 days, which means that during the one-year period an alien has the right to enter Georgia at any time and stay for up to 30 days.

**31. Can a multiple-entry, short-term visa be issued for the very first time?**

A multiple-entry, short-term visa is issued to those aliens who obtained at least one Georgian visa in the previous year, and used it in accordance with the legislation of Georgia and have grounds to request a multiple-entry visa.

**32. What additional documents are to be submitted for issuing a Georgian visa to minors?**

Minor aliens are required to submit a notarised consent of their legal representative (representatives). The consent can be formalised at a consulate of Georgia as well.

**33. How long does it take to issue a visa under the new law?**

The decision on issuing a short-term visa is made within 10 calendar days after the relevant visa application and necessary documents are submitted. The period necessary for making a decision on the issuance of a short-term visa may be extended by 30 calendar days, in particular, if further examination of the application is necessary. The period necessary for making a decision on the issuance of a short-term visa may be reduced to two business days.

The decision on issuing a long-term visa is made within 30 calendar days after the relevant visa application and necessary documents are submitted.

**34. Are there any changes in the visa regime for the aliens who used to enter and stay in Georgia without a visa for up to 360 days?**

A list of the countries whose citizens have the right of visa-free entry to Georgia is no longer provided in the new law, because a similar list shall be laid down in the relevant ordinance of the Government of Georgia, which is currently in draft form. The right of visa-free movement will be maintained with member countries of the European Union, North Atlantic Treaty Organisation (NATO), Schengen, Commonwealth of Independent States (CIS) and other main partner countries with only the change that the citizens of these specific countries will have the right of visa-free stay in Georgia for not more than 90 days in a 180 day period with the right of multiple-entry.

**35. Will aliens who entered Georgia before the enactment of the new law and who exercised their right of visa-free stay for 360 days be obliged to immediately leave the territory of the country after the enactment of the Law and the introduction of visa regime with the countries of their citizenship?**

No, they will not; because the same legal regime will apply to their visa-free stay on the territory of Georgia as was in force at the time of their entry into Georgia, and they will leave Georgia at the time when they would have left if the new law had not been adopted.

**36. Can a visa validity period be extended?**

Only diplomatic and special visas can be extended on the territory of Georgia. The extension is made by the Ministry for Foreign Affairs of Georgia.

**37. Can a visa category be changed in the territory of Georgia?**

No, it cannot be changed. In that case an alien must leave the territory of Georgia and obtain a new visa according to the purpose of travel.

**38. Does the term – to be exempted from visa obligation – mean to be exempted from the obligation to obtain a visa or to be exempted from certain requirements necessary to obtain a visa?**

To be exempted from visa obligations means to be exempted from the obligation to obtain a visa.

**39. Does a Georgian visa grant the right to enter any other country?**

A Georgian visa grants the right to enter only Georgia.

**40. What should an alien do in case of loss or damage of the passport containing a Georgian visa?**

In that case the person must go through the procedure normally necessary to obtain a visa.

**41. Will the new or the old rule apply to the aliens who entered Georgia before the new law came into force?**

These persons have the right to stay on the territory of Georgia on the basis of the visa obtained under the old rule, for the validity period of that visa. However, if they leave the territory of Georgia within that period, then, at the time of the next entry the requirements of the new law shall be applied to them.

**42. According to what principle are visa and visa-free regime countries determined?**

The decision on introducing or cancelling visa regime with specific countries is made in accordance with the reciprocity principle and the strategic interests of the country.

**43. Can a stateless person permanently residing in a foreign country enter Georgia without a visa?**

Stateless persons permanently residing in a foreign country shall be subject to the same legal regime as established for citizens of that country. Stateless persons permanently residing in a foreign country will have the right to visa-free entry into Georgia if the citizens of their country of residence have the right to visa-free entry to Georgia.

**44. Within what period must aliens leave the country after the validity of their visa is terminated?**

Aliens must immediately leave the country after the validity of their visa is terminated. In that case, the penalty established for unlawful stay in the country will be applied to those persons.

**45. What is a temporary identity card and to whom is it granted?**

A temporary identity card is a temporary identity document issued to the persons seeking refugee, humanitarian status or the status of a stateless person in Georgia. The document is also issued to those persons, whose removal from the country is impossible due to circumstances provided for by the legislation of Georgia. In the cases and in the manner laid down by an order of the Minister for Justice of Georgia, a temporary identity card can be issued to persons who cannot obtain any other identity documents under the legislation of Georgia.

**46. Which state institution issues a temporary identity card?**

A temporary identity card is issued by LEPL Public Service Development Agency within the Ministry for Justice of Georgia.

**47. What rights does a holder of a temporary identity card have?**

Under the Law, these rights are: right to equality, work, healthcare, education, and the right to apply to court, as well as the right to freedom of speech, thought, conscience, religion and belief, etc.

**48. What types of residence permits are issued to aliens under the law?**

Under the new law the following residence permits can be issued to aliens: residence permit for work, education, family reunification, residence permit of a former citizen of Georgia, residence permit of a stateless person, special residence permit, permanent residence permit and an investment residence permit.

**49. What types of residence permits are issued with the right of temporary residence?**

The following residence permits are issued with the right of temporary residence: a residence permit for education, work, family reunification, residence permit of a former citizen of Georgia, residence permit of a stateless person and a special residence permit.

**50. What types of residence permits are issued with the right of permanent residence?**

The following residence permits are issued with the right of permanent residence: investment residence permits, permanent residence permits and stateless person residence permits. Stateless person residence permits are issued with the right of permanent residence only to the persons whose citizenship of Georgia has been terminated by renunciation of citizenship or who had been permanently residing on the territory of Georgia as of 31 March 1993, who were not considered as citizens of Georgia and were not removed from permanent registration in Georgia after 31 March 1993.

**51. Can aliens apply for a residence permit while staying abroad?**

No, they can not. Aliens can only apply for a residence permit while on the territory of Georgia, at territorial offices of the LEPL Public Service Development Agency within the Ministry for Justice of Georgia and at branches of the LEPL Public Service Hall.

**52. What category of visa is a precondition for aliens to obtain a residence permit in Georgia?**

To receive a residence permit, aliens should hold a long-term Georgian visa issued for the same purpose for which they desire to receive a residence permit in Georgia, except for exceptional circumstances provided for by legislation. For example, a person who is interested in obtaining a residence permit for work or entrepreneurial activities should hold a D1 (work) or D2 (entrepreneurial) immigration visa.

**53. What categories of residence permits do not require a long-term Georgian visa issued for the same purpose?**

To obtain a residence permit of a former citizen of Georgia, a special residence permit or an investment residence permit aliens are not required to hold visas issued for the same purpose. They can apply to an authorised body on the basis of any document evidencing their legal stay in Georgia.

**54. In which cases is a permanent residence permit issued to aliens?**

A permanent residence permit is issued to a parent, child, or spouse of a citizen of Georgia, as well as to an alien who has lived in Georgia for the last six years on the basis of a temporary residence permit. However, the period of residing in Georgia for study and treatment purposes and the working period at diplomatic and equivalent representative offices are not included in that period.

**55. What kind of residence permit is issued to an alien who was a former citizen of Georgia?**

A person, whose Georgian citizenship was terminated by renunciation or by loss of Georgian citizenship, can receive a residence permit of a former citizen of Georgia with the right of temporary residence. A residence permit with the right of temporary residence is issued to such persons for a period of up to six years, and after that period they have the right to receive a

residence permit with the right of permanent residence. In addition, persons falling in that category have the right to obtain a compatriot status and receive a relevant certificate, which, together with other privileges, gives former citizens of Georgia the right of visa-free entry to Georgia.

**56. Which relative of an alien holding a residence permit can receive a residence permit for family reunification purposes?**

A spouse, child, parent of an alien or of a person having the status of a stateless person in Georgia, as well as a person under guardianship or custody of an alien or of a person having the status of a stateless person in Georgia, and/or a fully dependent minor, or a legally incompetent or disabled person may receive a residence permit for family reunification purposes.

A residence permit for such purpose may be issued with the right of temporary stay (in Georgia) for a period of up to six years.

**57. Which relative of a citizen of Georgia can receive a residence permit?**

An alien, who is a spouse, parent or child of a citizen of Georgia, may receive a residence permit with the right of permanent residence (in Georgia).

**58. Which criteria apply to a labour activity for the purpose of receiving a residence permit?**

For the purposes of a residence permit, any activity for which a person receives remuneration shall be considered labour activity.

**59. Who can receive a work residence permit?**

A work residence permit is issued, under the legislation of Georgia, to an alien, who carries out entrepreneurial or labour activity in Georgia. A work residence permit is also issued to freelance professionals.



**60. Who can be a freelance professional for the purposes of obtaining a residence permit?**

For the purposes of obtaining a residence permit, a freelance professional is considered a person of a certain profession, who conducts professional activity for the persons or for public interests independently and under his/her own responsibility.

**61. Can an alien receive a temporary residence permit for study purposes?**

Under the new law, a study residence permit shall be issued to an alien only for the purpose of study at higher, vocational or secondary educational institutions authorised by the Ministry for Education and Science of Georgia. To receive the residence permit, an interested person must hold a D3 (study) category long-term immigration visa.

**62. If an alien is denied a residence permit, when can the alien re-apply to an authorised body with the same purpose?**

An alien who has been denied any type of residence permit has the right to re-apply for a residence permit on the same basis after at least one month after the decision on denial of the first application was made. Such restriction is not provided for in the new law when the basis of the first application is different from that of the second application.

**63. After what period after obtaining a residence permit must an alien obtain a residence card?**

An alien is obliged to obtain a residence card within one month after obtaining a Georgian residence permit. Failure to obtain a residence card within six months is considered a ground for its revocation.

**64. What period is given to a person for leaving the country if his/her statelessness status is terminated?**

A decision to terminate the status of a stateless person in Georgia enters into force one month after it has been made. Respectively, all documents in the possession of the person, including his/ her travel passport, remain in force during this period, and the person can freely leave the country.

**65. Within what period does an alien not bear administrative liability for an unlawful stay in the country after the termination of his/her citizenship or residence permit?**

An alien does not bear administrative liability in the form of an administrative penalty if he/she leaves Georgia within 30 calendar days after the decision to terminate his/her Georgian citizenship or residence permit has been made by an authorised body.

**66. Which state agency makes a decision on deferring the obligation of an alien lawfully staying in Georgia to leave the Georgia and in which cases is such a decision made?**

The LEPL State Service Development Agency within the Ministry for Justice of Georgia makes a decision on deferring the obligation of an alien lawfully staying in Georgia to leave Georgia. The decision is made in the following cases:

- ✓ if an alien has applied to the Agency to obtain a residence permit or citizenship of Georgia;
- ✓ in case of illness or pregnancy, when according to a doctor's opinion, travel will pose a threat to his/her health. In such a case, his/her family members and accompanying persons may stay with him/her;
- ✓ if proceedings are pending in a court of general jurisdiction in Georgia with the participation of an alien and if his/her stay in Georgia is essential for protecting his/her interests;
- ✓ if during an alien's transit through the territory of Georgia he/she has to stay in Georgia for more than five days;
- ✓ on the basis of an application of a competent person of a ministry of Georgia or a state sub-agency.

**67. Are any novelties regarding stateless persons envisaged by the law?**

Persons with the status of a stateless person in Georgia who acquired the status before the enactment of the new law and whose residence cards have expired are obliged to apply to the Public Service Development Agency to obtain new residence cards before 1 September 2015. In case of failure to fulfil this obligation within the specified time frame, their status of a stateless person will be terminated.

**68. Can the obligation to leave Georgia be deferred for an alien unlawfully staying in Georgia, if he/she has applied for the citizenship of or residence permit in Georgia?**

The obligation to leave Georgia will not be deferred for an alien unflawfully staying in Georgia who has applied to receive citizenship or a residence permit in Georgia. Under the law, an alien must apply to the Agency to have his/her obligation to leave Georgia deferred seven calendar days before his/her lawful stay in Georgia expires.

**69. Can an alien's obligation to leave the country be deferred if his/her Georgian visa is about to expire and his/her further stay in the country is of essential importance?**

In special cases, on the basis of a substantiated request, an alien's obligation to leave Georgia can be deferred once, for a period of up to three months, for the same purpose for which the right to stay in Georgia has been granted to him/her.

**70. Have the conditions of issuing a residence permit for investors changed?**

Under the new law, an investment residence permit with the right of permanent residence is issued to an alien who has made at least GEL 300 000 worth of investment in Georgia, in accordance with the Law of Georgia on Investment Activity Promotion and Guarantees. In such a case simplified procedures are provided for in the law. In particular, an investor holding visa of any category may apply to an authorised body for an investment residence permit.

**71. Does the new law provide for the issuance of any type of residence permit for the protection of victims of human trafficking?**

Under the new law, a special residence permit is issued to an alien who is reasonably assumed to be a victim of, or affected by, human trafficking in the cases provided for by the Law of Georgia on Combating Human Trafficking. This type of residence permit is issued under a simplified procedure for a period of up to six years.

**72. Can an alien lawfully staying in Georgia invite another alien?**

Only an alien with a valid residence permit has the right to invite another alien to Georgia.

**73. Can an alien, visiting Georgia for tourism purposes, obtain a work residence permit?**

No, he/she can not. Under the law, an alien may obtain a residence permit for the same purpose for which he/she has obtained a permit (a visa) to enter Georgia.

**74. Does the law provide for any novelties regarding documents issued to the persons seeking a refugee status, a humanitarian status or the status of a stateless person?**

One of the important changes provided for in the law shall be the issuance of a temporary identity card to a stateless person, a refugee or a humanitarian status seeker. This document shall facilitate persons of the the above categories to realise their right to education, healthcare and other social rights.

**75. Can an alian holding a study residence permit be engaged in a labour activity?**

Yes. The law does not provide for any restrictions for aliens holding study residence permits to engage in the performance of labour activities.

**76. How is removal (deportation) of an alien from Georgia defined by the new law?**

Removal (deportation) of an alien is an action by an authorised state body, intended to ensure the exit of an alien or a person holding the status of a stateless person in Georgia, from Georgia against his/her will if there are grounds fspecified in the Law of Georgia on Legal Status of Aliens and Stateless Persons.

**77. Is the right to re-enter Georgia restricted to a removed alien?**

An alien removed from Georgia cannot re-enter Georgia for a period of two to five years. In that case, the body authorised to make decisions on the removal of aliens from Georgia defines the period. The above restriction does not apply to an alien voluntarily departing from Georgia.

**78. Is an alien subject to paying a penalty if at the time of his/her departure from Georgia it is revealed that he/she has exceeded the permitted period of stay?**

If an alien violates the period of stay in the country, he/she is be obliged to pay a penalty. The penalty is determined in the amount of GEL 180 – up to three months of overstay and in the

amount of GEL 360 –over three months of stay beyond the date of expiry of the period of lawful stay in Georgia. The new law does not provide for the deferral of the obligation to leave Georgia for the aliens unlawfully staying in Georgia, as opposed to the law currently in force.

**79. What happens if on departure from Georgia, a person does not have enough money to pay the penalty imposed on him/her for violating the period of lawful stay in the country?**

The penalty imposed on an alien for violating the period of lawful stay in the country can be paid either before, or after leaving the territory of the country. At the same time, in the case of failure to pay the penalty, a Georgian visa for re-entry is not issued to the person until the imposed administrative penalty has been paid.

**80. Which agency is responsible for identifying aliens unlawfully staying in the country and for ensuring their removal from the country?**

Under the law, the Ministry for Internal Affairs of Georgia is the authorised body responsible for identifying aliens unlawfully staying in the country and for ensuring their removal from the country.

**81. Will a centre for placement of aliens unlawfully staying in Georgia be established?**

The construction of the centre for placement of aliens unlawfully staying in Georgia has already been started by the Ministry for Internal Affairs of Georgia. The centre will operate under the governance of the Ministry for Internal Affairs of Georgia.

**82. Will the rights of aliens, in accordance with international standards for similar institutions, be ensured by the temporary placement centre?**

Yes. If an alien is placed in a temporary placement centre, the law prohibits discriminatory, degrading, and humiliating treatment. The law defines that an alien is to be treated with consideration of his/her gender, age, and cultural specificities; separate placement of women and men is to be ensured; in the case of placement of a family, the principle of family unity is to be observed; and the rights of minors are to be protected.

**83. What happens after the competent authority learns about the fact of unlawful stay of a person in Georgia?**

If an alien unlawfully staying in Georgia is detected, the Migration Office of the Ministry for Internal Affairs of Georgia makes a decision on his/her removal from the country, after which the alien will be given the opportunity to voluntarily leave the country within 10 to 30 days. If the person stays in Georgia after expiry of that period, the procedures for the person's forced removal will begin. In that case, the alien may be detained and transferred to a temporary placement centre of the Ministry for Internal Affairs of Georgia.

**84. Is the maximum period of stay of a person at a temporary placement centre defined?**

The maximum period of stay of a person at a temporary placement centre is three months. An alien must be immediately released upon the expiry of this period.

**85. What happens if a minor or a family unlawfully staying in Georgia is transferred to a temporary placement centre by an authorised body?**

The law provides for the protection of the supreme interests of the child and the principle of family unity, according to which a minor unlawfully staying in Georgia is placed at a temporary placement centre for a minimal period. As far as a family is concerned, under these principles, a family must be placed together in a separate room.

**86. Are there any voluntary assisted return programmes in Georgia?**

Currently, voluntary return programmes are implemented by the International Organisation for Migration (IOM). After the new law comes into force, it will also be possible to refer to the Migration Office of the Ministry for Internal Affairs of Georgia to be included in the programme.

**87. In addition to an unlawful stay in the country what may be other reasons for removal of an alien from the country and who makes a decision on that?**

In addition to an unlawful stay in the country, an alien can be removed from the country if he/she systematically violates the legislation of Georgia, is sentenced to more than one year of imprisonment for having committed a premeditated crime, in which case the person will be

removed from the country after having served the sentence, etc. The court considers these issues and makes a decision.

**88. Can the decision on removal of an alien from the country be deferred and who makes the decision on deferring the removal?**

Under the law, the Ministry for Internal Affairs and/or the court are authorised to defer removal of a person from the country under certain circumstances. Such decision may be made in the case of force majeure, deterioration of physical or mental health of a person, or pregnancy, if according to a doctor's opinion further travel poses a threat to the person's health, etc.

**89. For which period can the removal of a person from the country be deferred?**

An alien's removal from Georgia may be deferred for a maximum period of 60 days.

**90. Can a decision on removal be appealed?**

A decision on removal may be appealed within 10 days after the alien has been notified of the decision. It can be appealed at two court instances.

**91. How is a person detained at the time of removal?**

A person can be detained at the request of the Ministry for Internal Affairs of Georgia, on the basis of a court decision. He/she may be detained for the purpose of ensuring his/her removal from the country when he/she cannot be identified, or if there is a threat that he/she may go into hiding, etc. Within 72 hours after the detention, a person may be placed in a temporary detention centre, and after that, on the basis of a court decision, the person will be transferred to a temporary placement centre of the Ministry for Internal Affairs of Georgia.

**92. What rights does an alien have at the time of detention?**

Upon detention, an alien is informed of the reason and grounds for his/her detention, as well as his/her rights guaranteed by the legislation of Georgia that include the right to hire a lawyer, the right to notify his/her next of kin of his/her detention, the right to refer to a

diplomatic mission/consular office of the country of his/her citizenship, the right to request medical examination, the right to appeal the detention, etc.

**93. Can detention be avoided?**

On the basis of a court decision, other alternative measures may be imposed on the person.

**94. How the removal costs are financed?**

The new law provides for several alternative possibilities regarding financing of the removal of an alien from the country. Particularly, all the costs of the removal execution are to be borne by the alien concerned, or the person having invited the alien, and if the costs cannot be covered in this manner, the removal costs will be covered, partially or completely, by Georgia.

**95. What are alternative measures to placing an alien in a temporary placement centre?**

Alternative measures to placing an alien in a temporary placement centre are: appearing at the respective territorial body of the police regularly, not more than twice a week; a guarantee by a citizen of Georgia connected to the alien; or a bank guarantee of at least GEL 1 000, or a certificate of regular income, or a maximum bail of GEL 2,000.

**96. Does a person bear any responsibility if an alien invited by him/her becomes subject to removal?**

If a person invited an alien to Georgia who becomes subject to removal from the country, the inviting person may be liable to bear all expenses of the removal. The inviting person may also be fined GEL 1 000.

**97. Does the law provide for the country to which an alien may be removed?**

An alien may be removed to the country of his/her citizenship or the country where he/she has a right of lawful residence; the country from which the alien entered Georgia; any country with whom Georgia has signed a readmission or any other relevant bilateral agreement; or any country giving the consent to accept the alien.



**98. What happens if the decision on removal is made and the person is in danger in the county of his/her origin?**

Under the law, an alien shall not be removed to a country where he/she is persecuted for political opinions or for activities not regarded as a crime under the legislation of Georgia; where he/she is persecuted for protecting peace and human rights, for engaging in progressive social, political, scientific, and creative activities; or where his/her life or health is threatened.

**99. Which state body will grant a person the right of temporary stay on the territory of Georgia?**

The competent body within the Ministry for Internal Affairs of Georgia makes a decision on granting the right of temporary stay to the persons who are subject to removal. The basis for granting such right is described in detail in the new law. Particularly, the right of temporary stay is granted if there are following circumstances impeding removal: if an alien is persecuted for political opinions or for activities not regarded as a crime under the legislation of Georgia; if he/she is persecuted for protecting peace and human rights, for engaging in progressive social, political, scientific, and creative activities; if his/her life or health is threatened. The right of temporary stay is also granted if a person cannot be identified, or if no state agrees to accept an alien subject to removal.

**100. For what period is the right of temporary stay granted to an alien and can an alien, who has the right of temporary stay, obtain a residence permit?**

The right of temporary stay is granted to an alien for one year and may be extended until the elimination of the circumstances impeding removal.

An alien may apply to the Public Service Development Agency for a special residence permit after five years from receiving the right of temporary stay.