

Government of Georgia

Ordinance No 525

1 September 2014

Tbilisi

On Approving the Procedures for Removing Aliens from Georgia

Article 1

Under Article 71(1)(d) of the Law of Georgia on the Legal Status of Aliens and Stateless Persons, the Procedures for Removing Aliens from Georgia attached to this document shall be approved.

Article 2

The Ordinance shall enter into force on 1 September 2014.

Prime Minister

Irakli Gharibashvili

Procedures for Removing Aliens from Georgia

Article 1 - General provisions

These Procedures for Removing Aliens from Georgia ('the Procedure') define the form and procedures for removing from the country aliens unlawfully staying in Georgia, as well as forms of cooperation of government agencies involved in the removal.

Article 2 - Basic human rights guarantees in the removal process

1. Inhuman, cruel, degrading or life and health threatening treatment of an alien who is subject to removal shall not be permitted.
2. When removing aliens from Georgia ('the removal'), force shall be used proportionately and human life, health and dignity shall be protected. Special needs of each vulnerable group (minors, pregnant women, disabled persons, the elderly, etc.) shall be taken into account.
3. The physical and mental health condition of an alien who is subject to removal shall be monitored throughout the process of executing the decision on removal.

4. During the process of removal, aliens shall have access to legal advice.
5. Documents in paper and in the electronic database provided for by these Procedures shall be retained for five years. Documents shall be retained indefinitely if the decision to remove an alien from Georgia has been made under Article 51(c -h) of the Law of Georgia on Legal Status of Aliens and Stateless Persons; if an alien removed on these grounds has not paid a fine for an unlawful stay in Georgia, the documents shall be retained until the fine is paid.
6. Aliens shall not be removed:
 - a) if they face the risk of torture, inhuman or degrading treatment, death sentence, persecution for racial origin, religious belief, nationality, affiliation with a particular social group, or political opinions in the destination state or in any transit state;
 - b) in the interests of health, domestic national security, public order or other national interests of the requested State.

Article 3 - Exchanging information

The information under these Procedures shall be exchanged with appropriate agencies in electronic or written form, within the scope of their authority.

Article 4 - Decision on removing an alien from Georgia

1. In cases under Article 51(1)(a) and (b) of the Law of Georgia on the Legal Status of Aliens and Stateless Persons and within 10 business days after discovering grounds for removal, the authorised body of the Ministry of Internal Affairs of Georgia ('the Authorised Body of the Ministry') shall review the question of removing an alien from Georgia and shall make one of the following decisions:
 - a) to remove an alien from Georgia;
 - b) to refuse to remove an alien from Georgia.
2. In cases under Article 55(1) of the Law of Georgia on the Legal Status of Aliens and Stateless Persons, the Authorised Body of the Ministry shall review, within 10 business days after discovering grounds for deferring the removal, the question of deferring the removal and shall decide whether or not to defer the removal.
3. The decision shall be made in an administrative proceeding according to the General Administrative Code of Georgia.
4. Decisions under paragraphs one and two of this article shall be made in the form of an individual administrative-legal act containing:
 - a) the type of the individual administrative-legal act
 - b) title
 - c) date and place of issuing the individual administrative-legal act

- d) registration number
- e) name of the Authorised Body of the Ministry
- f) authorised person's name, surname, position and signature
- g) legal basis for removal/deferral of the removal
- h) name, surname and other identification details of the alien, in whose respect the decision has been made
- i) country to which the alien is to be removed
- j) period for leaving the country voluntarily
- k) period, during which the person will be banned from re-entering the country, if he/she does not leave the country voluntarily
- l) procedure and timeframe for appealing the decision on removal.

5. The decision on removal may be appealed under the Administrative Procedure Code of Georgia.

6. When considering the decisions referred to in paragraphs one and two of this article, the Authorised Body of the Ministry shall, if necessary, interview unlawfully staying aliens to obtain additional information.

7. A person shall be invited for an interview by electronic means. If the person cannot be contacted, he/she shall be invited for an interview by serving a notice in person.

8. If an alien, who is subject to removal, fails to appear for an interview, a note shall be made to this effect in the relevant electronic programme.

9. To determine the citizenship of an alien unlawfully staying in Georgia, at the request of the Authorised Body of the Ministry, the interview referred to in paragraph six of this article shall be conducted by a representative office of the country whose citizen the alien is alleged to be.

10. The Authorized Body shall prepare an interview report and upload it to the relevant electronic programme.

11. As soon as a decision on the removal is made, a relevant record shall be made in the relevant electronic programme of the Ministry.

12. Administrative proceedings on the removal shall not be initiated/shall be terminated if an alien voluntarily leaves Georgia and this is confirmed by appropriate evidence. An appropriate record of the fact shall be made in the Ministry's Electronic Programme for Identifying Unlawfully Staying Aliens.

13. The principal (legal) part of a decision on removal shall be translated for the alien into the language which he/she understands. The Authorised Body of the Ministry shall explain the contents of the decision to the alien, and inform him/her of rights and duties under the legislation of Georgia. The alien shall confirm the above in writing.

14. The decision on removing an alien from Georgia shall be forwarded to the Ministry of Justice of Georgia and the Ministry of Foreign Affairs of Georgia within 24 hours.

Article 5 - Application to a court to initiate alien removal proceedings

1. In cases under Article 51(1)(c – h) of the Law of Georgia on the Legal Status of Aliens and Stateless Persons, the Authorised Body of the Ministry shall apply to a court to review the issue of removal.
2. The Authorised Body of the Ministry shall apply to a court within 10 business days after discovering grounds for removal/deferral of removal.
3. The application, based on information obtained by the Authorised Body of the Ministry, shall contain:
 - a) alien's name, surname, year, date, month of birth, citizenship, place of registration, etc.
 - b) possible basis for removal/deferral of removal
 - c) possible receiving country
 - d) supporting materials
 - e) date of preparing an application
 - f) authorised person's name, surname, position and signature.

Article 6 - Removing family members

1. At every stage of removal, both during decision-making and during execution of the decision on removal, the principle of family unity shall be observed. Family members may be separated only in exceptional cases.
2. When executing a decision on removing a family, if there are any minors, attention shall be paid to the risk of minors being left without supervision and/or being interrupted from receiving education.

Article 7 - Removing minors

1. The best interests of minors shall be safeguarded during their removal. For this purpose, in addition to authorised persons, individuals who have completed special training courses in pedagogics and/or psychology, as well as relevant organisations, may be involved in the removal process.
2. If a decision on removal cannot be made in relation to an unsupervised minor under the age of 16, the Authorised Body of the Ministry shall take appropriate actions for a voluntary return of the minor only if the receiving State provides appropriate living conditions.
3. An unsupervised minor (a minor who does not have a guardian, custodian and/or other representative) may be removed only if the receiving country provides appropriate living conditions.

Article 8 - Leaving the country voluntarily

1. Voluntary departure of aliens from the country shall be preferred over forced removal. After the decision on removal has been communicated to them, aliens may voluntarily leave the country within 10 to 30 calendar days set by the Authorised Body of the Ministry.
2. The time indicated in the first paragraph of this article shall be determined by the Authorised Body of the Ministry in consideration of the following circumstances: duration of an alien's stay in the country, family or social connections with Georgia, an alien's readiness to cooperate with the Authorised Body, availability of appropriate travel documents.
3. Aliens who request voluntary return may not leave a temporary accommodation centre if the decision on removing the alien from Georgia is made under Article 51(1)(c - h) of the Law of Georgia on the Legal Status of Aliens and Stateless Persons or if there is a risk specified in Article 64(2)(b) of the same law.
4. Voluntary departure from the country shall not release an alien from the obligation to pay a fine for an unlawful stay in Georgia.
5. The Authorised Body of the Ministry shall cooperate with relevant organisations to facilitate implementation of voluntary return programmes.

Article 9 - Deferring removal

1. Removal may be deferred during the period for voluntary return or during the removal process.
2. If there are grounds for deferring the removal, the deferral shall be granted based on the application or at the initiative of the Authorised Body of the Ministry.
3. If grounds for deferring the removal are discovered, an alien shall immediately apply to the Authorised Body of the Ministry for deferral.
4. Based on an alien's application, the Authorised Body of the Ministry shall review the question of deferral and inform the alien of its decision.
5. During review of the question of deferral, the Authorised Body of the Ministry may request the alien to produce appropriate documents.

Article 10 - Right of temporary stay in Georgia

1. If an alien cannot be removed on the grounds provided in the Law of Georgia on the Legal Status of Aliens and Stateless Persons, the Authorised Body of the Ministry shall immediately grant the alien the right of temporary stay in Georgia.
2. When granting, extending or depriving the right of temporary stay in Georgia, the Authorised Body of the Ministry shall apply in writing to the LEPL Public Service Development Agency within the Ministry of Justice of Georgia for issuing, reissuing or cancelling a temporary identification card.
3. One copy of the application referred to in paragraph two of this article shall be served upon the alien.

4. If the grounds preventing removal are eliminated while the alien is enjoying the right of temporary stay in Georgia, appropriate removal procedures shall be resumed in relation to the alien.
5. The Authorised Body of the Ministry shall indicate the information on granting, extending or cancelling the right of temporary stay in the relevant electronic programme.

Article 11 - Banning entry to Georgia

1. The body making a decision on removal shall set a period of two to five years during which aliens removed from Georgia will be banned from re-entering Georgia.
2. The ban in paragraph one of this article shall not apply to aliens who leave Georgia voluntarily.
3. When determining the duration of the ban on re-entry, the decision-making authorised body shall take the following circumstances into consideration: duration of an alien's stay in the country, family or social connections with the country, an alien's readiness to cooperate with the Authorised Body.
4. The Authorised Body of the Ministry shall indicate the information on the ban on re-entry into the country and its duration in the relevant electronic programme.

Article 12 - Executing a decision on removing an alien from Georgia

1. The Authorised Body of the Ministry shall execute a decision on removing an alien within 10 calendar days after the deadline for voluntary return expires.
2. When applying the period specified in paragraph one of this article, the Authorised Body of the Ministry shall make allowance, to the extent possible, for any anticipated constraints.
3. A court decision on removal shall be executed immediately after the deadline for voluntary return expires.
4. If the Authorised Body of the Ministry fails to execute the decision on removal because the person to be removed is in hiding, the running of the period for removal shall be suspended until the grounds for the suspension are eliminated.
5. Aliens may be removed under escort or without, by sea, road or air.
6. To execute a decision on forced removal of aliens, the Authorised Body of the Ministry shall:
 - a) study any possible barriers to removal (including circumstances related to the principle of non-removal);
 - b) contact government agencies, international and non-governmental organisations and diplomatic missions of the countries concerned;
 - c) if necessary, provide aliens subject to removal with travel documents;
 - d) if necessary, obtain a permit to enter a transit country;
 - e) obtain a doctor's certificate on the alien's health condition for travel purposes;

- f) provide psychological consultation;
- g) ensure protection of personal movable property owned by aliens;
- h) select and allocate escort members;
- i) prepare a removal execution report.

7. If during the execution of a decision on removal, an alien expresses the desire to leave the country voluntarily, he/she shall be allowed to do so, if possible.

8. The Authorised Body of the Ministry shall prepare and monitor all documents necessary for executing the removal of a person, including:

- a) decision on removal
- b) travel documents for aliens and for an escort group
- c) medical certificate of an alien
- d) court decision on placing the detained alien in a temporary accommodation centre (if any)
- e) carrier company's confirmation to carry an alien
- f) necessary visas, etc.

9. Within a reasonable period before executing the removal, the Authorised Body of the Ministry shall inform an alien, in the language he/she understands, where (to what country), when (date and time) and under what conditions (with or without escort) the decision on his/her removal will be executed. If during the removal process an alien is not in an accommodation centre, the notice shall be served in person.

10. All the costs associated with execution of a decision on removal (costs of placement in a temporary accommodation centre, stay and departure) shall be borne by the alien to be removed or by the inviting person. If it is impossible to cover the costs in that way, the costs shall be borne by the State which has the right to claim compensation through a recourse action.

Article 13 - Dealing with carrier companies

Before the departure of an alien, the Authorised Body of the Ministry shall agree to the details of travel with the carrier, inform it of the risks associated with the alien's travel, and ask to issue a travel certificate.

Article 14 - Escort

1. When making a decision to remove a person under escort, the Authorised Body of the Ministry shall take the following factors into consideration:

- a) whether the alien has committed acts of violence, or resisted representatives of government agencies;
- b) whether there is cause to believe that the alien will resist the execution of removal;

- c) whether there is information that the alien has attempted self-injury or suicide;
- d) whether the alien has a health problem or any communicable disease requiring accompanying medical personnel.
2. In consideration of the circumstances referred to in paragraph one of this article, the Authorised Body of the Ministry shall make a decision on appointment of an escort.
3. Aliens shall be escorted to the point of departure in an appropriately equipped vehicle.
4. When escorting aliens within the country, escort group members have the right to carry special equipment in compliance with the Law of Georgia on Police.
5. Before aliens are escorted to the point of departure, they shall undergo a medical check-up. The medical check-up report shall be appended, with all medical diagnoses established during the medical check-up of the alien, and, if necessary, appropriate medications.
6. The results of the medical check-up shall be given to the head of the escort group.
7. The Authorised Body of the Ministry shall make a decision on appointing medical personnel based on relevant grounds/conclusions.
8. The Authorised Body of the Ministry shall timely inform the carrier and the receiving party (the relevant consular office) of the execution of the person's removal.
9. The Authorised Body of the Ministry shall provide escort members with valid travel documents and permits to enter the receiving/transit country (if necessary).
10. Special needs of the alien to be removed shall be taken into consideration during the escort (sex, age, religious opinions, etc.).
11. The Minister of Internal Affairs of Georgia shall determine the equipment for the escort group.
12. In special cases, escort group members shall be responsible for escorting removable aliens and delivering them to representatives of the authorised agency of the state of destination.
13. If escort members are escorting an alien out of the country, they shall discharge their duties without firearms, in civilian clothing, bearing documents evidencing their duty to execute the removal and allowing them to confirm their identity and official powers at any time.
14. Escort group members shall abide by the legislation of the receiving country. When escorting removable aliens out of the country or during transit, their powers shall be restricted to the right of self-defence. If the officials in the receiving country who are authorised to take necessary actions or assist the escort group members in the event of any imminent or major threat cannot be reached, the escort group members may take all reasonable and appropriate steps to prevent the removable alien from escaping, injuring himself/herself or others or damaging any property.
15. Escort group members shall be responsible for keeping valid travel documents and other necessary certificates or details of aliens to be removed and for delivering those documents to representatives of the authorised agency of the receiving country. The escort group members may not leave the removable alien at the agreed transfer place until the transfer procedure has been completed.

Article 15 - Protecting alien's personal effects and baggage

1. During the execution of forced removal, an alien's personal effects and baggage shall be subject to necessary security clearance procedures.
2. Before departure, the Authorised Body of the Ministry shall mark an alien's baggage with an appropriate identification marks.
3. If an alien has money and/or valuables, they shall be placed in an appropriate transparent bag, sealed and kept with the head of the escort group until the alien is handed over to the authorised body in the alien's country of destination.
4. Before departure, the Authorised Body of the Ministry shall give the alien information on limitations on the carriage of personal effects and baggage.
5. Baggage costs shall be borne by the removed alien.