



Report on the legal status of asylum seekers and persons with international protection in Georgia

Special report

Tbilisi, 2022

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1. Introduction

In Georgia, the legal status and socio-economic guarantees of persons with international protection and of asylum seekers are determined by the Constitution of Georgia, generally recognized principles of international law, international agreements ratified by Georgia and the Law of Georgia "On International Protection".

According to Article 33 of the Constitution of Georgia,¹ in accordance with the generally recognized norms of international law, Georgia provides asylum to citizens of foreign countries and persons without any citizenship. Georgia committed to promote the protection of asylum seekers and refugees, the implementation of international protection mechanisms and guarantees through joining the Geneva Convention of 1951 and Additional Protocol of 1967 on the Status of Refugees.²

For the first time, a small number of refugees from foreign countries appeared in Georgia in 1994. A few years later, as a result of the ongoing hostilities in the Chechen Republic of the Russian Federation, a mass entry of refugees began in 1999. Due to the mass migration, approximately 9,000 persons³ were granted refugee status as a group on the *prima facie*⁴ principle. The number of asylum seekers in the country was increasing from year to year, which was mainly related to the deepened conflicts in the Middle East, as well as to the Ukrainian situation. Number of asylum seekers increased in Georgia especially in 2014-2015, like in Europe. In recent years, due to the civil strife or hostilities, there has been appeals from African countries as well.

There are 84 million displaced persons in the world today and this number is increasing every day,⁵ the number of asylum seekers and persons with international protection in Georgia is also increasing from year to year, caused by the unstable situation in the world and the region. As a result of armed conflicts or civil wars, millions of people have left their country of origin in search of safe haven. Protecting the rights of migrants and refugees has become even more important during the pandemic.⁶

Ensuring international legal protection of displaced persons between countries remains a global challenge at this stage. Considering the unstable environment and endless conflicts in the region, if the state fails to provide adequate protection and the functioning of the asylum system based on international standards, the asylum seeker may face real danger, therefore, it is very important for the state to ensure the creation of a legislative framework consistent with international standards, relevant conventions and directives, establishing a transparent and fair asylum system.

¹ "Constitution of Georgia", 31-33, 24/08/1995.

² "Resolution of the Parliament of Georgia", 27(34), 09/06/1999

³ Available at: <https://rb.gy/3s4jkn> > [last seen 15.02.2022]

⁴ Latin – at first sight

⁵ Today, there are 84 million forcibly displaced persons in the world. Approximately 4 million of these people are asylum seekers, 26 million are refugees, and 48 million are internally displaced persons (data as of 2020). The source is available at: <<https://rb.gy/yoyu1u>> [last viewed on 31.03.2022].

⁶ „As Disparities Deepen, Safeguarding Migrants Rights is more Important than Ever”, OSCE ODIHR Director Matteo Mecacci, December 17, 2021, available at: < <https://rb.gy/tbazkf> > [last seen: 15.02.2022].

2. Goal and Methodology

One of the priority directions of the activity of the Public Defender of Georgia is to monitor and study the legal status of foreign citizens, including asylum seekers and persons with international protection, to identify cases of rights violations and to promote the restoration of violated rights through recommendations.

Especially in recent years, the number of foreign citizens, including asylum seekers and persons with international protection, applying to the Office has increased. Cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR)⁷ also continues, within the framework of which systematic and proactive monitoring of the legal status of the beneficiaries undergoing the status determination procedure, located in state border, penitentiary institutions, temporary accommodation centers and reception centers for asylum seekers is ongoing.

The purpose of the special report is to assess the legal state of asylum seekers and persons with international protection in Georgia, as well as the difficulties and gaps while enjoying of fundamental rights; to highlight the functions and role of the relevant state institutions in the provision of services provided by the law.

The report reviews both national and international instruments, the availability and quality of status determination procedures, the conditions for receiving asylum seekers and receiving of state services by them, with a special focus on groups with special needs and vulnerable categories; The information requested from the state agencies, in particular, the Ministry of Internal Affairs of Georgia; the Ministries of Labor, Health and Social Protection; Ministry of Education and Science; the General Prosecutor's Office; the Agency for Providing IDPs, Eco-Migrants and Livelihoods, as well as from other public institutions; The results of the monitoring conducted by the representatives of the Public Defender of Georgia in the Migration Department of the Ministry of Internal Affairs, in the penitentiary institutions of the Ministry of Justice, at the state border, in common courts, in reception centers for asylum seekers, and in schools have been used. For the purposes of the report, a special visit took place to the reception center for asylum seekers of the MIA Migration Department, and both face-to-face and online meetings were held with beneficiaries, including women seeking asylum and those with international protection, women living in the reception center for asylum seekers, etc. The report also analyzes the information obtained during meetings held by representatives of the Public Defender's Office with various persons, including representatives of non-governmental organizations and of Agency of state care and trafficking victims' assistance. In addition, publicly available information and statistical data is used in the report.

3. Review of international instruments for the protection of refugees

⁷ Since 2015, the joint project of the Office of the Public Defender and the representation of the United Nations High Commissioner for Refugees "Support of the project of Office of the Public Defender on studying the situation of the beneficiaries" has been operating.

The main role in the creation of the refugee protection system is given to the United Nations Organization. According to the resolution of the General Assembly, the United Nations High Commissioner for Refugees was established, and then the Convention on the Status of Refugees and an additional protocol were developed, without these instruments the functioning of the international refugee protection mechanism was ineffective.

The 1951 Convention on the Status of Refugees and its Protocol of 1967 are the main instruments that form the basis of the refugee legal protection system at the international level.⁸ The Convention and its Protocol of 1967 are a set of universally recognized norms related to refugees, and all the states participating in the Convention are obliged to implement them and reflect in their domestic legislation.

In the preamble of the 1951 Convention focus is made on one of its main goals - to ensure maximum enjoyment of basic human rights and freedoms by refugees. The basic principles of the 1951 Convention include prohibition of discrimination, refoulement of refugees, criminalization of illegal entry or stay in a country, and the acquisition and enjoyment of rights over time.⁹ The scope of obligations to which the state has committed through participation in the international agreement is broadly reflected in the convention. Among them, the refugee's right to have household, to receive education, to be employed and to facilitate his integration into the local society is important. In addition to the refugee status, the convention explains in detail the rights and obligations of the refugee in the country of asylum.

The right to protection stipulated in the Convention and its basic provisions is important, which is emphasized in Article 33 of the Convention. This article prohibits states from expelling or returning a refugee (non-refoulement).¹⁰ This article also recalls the states not to deport or return a refugee to the border of a country where his or her life would be in danger because of race, religion, nationality, bias towards a particular social group or political opinion. However, the statute contains an exception that applies to a refugee who, for an accountable reason, may pose a threat to state security and public order and has been convicted of a particularly severe crime.

The reason for creating the Protocol of January 31, 1967¹¹ was to limit the geographical and time frame of the 1951 Convention. With this protocol, the operation of the Convention was extended to those refugees who started to seek safe haven after 1950.

Refugees are referred to in the Fourth Geneva Convention of 1949 on the Protection of the Civilian Population in Time of War. Article 44 of the Convention applies to the protection of civilians, including refugees and internally displaced persons.¹² Additional Protocols to the Convention also ensure that

⁸ The UN Refugee Agency, Guidelines on the Procedure and Criteria for the Determination of Refugee Status (Under the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol), available at: < <https://rb.gy/ygk8br> > [last accessed 15.02.2022].

⁹ *ibid*

¹⁰ Prohibition of forced return - Article 33 of the 1951 Geneva Convention Relating to the Status of Refugees.

¹¹ Available at: < <https://rb.gy/ip3vim> > [last seen: 15.02.2022].

¹² Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949.

refugees enjoy protection¹³ in accordance with the first and third parts of the Fourth Geneva Convention.

The right to seek asylum is strengthened by the Universal Declaration of Human Rights¹⁴. Although the declaration does not have binding legal force, it became the basis for the transition from a general to an individual approach to refugee protection at the international level. Along with other civil, political, economic, social and cultural rights protected by the Declaration, the right to life, protection from torture and inhumane treatment, citizenship, freedom of movement, the right to leave any country, the right to return to the own country and the prohibition of refoulement directly apply to refugees. The Declaration, together with the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, is an international instrument for the protection of refugees.

As for the protection of refugees and asylum seekers at the regional level¹⁵, the European system is considered as the most institutionally developed in this regard. This system was formed and developed within the framework of several organizations - the Council of Europe, the Organization for Security and Cooperation in Europe and the European Union.

The Convention on the Protection of Human Rights and Freedoms adopted by the Council of Europe in 1950 and the creation of the European Court of Human Rights in 1959 worth to mention, along with the Agreement on Cancellation of Visas for Refugees; Resolution No. 14 of 1967 "On Granting Asylum to Persons Under Persecution"; Agreement on the Responsibilities related to refugees of 1980; 1981 Recommendation "On the National Asylum Procedure"; Dublin Agreement of 1990, which defines the responsibility of specific states regarding the consideration of asylum cases and the conduct of procedures, etc.

Within the framework of the Council of Europe, a particularly effective mechanism for the protection of refugees and asylum seekers is the case law developed based on the decisions of the European Court of Human Rights, which was formed as a result of the practical application of the principles of the Convention on the Protection of Human Rights and Fundamental Freedoms. Although the text of the Convention does not directly mention the rights of refugees and asylum seekers, however, based on a number of articles of the Convention and the principles established in them, in the practice of the European Court of Human Rights, the levers for the protection of the rights of refugees and asylum seekers, a certain system of protection is outlined. For example, we can refer to Article 3 of the Convention on the Prohibition of Torture, the review and determination of cases of violation strengthened the principle of non-refoulement, etc.

The refugee protection system and instruments operating within the European Union envisage open borders between member states, the possibility of free movement, and ensure the protection of refugees

¹³ Additional Protocol of 1977, Article 77

¹⁴ UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), available at: < <https://rb.gy/jelhag> > [last seen: 15.02.2022].

¹⁵ A foreigner or a stateless person who has applied for international protection to the state agency and considering whom the Ministry has not made a decision or the court decision has not entered into legal force (paragraph "e" of Article 3 of the Law of Georgia on International Protection).

and asylum seekers under the principle of a single European asylum system.¹⁶ Under this system, member states must take measures to create uniform standards for fair and efficient asylum procedures, to receive refugees and to harmonize legislation.

The decision made in 1999, as a result of the Tampere meeting¹⁷ should be noted, in the direction of refugee protection. Among them is the creation of the Eurodac¹⁸ system, which implies a unified database of fingerprints, the content of the unified status and granted status of third-country nationals or stateless persons as beneficiaries of international protection, refugees or persons with additional protection;¹⁹ the rule of granting and withdrawing²⁰ international protection; persons applying for international protection.²¹

The 2011/95/EC Qualification Directive establishes the granting of international protection in the EU and the legal status of persons with the status. According to the directive, the concept of international protection is narrowed and it includes only "refugee" and person with "subsidiary protection".²² Additionally, it is important to note that the definition of both "refugee" and "subsidiary protection" does not match, narrows the definition of the Geneva Convention and refers to a person who is only a third-country national or a stateless person.²³ Accordingly, a citizen of a member state of the European Union has a limited right to request asylum in the territory of the European Union. However, it should be noted here that the citizenship of the European Union gives the right to move and live freely in the territory of any member state, which, in turn, neutralizes this restriction. Exceptions are provided for by Protocol No. 24 of the Lisbon Treaty.²⁴ The directive establishes an individual assessment of the facts and circumstances presented by the applicant and the content of this assessment²⁵, the list of subjects

¹⁶ Common European Asylum System (CEAS), available at: < <https://rb.gy/hf04nn> > last seen: 15.02.2022].

¹⁷ Tampere European Council 15 and 16 October 1999 Presidency Conclusions, available at: < <https://rb.gy/cdilep> > [last seen: 15.02.2022].

¹⁸ [ბოლოს ნანახია 15.02.2022].

¹⁸ Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, OJ L 212, 7.8.2001, available at: < <https://rb.gy/laweh8> > [last seen: 15.02.2022].12–23.

¹⁹ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted OJ L 337, 20.12.2011, available at: < <https://rb.gy/w0sbev> > last seen: 15.02.2022], 9–26

²⁰ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection OJ L 180, 29.6.2013, available at: < <https://rb.gy/ljyzej> > last seen: 15.02.2022], 60–95.

²¹ Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection, OJ L 180, 29.6.2013, available at: <<https://rb.gy/1th730>>[last seen on 15.02.2022], 96–116.

²² Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), Article 2 (a) available at: < <https://rb.gy/jc1qp8> >[last seen 15.02.2022].

²³ Ibid. Article 2(d)

²⁴ Consolidated version of the Treaty on the Functioning of the European Union – PROTOCOLS – Protocol (N° 24) on asylum for nationals of Member States of the European Union, OJ C 115, 9.5.2008, available at: < <https://rb.gy/c1ael6> > [last seen: 15.02.2022], 305–306.

²⁵ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or

of persecution and those persons who are obliged to protect the applicant in the country of his/her origin²⁶. The document also explains the actions of prosecution and the forms of their expression.²⁷

The Qualification Directive repeats the main provisions of the 1951 Convention. In addition to the main provisions, it also includes the rules and regulations that define in detail the conditions for receiving refugee status in the EU member states. The directive establishes the grounds for granting international protection in the member states, determines the legal status of those who have received protection, and also establishes the procedure and grounds for withdrawing this status. The directive also contains administrative provisions necessary for effective cooperation.

In 2017, the European Parliament and the Council reached an agreement to replace the Qualification Directive 2011/95/EC, among other changes, to ensure more consistency while making decision on refugee status. With the normative act, amending the directive, the standards of protection will be harmonized and closer to the recognition within EU and levels of protection forms. The new regulation imposes strict rules to prevent unauthorized movement and to strengthen incentives for the integration of persons with international protection. The new regulation clarifies the criteria for granting international protection, in particular, the use of the domestic protection alternative, will be necessary while assessment of application for international protection for member states.²⁸

In 2020, the European Commission launched an initiative to replace Dublin III with the "Pact on Migration and Asylum", which contains various elements of a comprehensive European approach to migration. The Pact outlines improved and accelerated procedures within the asylum and migration system that strike a balance between the principles of legal responsibility and solidarity. One of the important parts of the pact is the tightening of the control of the external borders of the European Union. Effective border management is one of the important elements in terms of uncontrolled movement within the Schengen area. Therefore, it is necessary to simplify the process of legal border crossing, effective migration management and improve internal security protection. The Pact also mentions the reform of the Schengen Agreement aimed at improving performance and increasing resilience towards crises.

Approximation and harmonization of the national legislation with the European Union legislation is recognized by the Association Agreement with the European Union,²⁹ according to which the parties recognize Georgia's commitment to the gradual approximation of the national legislation in relevant areas and its effective implementation. In the 2021 action plan for the integration of Georgia into the European Union, regarding asylum seekers it is indicated that it is planned to assess the legal regulation of the procedures for the reception of asylum seekers in Georgia, taking into account the European

for persons eligible for subsidiary protection, and for the content of the protection granted (recast), article 4, available at: < <https://rb.gy/jc1qp8> > [last seen: 15.02.2022].

²⁶ Ibid, article 6-7

²⁷ Ibid, article 9

²⁸ Common European Asylum System, available at: < <https://rb.gy/vpxcsl> > [last seen: 15.02.2022].

²⁹ The Association Agreement between Georgia, on the one hand, and the European Union and the European Atomic Energy Union and their member states, on the other hand, is available at: < <https://rb.gy/xa9s2o> > [last viewed 15.02.2022].

Union Directive 2013/32/EU "On Uniform Standards for the Reception of Applicants for Protection in Georgia". In the performed activities, it is mentioned that so far only the legal regulation of reception of asylum seekers in Georgia has been assessed.³⁰

EU Directive 2013/32/EU ensures that international protection procedures are speedy, efficient and fairer to applicants, and at the same time meet standards for granting and revoking international protection within the EU. The directive establishes clearer rules on how a person should apply for international protection, so that decisions on applications are made more quickly and efficiently than before. For greater clarity, for example, specific measures are acceptable, particularly at borders, to help people apply. As a general rule, the initial application process (including appeals) should not take longer than 6 months. Also, decision-makers should be specially trained and applicants should be given procedural guarantees. It is also worth to mention the possibility of using special procedures in well-defined circumstances, when the applications are more likely to be unjustified, or when there are serious problems of national security or public order. Similar procedures are expedited processing or application processing at the Council.³¹

4. National legislation and its compliance with international refugee law standards

The Law of Georgia On Refugees was first adopted in 1998³², but due to gaps, it did not comply with the Geneva Convention of 1951. The gaps of the law and its inconsistency with the Geneva Convention are analyzed and evaluated in detail in the 2006 parliamentary report³³ of the Public Defender. In order to bring the legislation in line with international standards, a new law on Refugee and Humanitarian Status was adopted on December 6, 2011 and entered into force on March 18, 2012.

Legal and socio-economic guarantees of asylum seekers, refugees and persons with humanitarian status were established in a new way. One of the important changes was the introduction of the term "humanitarian status", which is an additional protection mechanism. An important change was the reflection of guarantees for the protection of minors in the law. Despite the positive changes provided in the Law of Georgia "On Refugee and Humanitarian Status", the law still contained certain gaps that hindered the enjoyment of their rights and freedoms by persons protected by the law. Accordingly, the issue of adopting a new law was on the agenda. Currently, issues related to receiving asylum in Georgia are regulated by the Law of Georgia "On International Protection", which entered into force since 2017.

Procedural aspects and guarantees of asylum are reflected in different forms in the current legislation. First of all, the Law of Georgia "On International Protection" is worth to be mentioned, as well as the

³⁰ 2016 National Action Plan for the implementation of the Association Agreement and the Association Agenda between Georgia and the European Union, on the one hand, and the European Union and the European Atomic Energy Union and their member states, on the other hand, No. 171.2.

³¹ European Union Asylum Procedures, Summary of Directive 2013/32/EU — common procedures for granting and withdrawing international protection, available at: < <https://rb.gy/rov9nr> > last seen: 15.02.2022].

³² Parliamentary news, 11-12, 18/02/1998

³³ Report of the Public Defender of Georgia of 2006, <https://ombudsman.ge/res/docs/2019040411373616462.pdf>

Order No. 33 of the Minister of Internal Affairs of April 6, 2020, and the Order No. 99 of the Minister of Internal Affairs of Georgia, of July 21, 2020, which regulates the asylum procedure at the state border. Request identification and referral issues. Below is an overview of the procedural guarantees provided by the mentioned legal acts within the framework of the asylum procedure. In particular, with the current regulations:

- a) The definition of a refugee fully complies with the content of the first article of the 1951 UN Convention on the Status of Refugees;
- b) An asylum seeker or a person with international protection is protected from being returned to the border of the country or from being expelled to the country, where his life or freedom would be threatened;
- c) the asylum seeker's access to asylum procedures is ensured, regardless of whether the application is made at the border or on the territory of the state;
- d) In case of registering an asylum application at the state border, the border police of Georgia will immediately redirect the person to the competent state agency;
- e) All asylum seekers are provided with an individual and substantive review of their application, which includes the opportunity to appear in person at the administrative body within the framework of the asylum procedure and provide information regarding the circumstances of the case before a final decision is made;
- f) All asylum seekers are provided with free legal assistance and interpreter services at all stages of the asylum procedure;
- g) All asylum seekers will have access to the support of UNHCR and relevant non-governmental organizations at all stages of the asylum procedure;
- h) In case of a negative response to the granting of the status, the person is provided with an appropriate written notification, where the procedure and conditions for appealing the decision are explained;
- i) The application is reviewed by the court, therefore, the need for the review of application by an independent state institution is protected. A person has the right to be legally present on the territory of the state until the decision of the court of appeals on the disputed issue enters into force.

In addition to refugee status, the Law of Georgia "On International Protection" provides two additional forms of international protection, namely humanitarian status and status of a person under temporary protection³⁴. Humanitarian status is granted if the alien or stateless person fails to meet the legal requirements for refugee status, but there is a real risk that he or she would be at risk of serious harm if returned to their country of origin.³⁵ At the same time, the law exhaustively defines the list of circumstances that will be assessed as a case of serious harm to a person.³⁶ The status of a person under

³⁴ Article 14 of the Law of Georgia "On International Protection".

³⁵ Ibid., first paragraph of Article 19.

³⁶ Ibid., paragraph 3 of Article 32

temporary protection is granted to persons who have arrived massively and are not able to return to their country of origin due to unselective violence, aggression, armed conflict or mass violations of human rights.³⁷

Here, it is additionally noteworthy that the law describes in detail the legal guarantees of the beneficiaries, which they can enjoy in the territory of Georgia, in relation to each form of international protection³⁸. It should also be positively noted that persons with international protection, in a numerous issues are at the same level as Georgian citizens in terms of legal status. In particular, they have the same rights as citizens of Georgia when enjoying pre-school and general education, state health and social programs, as well as the right to work.

The Law of Georgia "On International Protection" meaningfully shares the international standards of refugee law. Nevertheless, there are still some issues in the national legislation that need to be perfected and adapted to the provisions established by the Convention. In this part of the present special report, the attention will be focused on the mentioned gaps.

According to subparagraphs "b" and "c" of Article 17, paragraph 1 of the Law of Georgia "On International Protection", refugee status³⁹ is denied to a person if he is a threat to national security, territorial integrity and public safety, or if he is convicted by a legally binding sentence, especially for a serious crime in Georgia. Threats to national security, as well as criminal liability for particularly severe crimes, must be assessed in accordance with Article 32 of the 1951 Convention on Expulsion, or the principle of non-refoulement established by Article 33, paragraph 2. The present norms, in the presence of the above-mentioned circumstances, give the member states of the Convention the opportunity to use the procedures for expelling a person with refugee status. However, it should be noted that the mentioned circumstances are not a prerequisite for exclusion from the refugee status. Thus, according to the Convention, the existence of the above-mentioned legitimate circumstances cannot be a prerequisite for denying a person refugee status.

Until 2017, Article 4, Clause 2, Sub-clause "c" of the 2011 Law of Georgia "On Refugee and Humanitarian Status" provided other credible humanitarian assistance as a prerequisite for granting humanitarian status. Unfortunately, the new law did not preserve the established practice based on its previous legal document, which was a strong protection mechanism. Thus, removing the basis for granting humanitarian status on the named basis weakens national standards. On the contrary, the aim of the amendment was to improve the best practices which, through a conscientious interpretation of the objects and purposes of the 1951 Convention, would strengthen and improve the asylum system in Georgia. Additionally, it should be noted that European countries (Austria, Belgium, Bulgaria,

³⁷ Ibid., the first paragraph of Article 21.

³⁸ Ibid., Chapter VII, Rights and Responsibilities of Persons with the status of Asylum Seeker, Refugee, Humanitarian status and Person Under Temporary Protection Status.

³⁹ Refugee status is granted to an alien or stateless person who is outside the country of origin, has a well-founded fear that he may become a victim of persecution because of race, religion, nationality, membership of a particular social group or political opinion, and is unable or unwilling, due to fear, to return to his country of origin or to benefit from the protection of this country (Article 15 of the Law of Georgia on International Protection).

Denmark, Finland, Germany, Slovakia, United Kingdom) consider the following grounds for granting additional protection: family unity, health, child protection, natural disasters, general humanitarian grounds, a practical impossibility of return and social integration.⁴⁰

The deadlines specified in Article 29 of the Law of Georgia "On International Protection" repeat Article 31 of the EU Asylum Procedure Directive.⁴¹ According to paragraph 4 of this article, from the moment the application is made, the consideration of the application for international protection should not exceed 21 months. It is also significant to note that this deadline can be used only in special cases, when due to the complexity of the case or other justified circumstances established by law, it is impossible to review applications for international protection within the usual 6-month period. The current practice of the asylum procedure, which is discussed in more detail below, reveals that the ministry fails to meet the usual deadlines for applications, which is a significant problem. Despite the fact that, maximum 21-month period for considering the case is in accordance with the European Union directive, it is one year longer than the period defined by the Georgian law on "Refugee and Humanitarian Status" valid until 2017. It is significant that the United Nations High Commissioner for Refugees submitted its own comments on the European Union Asylum Procedure Directive, in which it was particularly noted that "excessively long procedures lead to "encouraging entry", which means that some applications for international protection are made for the sole purpose of allowing the person to benefit from the system before the relevant authority makes a final decision. Quality decisions made in a short period of time are in the interests of the member states of the Convention, since in this way they reduce the costs of adoption and decision-making procedures. A decision made within a reasonable time is also in the interests of the applicant, who will not be in an uncertain situation for a long time."⁴² The above-mentioned remarks apply equally to Georgia. Therefore, it is important to reduce the duration of the asylum procedure and restore the standard established by the previous law.

The problem of deadlines is partially confirmed by the statistical information provided by the Ministry of Internal Affairs of Georgia⁴³. The present data, which are detailed in the tables in the next chapter, clearly indicate that the number of asylum-seeker cases that require 18, 21 and more years to reach a final decision is increasing from year to year. If the periods required for the consideration of the case by the courts of two instances will be added to the mentioned term, it can be confidently said that the final period for making a decision on the issue of asylum is unreasonably delayed, deprives the person seeking status of the opportunity to enjoy a number of rights and leaves him in legal uncertainty for a long period of time.

⁴⁰ European Council on Refugees and Exiles, Complementary Protection in Europe, 29 July 2009, Available at: <<https://rb.gy/pbafju>> [last seen: 15.02.2022].

⁴¹ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), 29 June 2013, 180/60 -180/95; 29.6.2013, 2013/32/EU, available at: <<https://rb.gy/cvrdg8>> [last seen: 15.02.2022].

⁴² UN High Commissioner for Refugees (UNHCR), UNHCR comments on the European Commission's Amended Proposal for a Directive of the European Parliament and of the Council on common procedures for granting and withdrawing international protection status (Recast) COM (2011) 319 final, January 2012, available at: <<https://rb.gy/o2m8t4>> [last seen: 15.02.2022].

⁴³ Letter No. MIA82103167315 dated 02.12.2021 of the Ministry of Internal Affairs of Georgia.

5. Access to the international protection determination procedure and quality at the administrative level

The procedure for determining the status of international protection is provided in accordance with the Law of Georgia "On International Protection" and the order of the Minister of Internal Affairs⁴⁴ on the approval of the asylum procedure. The asylum procedure determines the procedure for receiving an asylum seeker, registering and reviewing an application for international protection, granting, terminating, canceling and confiscating the status of a refugee, for which unit of International Protection, Migration Department of Ministry of Internal Affairs is responsible. A foreigner or a stateless person has the right to request international protection both when entering Georgia at the state border and while staying in the territory of Georgia.⁴⁵ In case of a request for asylum at the border, according to the rule, a representative of the MIA patrol and/or border police identifies the request for international protection by a foreigner or a stateless person. For this purpose, he conducts an initial interview with the person, collects all the necessary documents and, no later than 3 working days, sends an application for international protection to the Migration Department.⁴⁶

The asylum procedure consists of a questionnaire, which is carried out within 10 working days after the application for international protection, as well as an interview with all adult members of the applicant's family. In order to ensure the accuracy of the information provided, the questionnaire is conducted in writing and using a voice recording device. The procedure after the questionnaire is an interview, which is held within 4 months from the registration of the application for international protection, and within 1 month in the case of expedited review, at the time determined by the authorized official. The purpose of the interview is to determine the essential circumstances related to the request for international protection, which include information about the reasons for the asylum seeker's leaving the country of origin and non-return, as well as other information that can determine the need to extend international protection to the person. In order to ensure the accuracy of the interview materials, the interview is also recorded in writing and using a voice recording device. At the administrative level, the last step is the decision, which is a written document and contains all the grounds for granting or denying refugee or humanitarian status. The decision must be based on the material facts of the case and the relevant evidences.

The application for international protection must be examined individually, objectively and impartially.⁴⁷

As to the appealing of the decision made by the administrative body, which constitutes individual legal administrative act it is possible to make such appeal in accordance to the administrative legislation⁴⁸

⁴⁴ Order No. 33 of April 6, 2020 of the Minister of Internal Affairs of Georgia "On Approval of the Asylum Procedure".

⁴⁵ Law of Georgia "On International Protection", Article 23, Paragraph 1.

⁴⁶ "Rules for identification of the request for international protection by a foreigner or stateless person at the state border of Georgia and the exchange of information between the Migration Department of the Ministry of Internal Affairs of Georgia, the Patrol Police Department and the state institution - the Border Police of Georgia". Order No. 99 of July 21, 2020 of the Minister of Internal Affairs of Georgia.

⁴⁷ Law of Georgia "On International Protection", Article 26.

⁴⁸ Article 21²⁴ of Administrative Procedure Code

within 1 month period.⁴⁹ Asylum seekers are provided with free legal assistance by the Legal Aid Service, a legal entity under public law - providing free legal assistance for asylum seekers or persons with international protection on the issues of refusal to grant status, termination, cancellation or confiscation of status.

As for the quality of the procedure for determining international protection at the administrative level, since 2015, the representatives of the Public Defender's Office have been monitoring both cases selected randomly and based on the request of the applicant or his representative. During this time, there have been some progress and challenges.

The structure of the status determination procedure and the training of employees continue from year to year. However, the overcrowding of the asylum system is an important challenge in the assessment of status determination, which is also confirmed by the number of cases. In particular, the large number of current asylum applications, in the conditions of insufficient human resources, leads to the accumulation of cases, the time for consideration is limited, which most likely affects the quality of justification of the final decision. According to the information received⁵⁰ from the Migration Department, by the end of 2021, two employees were working on asylum applications, in particular, questionnaires and 7 employees were working on interviews, and 100 cases were received per employee. The Public Defender of Georgia discusses the issue in detail in the parliamentary report of 2020.⁵¹ The duration of reviewing of a specific cases can be named as a gap of the procedure, which, according to the received information⁵², increases from year to year and the deadlines set by the law are also violated,⁵³ according to which the term of consideration of the application for international protection should not exceed maximum term, 21 months from the submission of the application for international protection.

⁴⁹ Law of Georgia "On International Protection", Article 47, Paragraph 1.

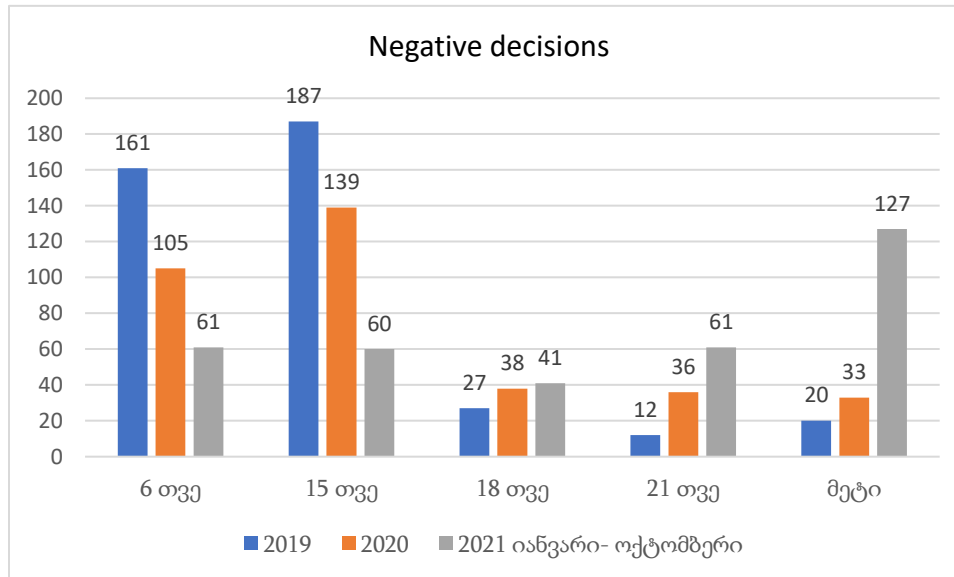
⁵⁰ Letter of the Migration Department of the Ministry of Internal Affairs of Georgia N MIA 8 21 03167355, 02.12.2021.

⁵¹ 2020 Parliamentary Report of the Public Defender of Georgia, available at: <<https://rb.gy/0avf7q>> [last viewed 15.02.2022], 462-463

⁵² Letter of the Migration Department of the Ministry of Internal Affairs of Georgia N MIA 8 21 03167355, 02.12.2021

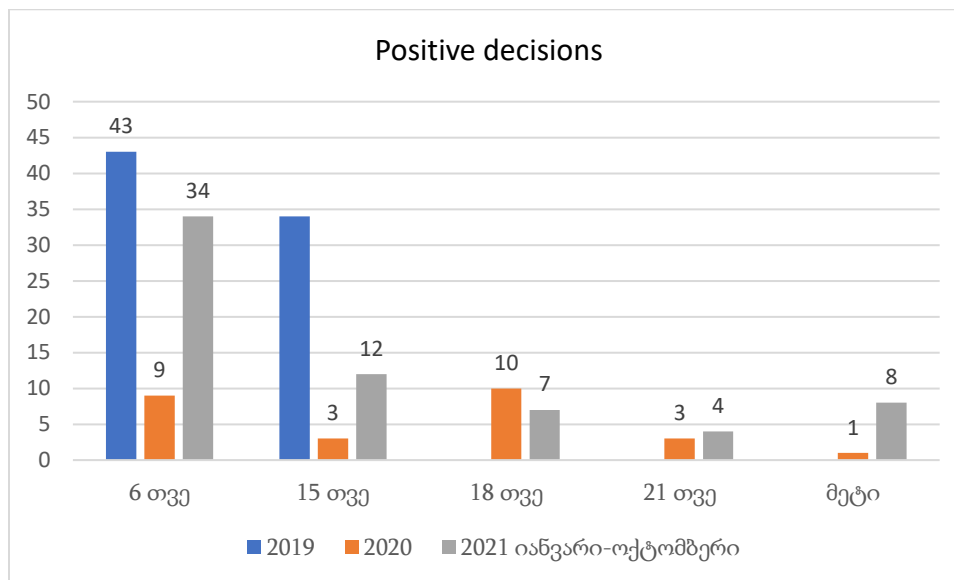
⁵³ Paragraph 4 of Article 29 of the Law of Georgia "On International Protection".

Timeframes for making decisions on granting or refusing to grant status in 2019-2021



6 months, 15 months,
18 months, 21 months,
more

2021 January - October



The changes adopted in 2021 in the MIA Migration Department, should be noted, as a result of which the quality assurance department of the International Protection Affairs Unit of the Migration Department was canceled and its functions were transferred to the Quality Assurance and Monitoring Service of the Migration Department of the MIA⁵⁴. It is welcome that within the framework of the change, the competency to monitor the status determination procedure and determine the need during the asylum procedure has been fully preserved. It is important to carry out the specified functions smoothly to ensure internal quality control and further improvement of the questionnaire, interview and decision process.

⁵⁴ Letter of the Ministry of Internal Affairs of Georgia N MIA 3 22 00343734, 09.02.2022.

The role of the interpreter is particularly important in the asylum procedure, which can be named as one of the challenges of the interview procedure. During the monitoring by the Office of the Public Defender, it was found that sometimes translators from the Bureau of Interpreters worked on the questionnaire and interview procedures in the Migration Department. Consequently, these persons did not have the necessary training required for an interpreter involved in the asylum procedure, and in some cases the interpretation of the question asked by a specialist was revealed. An interpreter who has not undergone special training may, consciously or unconsciously, influence the questionnaire/interview and, accordingly, their results. It is important that asylum seekers are provided with the services of a trained and qualified interpreter at all stages of the asylum procedure.⁵⁵ It is also the duty of the status determination specialist to provide the interpreter with information on certain circumstances of the case at all stages of the procedure. The role of the interpreter is especially important when interviewing a vulnerable asylum seeker. It is also necessary to provide an interpreter of the appropriate gender. According to the information received from the Ministry,⁵⁶ the process of selecting freelance translators of various languages and signing the contract with them is currently underway in the Migration Department of the Ministry of Internal Affairs. At this stage, 4 (four) translators of different languages are employed, although the department also invites translators from the Bureau of Translators. According to the information of the department, with the support of the representation of the UN High Commissioner for Refugees of Georgia, it is planned to organize and conduct a special training course for translators. According to the Public Defender's assessment, it is important that the measures planned in this direction are implemented in a timely manner to ensure the proper quality of translation.

5.1. Statistical data analysis

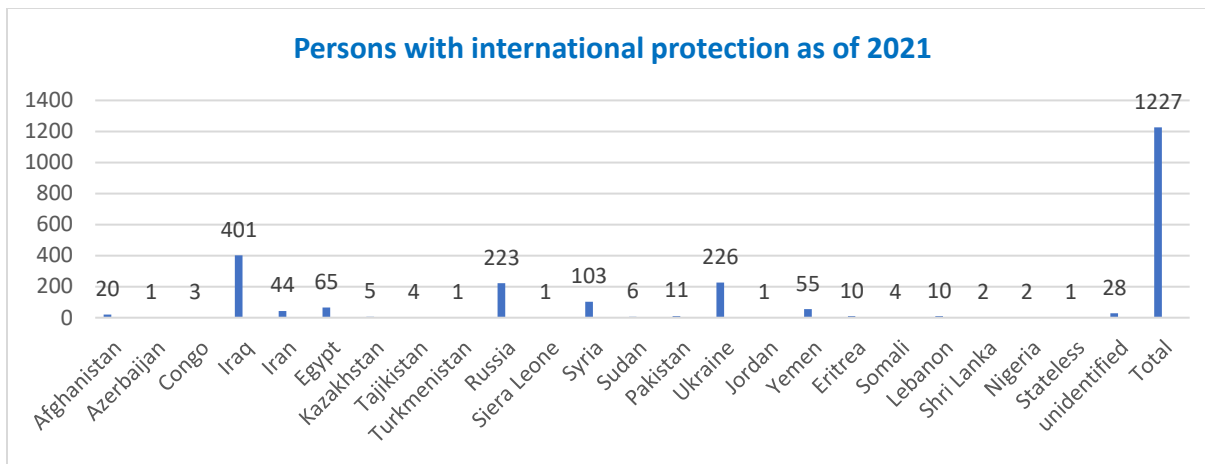
Currently, 1227 persons with international protection live in Georgia. 493 of them enjoy refugee status, and 734 enjoy humanitarian⁵⁷ status⁵⁸. As for the countries of origin of persons with international protection, the majority are citizens of the Russian Federation, Ukraine, Iraq and Syria.

⁵⁵ UN High Commissioner for Refugees (UNHCR), UNHCR RSD Procedural Standards - Interpretation in UNHCR RSD Procedures, 2016, available at: < <https://rb.gy/be2muh> > [last seen: 15.02.2022].

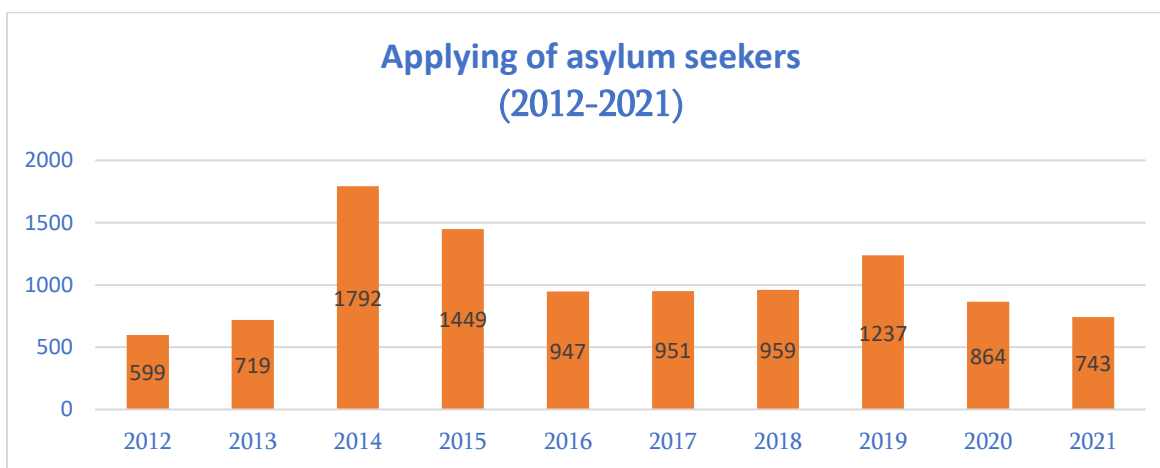
⁵⁶ Letter of the Ministry of Internal Affairs of Georgia N MIA 3 22 00343734, 09.02.2022.

⁵⁷ Humanitarian status is granted to a foreigner or a stateless person who cannot meet the conditions established for granting refugee status, but there is a real risk that he will be at risk of serious harm upon returning to the country of origin ("Article 19 of the Law of Georgia on International Protection").

⁵⁸ Letter of the Ministry of Internal Affairs of Georgia N MIA 3 22 00343734, 09.02.2022



The increase in the number of asylum seekers in Georgia started in 2012 and reached the highest rate in 2014, when their number reached 1792 persons.⁵⁹



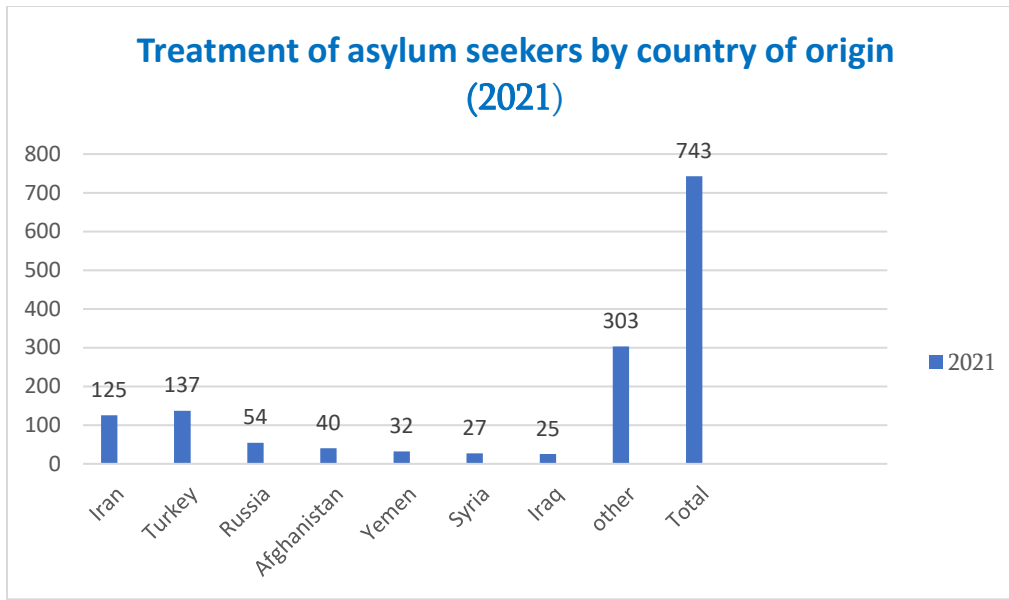
The increase of asylum seekers in Georgia was caused by unstable situations in the world and in the region. In 2012-2013, most of the asylum seekers were from Iraq, Syria and Egypt, due to the conflicts or unstable state situation there. Since 2014, as a result of the armed conflict in Ukraine, the number of Ukrainian citizens seeking asylum has increased.

Almost the same trend continued in the following years. There was an increase in the number of citizens of Iran and Turkey, although there were also citizens of Iraq, Syria, Egypt and Yemen.

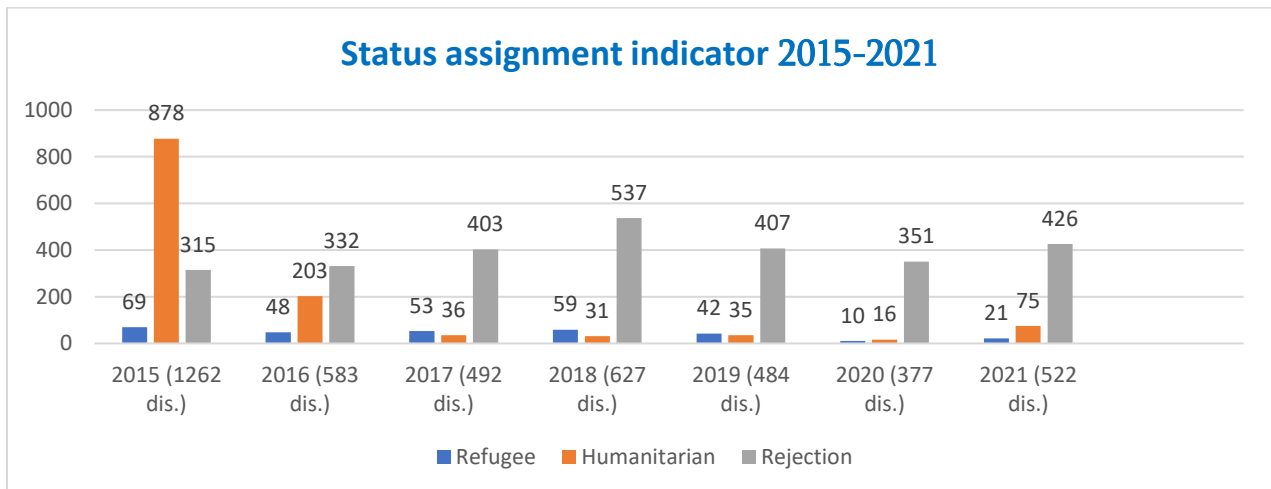
In 2021, 743 people applied for asylum. It is interesting that only 8 of them requested asylum at the state border. Most appeals are made after entering the country and crossing the border.

The countries of origin of asylum seekers are divided as follows:

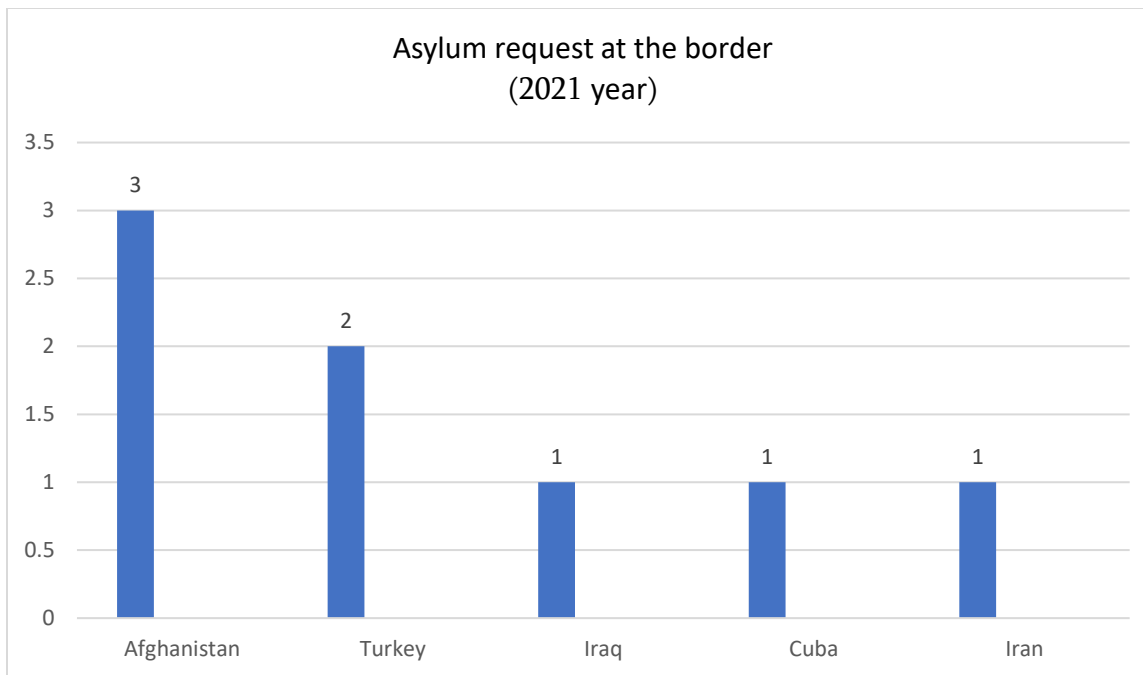
⁵⁹ Statistical data is taken from the annual reports of the Public Defender of Georgia "On Protection of Human Rights and Freedoms", based on the information provided by the Ministry of IDPs, Resettlement and Refugees and the Ministry of Internal Affairs of Georgia.



In 2015, the highest rate of granting the status was noted, and it constituted 75%. This fact was influenced both by the change of the asylum policy by the state, and by the situation in the region and the world - the beginning of the conflict in Ukraine and the renewal of hostilities in Iraq and Syria. However, in subsequent years, the granting rate declined significantly, despite the fact that the main flow of asylum seekers was from countries that generate persons in need of international protection, due to armed conflicts or human rights violations there.



The basis for refusal, in most cases, was the lack of reasons, the threat to state security and the existence of an alternative to internal displacement. In addition, there were cases of termination of cases based on one's own application and due to non-appearance at the procedure.



In 2021, it was again noteworthy that the denial of access to citizens⁶⁰ of countries where hostilities and human rights are being violated on the basis of threats to state security. The issue of justification in such decisions is still problematic, because in the individual administrative-legal act issued by the Ministry, the reason for refusal is indicated that there is sufficient reason to assume that it will pose a threat to the state security, territorial integrity or public order of Georgia, which, in turn, is based on the recommendation of the state security. In the case of such decisions, the individual circumstances of the case are ignored and the administrative body unconditionally considers the recommendations of the State Security Service. In such circumstances, where the decision does not contain a justification regarding the factual circumstances, there is no possibility to check whether there is a violation of the asylum seeker's rights or possible discrimination in terms of unequal treatment of persons in an equal situation.

5.2. Access to the asylum procedure at the border (exemption from criminal liability during illegal border crossing)

The Office of the Public Defender focuses on several important issues when monitoring the border control related to the crossing of the state border. Among them is the awareness of the responsible persons on the asylum seeker referring mechanism, related tools and the general standards to be considered while detention of foreign citizens.

Article 7 of the Law of Georgia "On International Protection" regulates the issue of exemption from criminal liability of an asylum seeker in Georgia. For the purposes of this article, if a foreigner or a stateless person, upon entering the territory of Georgia illegally, immediately reports to a government

⁶⁰ 10 Syrian, 7 Yemeni, 2 Eritrean and 1 Turkish national were refused based on security grounds.

agency, explains the reasons for entering the country illegally and requests international protection, he/she shall be granted the status of an asylum seeker and a certificate confirming the fact that person applied for international protection and his/her legal stay in Georgia.⁶¹ However, after reviewing the application and making a final decision, if the person is denied in international protection⁶², he will be subject to criminal liability for illegal entering the territory of Georgia.⁶³

The Office of the Public Defender of Georgia has identified cases of possible violation of this norm in practice:

According to the Order No. 99 of the Minister of Internal Affairs of Georgia of July 21, 2020, the Patrol Police Department of the Ministry of Internal Affairs of Georgia and/or the Border Police identify the request for international protection⁶⁴ by a foreigner or stateless person at the border, as well as conduct an initial interview⁶⁵ with him and ensures providing information to the Migration Department of the Ministry of Internal Affairs.⁶⁶ If this is not possible, the patrol police department and/or the border police are obliged to provide relevant information to the migration department, which, upon receiving the information, immediately goes to the place of the person's placement and/or, if necessary, ensures his transportation to the migration department, in order to carry out procedure for asylum established by Georgian law on International Protection.⁶⁷

Among the cases studied by the Office of the Public Defender, the case related to the arrest of two Turkish citizens is noteworthy. Two citizens of Turkey, placed in a penitentiary body due to illegal crossing of the state border⁶⁸ of Georgia, told the representatives of the Public Defender that they requested asylum when they were detained at the border. Based on the records and on the interview with accused persons it was proved⁶⁹ that the individuals had indeed requested asylum at the time of their detention at the border. The border police was obliged, as soon as the request for international protection was revealed, to release these two Turkish citizens and inform the Migration Department about their request. However, according to the information of the Ministry of Internal Affairs, the registration of Turkish citizens as asylum seekers was not confirmed⁷⁰. Accordingly, the Public Defender believes that they were arrested in violation of the requirements of the law.

⁶¹ Paragraph "g" of Article 3 of the Law of Georgia "On International Protection".

⁶² Granting the status of a refugee, a person under humanitarian or temporary protection.

⁶³ Paragraph 4 of Article 7 of the Law of Georgia "On International Protection".

⁶⁴ "On identifying the request for international protection by a foreigner or a stateless person at the state border of Georgia and approving the rules for exchanging information between the Migration Department of the Ministry of Internal Affairs of Georgia, the Patrol Police Department and the state sub-departmental institution - the Border Police of Georgia" of the order of the Minister of Internal Affairs of July 21, 2020, No. 99, Article 2, Clause 1, Sub-Clause "A".

⁶⁵ Ibid., article 2, paragraph 1, subparagraph "b".

⁶⁶ Ibid., Article 2, Clause 1, Sub-Clause "D".

⁶⁷ Ibid., article 2, paragraph 3, sub-paragraph "a".

⁶⁸ Article 344 of the Criminal Code of Georgia.

⁶⁹ Ministry of Internal Affairs of Georgia dated September 5, 2019 N MIA 3 19 02359630.

⁷⁰ Letter of the Ministry of Internal Affairs of Georgia N MIA 3 19 02359630.

A situation similar to the above-mentioned case can be seen in the case of a citizen of Yemen, who requested⁷¹ asylum during his arrest, although he was not registered as an asylum seeker. A criminal prosecution was initiated against this person for the crime of illegally crossing the state border of Georgia.

The Office of the Public Defender will also study the case regarding the legality of criminal prosecution against the citizens of the Kingdom of Morocco for the crime of illegally crossing the state border of Georgia. These persons probably also requested asylum; however, they were not redirected to the Migration Department of the Ministry of Internal Affairs of Georgia.

The Office will also study the case related legitimacy of criminal prosecution against a citizen of the Islamic Republic of Iran for illegally crossing the state border of Georgia. According to the person, he requested asylum at the time of his arrest.

The Office of the Public Defender of Georgia will study these cases in terms of access to the asylum procedure and the possible violation of the principle of exemption from criminal liability in case of illegal border crossing.

It is also significant that the Office of the Public Defender will study the case of a citizen of the Republic of Afghanistan, who claims that he requested asylum during passport control, but was not allowed to enter the territory of Georgia, and was forced for boarding the plane and flight back to Dubai. The mother and sister of the mentioned person are in Georgia and enjoy the status of an asylum seeker.

It should be noted that according to the information provided by the General Prosecutor's Office of Georgia, it decides the issue of criminal prosecution against the asylum seeker after making the final decision regarding the asylum seeker.⁷² However, opposing to this, the public defender is aware of a woman⁷³ who is a citizen of the Republic of Cote d'Ivoire and an asylum seeker, who was pregnant when she crossed the state border of Georgia on March 13, 2019, and currently lives in a shelter with two twins. Despite the fact that the international protection status of this woman is still unresolved and she is still waiting for a decision on the issue of granting international protection from the Migration Department of the Ministry of Internal Affairs of Georgia, a criminal prosecution is being conducted against her⁷⁴. Moreover, the Prosecutor's Office of Georgia offers the asylum seeker to sign a plea agreement.

⁷¹ According to the protocol of the interview of the accused person, dated February 4, 2019, provided by the Ministry of Internal Affairs of Georgia, as well as the letter of February 27, 2019, N MIA 4 19 00515459 of the Operational and Search Main Division of the Border Police of Georgia, and the protocols of the interview of relevant border guards as witnesses, it is established that the citizen of Yemen in Georgia During the illegal crossing of the state border, he requested registration as an asylum seeker.

⁷² Letter of the General Prosecutor's Office of Georgia dated March 10, 2021 No. 13/13119

⁷³ The case was carried out within the framework of the project of protection and strengthening of the rights of refugees, asylum seekers and persons with humanitarian status implemented by the NGO "Rights of Georgia" with the support of the United Nations High Commissioner for Refugees (UNHCR) in Georgia.

⁷⁴ Criminal prosecution is ongoing in relation to the alleged crime provided for in Article 362 of the Criminal Code of Georgia (making, taking or using a fake document, seal, stamp or letterhead).

5.3. Prohibition to leave the territory of Georgia for persons registered as asylum seekers

The Public Defender considers problematic,⁷⁵ the norm according to which one of the preconditions for considering the application of a foreigner or a stateless person for international protection is the applicant's presence in the territory of Georgia, from the submission of the application until the final decision on his status enters into force. The process may last up to two years, and during this time, the applicant's crossing the border of Georgia, even for a short time, will lead to the termination of the case for international protection and to refusal for his request.⁷⁶ Due to this problem in the legislation of Georgia, on July 22, 2021, the Public Defender of Georgia submitted a constitutional lawsuit to the Constitutional Court of Georgia.⁷⁷

It is significant that the travel document is confiscated and the restriction related to border cross applies to all asylum seekers, without assessment of their individual situation.⁷⁸ Despite the fact that law provides the possibility for applicants to leave Georgia, but this is only related to "vital interests"⁷⁹, which mainly includes only the interests of a person's health.⁸⁰

Due to such regulation, during the period of consideration of the application for receiving the status of international protection, the applicants cannot use a number of services. For example, they face problems accessing banking services that cannot be obtained in Georgia and in some cases may require traveling to a neighboring country. The Public Defender is aware of a number of cases when asylum seekers need to leave territory of Georgia during the asylum request review period. For example, the case of Iraq citizens who were registered as asylum seekers, their travel documents were confiscated and therefore they had no opportunity to leave the country. Their main source of income was a pension assigned to them in Iraq, it was impossible to get the pension in Georgia, so they needed to use a bank located on the territory of Turkey. In addition, during the period of consideration of the application for international protection status, the applicants cannot leave the territory of Georgia temporarily even to get a short-term job, despite the fact that the majority of them do not have a source of income in Georgia.

For asylum seekers, the above-discussed restriction related to stay in the territory of Georgia during the period of considering of their application might be seen as a tool which is aiming to achieve a

⁷⁵ Paragraph "b" of Article 57 of the Law of Georgia "On International Protection"; Paragraph "g" of Article 57 of the Law of Georgia "On International Protection".

⁷⁶ Except for the case, if crossing the border is related to the "vital interest" of the person, as it is provided by Article 57, paragraph "b" of the Law of Georgia "On International Protection".

⁷⁷ "The Public Defender of Georgia against the Parliament of Georgia", Constitutional Lawsuit No. 1629.

⁷⁸ "The Public Defender of Georgia against the Parliament of Georgia", Constitutional Lawsuit No. 1629, 14.

⁷⁹ Paragraph "b" of Article 57 of the Law of Georgia "On International Protection".

⁸⁰ "The Public Defender of Georgia against the Parliament of Georgia", Constitutional Lawsuit No. 1629, 8.

legitimate goal,⁸¹ but it is not a necessary⁸², least restrictive⁸³ mean⁸⁴ of achieving this goal. During the application review period, it is possible to use alternative means of communication, as well as to make a preliminary agreement with the Ministry regarding the date of leaving Georgia, so that the application review procedure is not threatened.⁸⁵

6. Conditions for reception of asylum seekers

Asylum seekers in Georgia have the right to be accommodated in the reception center for asylum seekers located in Martkophi. The center is designed for 132 people and the living space is allocated for one person or for families. In the reception center, it is also possible to accommodate people collectively. Living here is free of charge, and asylum seekers are supplied with bed linen and personal hygiene items, dishes and food upon placement.

The duration of an asylum seekers' stay at the center depends on the duration of the status determination procedure. In case of determination of refugee or humanitarian status or refusal to determine, the person is obliged to leave the reception center.

Reception standards for asylum seekers are closely linked to the status determination process, so it is important that asylum seekers have access to an adequate standard of living.⁸⁶ States are responsible for providing shelter to those seekers who need housing.⁸⁷ Living conditions at the reception center must meet minimum living standards, including access to infrastructure, education and healthcare.⁸⁸

The reception center of Martkophi meets the minimum living conditions. Asylum seekers will also have access to relevant infrastructure. However, we may consider the distance from the administrative center as an obstacle, due to which the asylum seekers have to travel by municipal transport to get various services in the capital.

⁸¹ In the process of considering an application for international protection, there are frequent cases when it is not possible to identify a person. In some cases, there is a risk that he will avoid cooperating with the authorized official, and there is also a risk of hiding. There may be a risk that the person will endanger the security of the country. Confiscating a person's travel document and restricting his movement may serve to avoid these risks ("Public Defender of Georgia against the Parliament of Georgia", Constitutional Lawsuit No. 1629, 11).

⁸² Regarding the practice of other countries, it should be noted that asylum seekers in Belgium are not obliged to submit a travel document, if the document is not required to establish the identity of the asylum seeker, or if there is no doubt about the authenticity of the document. Even then, their documents will only be confiscated for a certain period of time, until their identity/authenticity is established. There is a similar regulation, among others, in Croatia, Malta and Slovenia (EMN Ad-hoc Query on Handing over of personal documents in the framework of the asylum and return procedure, European Migration Network (EMN), 2016).

⁸³ According to the definition of the Constitutional Court of Georgia, "a restrictive measure should be the least restrictive means of restriction, along with its usefulness. Decision No. 3/4/550 of the Constitutional Court of Georgia dated October 17, 2017, II-26.

⁸⁴ "The Public Defender of Georgia against the Parliament of Georgia", Constitutional Lawsuit No. 1629, 13.

⁸⁵ *ibid*

⁸⁶ Reception Standards For Asylum Seekers In the European Union, UNHCR Geneva, July 2000.

⁸⁷ International Covenant on Economic, Social and Cultural Rights, Article 11.

⁸⁸ ICESCR General Comment No. 4 in relation to Article 11, Document N E/1992/23.

According to international standards, if the conditions in the reception center cannot meet the needs of the asylum seeker or his family, it is important to use alternative forms of accommodation.⁸⁹

7. Situation of asylum seekers in penitentiary institutions and temporary accommodation centers

Restrictions caused by the new coronavirus pandemic have reduced the proactive monitoring of asylum seekers and persons with international protection in penitentiary institutions. However, the request was followed by an immediate response, a visit and an interview with a specific person. In 2021, the monitoring of prisoners placed in institutions of the Special Penitentiary Department No. 17, 15, 10 was carried out with translators of the relevant language.

The monitoring of individual cases showed that the general conditions in the cells are satisfactory, however, overcrowding of cells and the presence of persons arrested for violating migration rules together with persons convicted in other severe crimes are problematic. The problem of communication is also still relevant, as there are not interpreters in the institutions, and often foreign nationals, including asylum seekers, face obstacles in receiving a specific service, even when writing and translating an application, which often takes a long time.

As for the situation of asylum seekers in the temporary accommodation center of the MIA Migration Department, no applications were received in 2021. Despite this, in 2020⁹⁰-2021⁹¹, in order to assess the impact of the epidemiological measures taken in the institution to prevent the spread of coronavirus on the rights of migrants and to check the state of implementation of the recommendations issued in 2019 and 2020, the National Prevention Mechanism of the Public Defender (NPM) monitored the center.

As a result of monitoring, it was revealed that out of 11 recommendations issued, 6 recommendations were implemented, 2 were partially implemented, and 3 recommendations were not implemented.

It is important to mention, that the recommendation of the Public Defender was fulfilled, which included checking for infectious diseases (tuberculosis, "B" and "C" hepatitis, HIV infection/AIDS during the initial medical examination).⁹²

It is also worth to mention, that the Migration Department expresses full readiness to cooperate with the Office of the Public Defender on these issues, which will contribute to the creation of standards tailored to human rights in the temporary placement center and will significantly improve the legal status of the persons placed in the center, including asylum seekers.

⁸⁹ International Covenant on Civil and Political Rights, Article 17.

⁹⁰ <https://www.ombudsman.ge/res/docs/2020071300060012151.pdf>

⁹¹ <https://www.ombudsman.ge/res/docs/2021111112020776878.pdf>, p.147

⁹² Ibid, p.148

7. Access to basic rights

7.1. Overview of rights guaranteed by law

According to the Constitution of Georgia, the rights of foreigners are as close as possible to the rights of Georgian citizens. However, there are some exceptions⁹³, which are mainly related to socio-economic⁹⁴ and political⁹⁵ rights.

Foreigners in Georgia have the right to obtain Georgian citizenship,⁹⁶ to carry out investment and entrepreneurial activities⁹⁷, to receive education⁹⁸, to have access to employment⁹⁹, health care¹⁰⁰, social security¹⁰¹, etc. In addition to the fact that various legal acts are related to the legal issues of foreigners, it is important for the state to have a unified vision related to migration. The Georgian government first approved the migration strategy document in 2013,¹⁰² and it was designed for 3 years. A further strategic document was adopted in 2016 and included a 5-year vision in the field of migration.¹⁰³ Currently, the 2021-2030 Migration Strategy of Georgia (hereinafter referred to as the Migration Strategy)¹⁰⁴ applies to persons with international protection status, stateless persons with status in Georgia, and foreigners living in Georgia with various statuses. The main goal of the migration strategy is to "determine the specific interests of the country in the field of migration, to adjust the "migration and development" policy and to develop its own system through correlation with successful international practices in order to respond to the challenges facing modern society¹⁰⁵." The action plan adopted in order to implement the strategy, which includes the tasks to be performed in a certain period, is renewable.¹⁰⁶

The integration of migrants is vital for social cohesion and economic development. In order for migrants to feel themselves as part of our society, they must be treated fairly and, at the same time, equipped with the appropriate tools for full integration. Integration is a continuous, mutual process based on the rights and respective obligations of both migrants and the host society.

The migration strategy more or less shapes the state vision related to integration. However, until now, the document on a unified approach related to the integration of immigrants, which was supposed to be

⁹³ Paragraph 1 of Article 33 of the Constitution of Georgia.

⁹⁴ For example, a person with a temporary residence permit in Georgia cannot use the subsistence allowance, an exception is a person without citizenship with a status in Georgia.

⁹⁵ For example, the right to participate in elections.

⁹⁶ Article 27 of the Law of Georgia "On the Legal Status of Foreigners and Stateless Persons".

⁹⁷ Ibid, article 28

⁹⁸ Ibid, article 33

⁹⁹ Ibid, article 29

¹⁰⁰ Ibid, article 30

¹⁰¹ Ibid, article 31

¹⁰² Resolution No. 59 of March 15, 2013 of the Government of Georgia "On Approval of the Migration Strategy of Georgia".

¹⁰³ Resolution No. 622 of the Government of Georgia dated December 18, 2015 "On the Approval of the Migration Strategy of Georgia".

¹⁰⁴ Resolution No. 810 of the Government of Georgia dated December 30, 2020, "On the Approval of the Migration Strategy of Georgia for 2021 - 2030".

¹⁰⁵ Resolution No. 810 of the Government of Georgia dated December 30, 2020, "On the Approval of the Migration Strategy of Georgia for 2021 - 2030", Introduction.

¹⁰⁶ The 2021 action plan for the implementation of the migration strategy is currently in force.

elaborated in 2021¹⁰⁷, has not been developed. Under these circumstances, it is not clear what the state aims to achieve by integrating foreigners, why the integration of foreigners is important, and what benefits, including economic ones, the country can get from it. This is important not only for the protection of the rights of foreigners, but also for the proper planning and implementation of measures by the state.

It is important that at the end of 2019, the LEPL IDPs, Eco-Migrants and Livelihoods Provision Agency was established, in the Agency the Integration-reintegration service was created. This particular service that ensures the implementation of the integration program and the operation of the integration center for persons with international protection, foreigners and stateless persons having status in Georgia.

7.2. Issues related to access to fundamental rights in practice

Achieving the goal of integration of foreigners is possible by enjoying the rights guaranteed by the law in practice. For the integration of migrants, overcoming the language barrier is the most important. Knowledge of the language is important for everyday relations and satisfying basic needs. It is an important component to have information about the host country, about one's rights and obligations.

The Integration Center works on 4 different integration programs: Georgian language courses, raising socio-cultural awareness, informing about civil education and consulting service.

Asylum seekers, in most cases, have primary communication with the Migration Department of the Ministry of Internal Affairs of Georgia. Since this is considered the most vulnerable category among migrants, it is important that the Migration Department itself provides information in a language they understand about the integration programs offered by the state. For this purpose, an information board is placed in the Migration Department, where brochures are placed about all the agencies and organizations that work in the direction of assistance and local integration of asylum seekers and persons with international protection. Also, the Migration Department periodically provides updated data on asylum seekers and persons with international protection in order to proactively communicate with the beneficiaries of the Agency of IDPs, eco-migrants and Livelihood. In 2021, information was initially sent in June, and update of information was planned for late 2021¹⁰⁸. It should also be noted here that, the agency does not have a unified database where the data of the beneficiaries would be included.

The Public Defender of Georgia positively evaluates both the placement of information brochures and the provision of information by the Migration Department to the agency about their beneficiaries, however, in order to increase involvement in the integration programs, it is better to change the data more often and to inform the beneficiaries verbally about the integration programs and their implementing agency.

¹⁰⁷ Letter No. 01/21385 dated December 24, 2021 of the Ministry of IDPs from the occupied territories of Georgia, Ministry of Labor, Health and Social Protection.

¹⁰⁸ Letter No. 12103317027 of the Migration Department of the Ministry of Internal Affairs of Georgia dated December 17, 2021.

The agency started implementing integration programs on July 18, 2020,¹⁰⁹ which coincided with the pandemic caused by the new coronavirus; therefore, training programs were conducted remotely. The target beneficiaries of the state integration program are mostly gathered in Tbilisi. A small number of beneficiaries live in Imereti and Adjara regions and they had the opportunity to participate in the programs using remote services. However, the beneficiaries pointed out the shortcomings of these programs to the representatives of the Public Defender of Georgia. According to them, there were difficulties in using the electronic platform. It is also problematic that due to the lack of people willing to learn the Georgian language, groups for learning the language at a higher level cannot be assembled. Beneficiaries also indicated problems¹¹⁰ related to language teaching methods. In some cases, they had no information about the possibility of learning the language. Therefore, it is important that the agency conducts an active information campaign on the possibility of language studying.

In addition to the fact that information brochures are available in the Migration Department for persons with international protection status, the agency also informs beneficiaries about integration programs through short text messages. We believe that only this might not bring results, since, if we take into account that 60 beneficiaries took language training courses in 2020, and 102 beneficiaries in 2021, it is possible that such communication with beneficiaries, for various reasons, is not effective. Therefore, it is important to disseminate information through social networks and websites as well, so that interested parties can find information about integration programs through a simple search engine. Currently, the Agency for IDPs manages a social network¹¹¹, but there is provided small amount of information on the activities of the Integration Center. The information posted on the website¹¹² of the same agency is also limited.

As already mentioned, the integration of migrants is not a unilateral process and it does not only require foreigners to make some efforts (learn the language, get information about the country, etc.), it is important that the host society is also tolerant towards migrants. In this regard, the state, on the one hand, should have a clearly stated policy on the benefits achieved by the integration of migrants, as well as promote awareness raising in the direction of the rights of foreigners.

The most important component of integration is employment. In order for migrants not to be dependent on state aid, it is necessary to promote, on the one hand, the strengthening of their skills, and subsequently their legal employment. Through the use of their skills in state-building the benefits of migrant integration are created. For this purpose, at the end of 2020, in cooperation with the United Nations High Commissioner for Refugees (UNHCR), a joint project - Supporting the integration of persons under international protection in Georgia - was developed. Within the framework of the project, based on the analysis of the individual socio-economic needs of the target beneficiaries, a support program for access to sources of income was developed, which included economic support for refugees and persons with humanitarian status, as well as stateless persons. The program was

¹⁰⁹ Letter No. 03/10234 dated June 17, 2021 of the LRPL Agency of IDPs, Ecomigrants and Livelihoods Provision

¹¹⁰ During the interviews with the representatives of the Public Defender of Georgia, foreigners mentioned that it was difficult to attend the 4-hour lectures every day.

¹¹¹ Available at: < <https://rb.gy/tot9pq> > [last seen: 15.02.2022].

¹¹² Available at: < <https://rb.gy/hxo9dx> > [last seen: 15.02.2022].

implemented in cooperation with the Livelihoods Department of the Agency, and within its framework, 15 IDP enterprises were financed, each with a budget of about 7500 GEL, which, in turn, employed 15 refugees, humanitarian status persons and stateless persons for at least 6 months on the basis of labor contracts. As already mentioned, the agency does not have a single database where the data of the beneficiaries would be included. The lack of a database makes it difficult to have complete information about the beneficiaries, as well as to study their needs and skills.

In terms of the employment of migrants, it is important to mention the role of the LEPL State Agency for the Promotion of the Employment. In the labor market management information system (www.worknet.gov.ge) - stateless persons, persons with refugee or humanitarian status, citizens of foreign countries residing in Georgia on a legal basis, who possess an eleven-digit identification code (personal number) assigned by the State Services Development Agency, are registered in addition to Georgian citizens. 53 persons with international protection status are registered in the system, and migrants seeking employment can only register¹¹³ in the system in Georgian, which creates an additional barrier for beneficiaries who do not know the language.

7.2. Inclusion of asylum seekers, refugees and persons with humanitarian status in social/economic programs

One of the important aspects for the integration of asylum seekers, refugees and persons with humanitarian status is their participation in socio-economic and health care programs. According to the current legislation, a monthly allowance in the amount of 45 GEL is given to persons with status, while no allowance is provided for status seekers.

Regarding health issues, under current legislation,¹¹⁴ vulnerable groups such as asylum seekers, refugees or persons with humanitarian status benefit from funding of basic health services.

However, since the service providers do not possess the appropriate information, persons under international protection often face obstacles when using the service. It is important that the agency, within the framework of the integration program, in 2021, started financing medical assistance and/or medicines for persons with international protection and stateless persons with a status in Georgia, in a trial mode.¹¹⁵

It should also be noted here that local municipalities (Tbilisi, Kutaisi, Batumi)¹¹⁶ do not consider social benefits for persons under international protection. An exception is Akhmeta Municipality, the budget of the mentioned municipality includes funding for the treatment of persons with residence permits who actually live in the municipality, in case of an acute emergency.¹¹⁷

¹¹³ Letter No. 05/607 dated April 7, 2022 of the State Employment Promotion Agency.

¹¹⁴ Resolution No. 36 of February 21, 2013 of the Government of Georgia "On some measures to be implemented in order to transition to universal health care".

¹¹⁵ Letter No. 03/10234 dated June 17, 2021 of the LEPL Agency of IDPs, Eco-migrants and provision of Livelihoods.

¹¹⁶ Letter №15-01213482927 of the Health and Social Service of the City Hall of Tbilisi Municipality of December 14, 2021, Letter No. 04-1421344596 of the Education, Culture, Sports and Youth Service of the City Hall of Batumi Municipality, No. 44-4421355159,

¹¹⁷ Letter No. 86-862134972 of Akhmeta Municipality City Hall of December 15, 2021.

As a result of the analysis of this information, it is clear that the financial assistance provided for persons under international protection is mainly provided for health care services. Financing of other types of needs is not provided for by the national legislation.

8. Asylum Seekers with Special Needs

The analysis of the human rights situation of asylum seekers with disabilities and those with international protection reveals that the protection of this group of persons in the country requires appropriate changes, both at the level of policy and practice. Due to the lack of consideration of persons with disabilities as a separate group among asylum seekers and persons with international protection by the responsible agencies and the absence of relevant statistical data, it is impossible to fully assess their human rights situation, both in terms of their inclusion in public life, and access to health, social services and participation in relevant educational programs. It is particularly problematic that the data on asylum seekers or persons with a corresponding status in the country are not divided and statistics are not produced on the grounds of disability, which makes it particularly difficult to assess their human rights conditions. The conducted monitoring revealed that the needs of persons with disabilities are invisible to the system at all stages of the international protection procedure. Under the current regulations, it is possible to identify asylum seekers with disabilities and to record relevant data, but unfortunately, this is not done. In addition, the process of identifying a disability at the stage of seeking international protection is not structured according to the types of disability. Therefore, it does not serve to ensure that the measures necessary for reasonable accommodation for each person are determined from the outset. It is also worth noting that the need to raise the awareness of both state and other services and institutions working with asylum seekers with disabilities and those with international protection was identified.

8.1. Human Rights Situation of Asylum Seekers with Disabilities and Those with International Protection in Georgia. Overview of International Standards and National Legislation

The UN Convention on the Rights of Persons with Disabilities¹¹⁸ establishes basic guarantees and guiding principles for the protection of the rights of persons with disabilities for the participating states. The document specifically focuses on the equal right of persons with disabilities to free movement, to choose their place of residence and citizenship. It obliges the member states to ensure the right of persons with disabilities to obtain or change their citizenship; to protect persons with disabilities from being deprived of the right to receive, possess, use citizenship or other documents proving the identity of the person, and to use the immigration procedures necessary to realize the right to free movement due to disability.¹¹⁹

¹¹⁸ The Convention on the Rights of Persons with Disabilities is available in Georgian: < <https://rb.gy/fl7iy> > [last visited on 15.02.2022].

¹¹⁹ Ibid, Article 18 1(b).

At the domestic level, it is important to mention the Law of Georgia "On the Rights of Persons with Disabilities". In accordance with the requirements of the law, the state facilitates the realization and provision of the rights and basic freedoms of persons with disabilities, and to this end, acts in accordance with the Constitution of Georgia, the United Nations Convention on the Rights of Persons with Disabilities, universally recognized human rights, norms stipulated by international law, and legislative and sub-legal normative acts of Georgia.¹²⁰ Thus, in case of persons with disabilities, the realization of any right defined for asylum seekers and persons with international protection, should be carried out with due consideration of the main principles and approaches outlined in the aforementioned Convention and the Law of Georgia "On the Rights of Persons with Disabilities".

It is noteworthy, that the guarantees of legal protection of a refugee or a person with a humanitarian status, as well as a person under temporary protection specified in the Law of Georgia "On International Protection"¹²¹ refer to some issues in relation to persons with disabilities. This includes, among others, the aspects of establishing proper communication with them and providing them with services appropriate to their individual needs, providing education, health care, government programs and legal support.

In particular, the law recognizes that persons with disabilities, as well as persons with mental health problems, may have additional and specific needs.¹²² In light of the recognition of the specific needs of persons with disabilities and the declaration of the obligation to protect their rights without discrimination, it is necessary to set the guarantees in the law that will give a person with various disabilities the opportunity to apply the law under equal conditions. In this direction, the requirements of the law do not cover all aspects of disability. This particularly relates to issues of ensuring access to information and communication for persons with various disabilities.

For example, in Georgia, at the stage of requesting international protection, the law provides for the translation of the information related to the accessibility of the asylum request procedure into an "understandable language". There is no reference in the law on providing access to information specifically for persons with disabilities. There is no reference either to a sign-language interpreter or to alternative methods of communication accessible to persons with various disabilities. Regarding the provision of the service of a sign-language interpreter, the Ministry of Internal Affairs of Georgia informed us¹²³ that if such need arises, the agency provides the service. But the agency did not provide information on how many asylum seekers with hearing difficulties are registered in the database, or how many people had such a need. It is important to determine the issue of provision of a person with a sign-language interpreter at the legislative level. In addition, although it is true that Article 25 of the Law of Georgia "On International Protection" regulates the specifics of the request for international protection by persons with specific needs, however, these provisions refer to the transportation and

¹²⁰ Law of Georgia "On the Rights of Persons with Disabilities".

¹²¹ Law of Georgia "On International Protection".

¹²² The concept of a person with specific needs includes a minor, a minor without a legal representative, the elderly, pregnant, single parent, victims of human trafficking, persons with disabilities, persons with serious physical and/or mental illness, persons with post-traumatic disorders, victims of torture, rape, psychological, physical, sexual violence and other such persons who need special procedural guarantees in order to enjoy the defined rights and fulfill the duties stipulated by the same law.

¹²³ Letter MIA 4 21 02581965 of the Ministry of Internal Affairs of September 30, 2021.

placement of persons with disabilities seeking asylum, granting them the status of temporary asylum seekers upon submission of the request, and follow-up guarantees.¹²⁴ Nothing is said about what happens for access to information before submitting a request, including providing them with appropriate technical or communication means and taking reasonable accommodation measures during the process of submitting a request. These issues are not regulated by the Order No. 33 of April 6, 2020 of the Minister of Internal Affairs of Georgia "On the Approval of the Asylum Procedure", which focuses on the aspects of communication with minors, as well as with persons with mental health problems, in terms of security, and nothing is said about communication aspects with persons with various types of disability (sensory, physical, mental).

According to the Ministry of Internal Affairs of Georgia,¹²⁵ a person with a disability is consulted on the request for international protection by an authorized official who has information on the methodology of conducting interviews with persons with specific needs, including persons with disabilities, and on the possibility of receiving necessary medical, psychological, social and legal assistance by these persons. Despite the request, the Ministry of Internal Affairs, did not provide information on the necessity to make relevant changes after communicating with a certain number of individuals to provide information in an accessible format, including the use of sign-language interpretation, which complicates the process of assessing the realization of the right to access to information by persons with disabilities seeking asylum.

As for the trained personnel, according to the Ministry of Internal Affairs, the authorized employees involved in the asylum procedure have undergone the training module of the European Asylum Support Office (EASO) "on the technique/methodology of interviewing vulnerable asylum seekers", the topics discussed in the framework of which also included interviewing asylum seekers with mental or mental/intellectual problems. 9 employees of the International Protection Division of the Migration Department of the Ministry have undergone special training/retraining, out of which 5 employees are directly involved in the procedure of determining the status of asylum seekers.¹²⁶ However, to what extent the number of trained employees corresponds to the needs of asylum seekers with disabilities is impossible to be determined due to the lack of statistics on the number of asylum seekers with disabilities.

Clearly, the absence of proper statistics on asylum seekers with disabilities and persons with international protection does not provide an opportunity to create a complete picture on protecting their rights. Although the Unit of International Protection of the Migration Department of the Ministry registers and processes the personal data of asylum seekers and persons with international protection, these data are not segregated by disability.¹²⁷ According to the Ministry of Internal Affairs, the order of

¹²⁴ In particular, it is given that "if international protection is requested by a minor without a legal representative or a person with disabilities who needs a legal representative, he or she is immediately registered as an asylum seeker as a result of the preparation of the relevant protocol by an authorized official. An application for international protection must be submitted after the appointment of a guardian/care-giver/supporter. The counting of the period for consideration of the application for international protection will start from the date of registration of the application for international protection".

¹²⁵ Letter MIA 4 21 02581965 of the Ministry of Internal Affairs of September 30, 2021.

¹²⁶ Letter MIA 4 21 02581965 of the Ministry of Internal Affairs of September 30, 2021.

¹²⁷ Letter MIA 4 21 02581965 of the Ministry of Internal Affairs of September 30, 2021.

the Minister of Internal Affairs of Georgia on "Approving the Asylum Procedure", provides the opportunity to identify asylum seekers with disabilities and record relevant data, if necessary.¹²⁸ It should be noted that this data is not recorded. Moreover, the analysis of the order questionnaire reveals that the specific need is related to the medical need¹²⁹ and the identification process is not divided according to the types of disability. Therefore, it does not serve to determine the measures necessary for reasonable accommodation for each person from the beginning. However, in case of detection, the person, in accordance with the requirements of the law, will be placed in housing as a priority, he can also take advantage of the priority at the stage of submitting the application.¹³⁰

It should be noted that the relevant statistical information is also not analyzed by the LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking, and the LEPL Internally Displaced Persons, Ecomigrants and Livelihood Agency. Registration of asylum-seeker students with disabilities and those with international protection by the Ministry of Education is also problematic, which prevents the assessment of the human rights situation of these persons in the country.

8.2. Right to Adequate Housing

It is known that a large number of asylum seekers in Georgia live in the reception center for asylum seekers of the Migration Department of the Ministry of Internal Affairs of Georgia located in Martkopi.¹³¹ In order to assess the situation on the spot, the Office of the Public Defender visited this center.¹³²

Monitoring revealed that the physical environment of the institution is accessible to wheelchair users. In particular, there is a ramp at the entrance of the building, which can be used by wheelchair users without any hindrances. In addition, 2 bathrooms have been adapted to their needs. .

According to the information provided during the monitoring visit,¹³³ during the last year, no persons with disabilities have been enrolled in the center. However, the focus group conducted with the partner organization, World Vision, revealed¹³⁴ that the organization helped 3 beneficiaries of the shelter (1 child - 2 adults with physical disability) in determining disability status; the institution's administration did not have information about this. This once again confirms the problematic nature of data processing and production of statistics in agencies.

8.3. Right to Education

Since 2015, the Ministry of Education and Science of Georgia has been implementing the sub-program "Ensuring access to general education for minors who seek asylum, have international protection and

¹²⁸ Letter MIA 4 21 02581965 of the Ministry of Internal Affairs of September 30, 2021.

¹²⁹ Paragraph 42 of Annex 9 of Order No. 33 of April 6, 2020 of the Minister of Internal Affairs of Georgia "On Approval of the Asylum Procedure", questionnaire field: health condition/specific need.

¹³⁰ Articles 29 and 25 (2) of the Law of Georgia "On International Protection" and Article 18 of Order No. 33 of April 6, 2020 of the Minister of Internal Affairs of Georgia "On Approving the Asylum Procedure".

¹³¹ The reception center is designed for a total of 132 people.

¹³² The monitoring was carried out on October 22, 2021, by the representatives of the Children's Rights and Gender Department of the Office of the Public Defender.

¹³³ According to the head of the center and the social worker.

¹³⁴ Focus group meeting with World Vision, October 28, 2021.

are placed in the Migration Department of the Ministry of Internal Affairs".¹³⁵ In order to assess the realization of the right to education of students with disabilities seeking asylum, the Office of the Public Defender paid a monitoring visit to all public schools participating in the sub-program.¹³⁶

Children living in the reception center for asylum seekers of the Migration Department of the Ministry of Internal Affairs of Georgia go to Public School No. 2 in Gardabani (village Martkopi). The visit to the school established that there is only one student with special needs from the shelter's center with an individual study plan. The school has a resource room equipped with appropriate resources. The bathroom is fully wheelchair accessible.

It should be noted that the systemic problems in general educational system in terms of inclusive education have a negative impact on the quality of education of migrant students with disabilities. For example, the infrastructure of Tbilisi School No. 23 is not accessible to students with disabilities, the school does not have an elevator, nor ramps, nor an adapted bathroom. A student with limited mobility can only use the first floor. As for the difficulties of behavior, in some cases, it shows itself, based on the hard experience of persons with disabilities seeking international protection. According to the director of the school, one student was re-directed to the Resource Officers psychosocial service center. In general, the lack of staff¹³⁷ and qualifications¹³⁸ in terms of inclusive education is problematic.

The assessment is also complicated by the fact that no separate statistics of asylum-seekers with disability and/or students with a corresponding status are produced.¹³⁹ Statistical data of general educational institutions are segregated only by age and gender, in the case of students with disabilities or those with special needs who are seeking international protection and/or have the appropriate status, the information needs additional processing. Such approach complicates the assessment of the human rights situation of this category of students, as well as studying and meeting their individual needs at general educational institutions.

8.4. Participation in Public Life

In order to assess the integration process of asylum seekers with disabilities and those with international protection, it is necessary to analyze the inclusion of persons with disabilities in various social, employment or educational programs operating in the country. The assessment of the situation in this direction is also complicated by the absence of relevant statistics. Findings revealed as a result of site visits and focus groups point to a number of problems.

¹³⁵ Letter MES 6 21 0001061686 MES 6 21 0001061686 of the Ministry of Education and Science of October 8, 2021.

¹³⁶ Within the framework of the sub-program, the beneficiaries are enrolled in Tbilisi Public School No. 8, Ilia Chavchavadze Public School No. 23, and Public School No. 2 of the village of Martkopi, Gardabani Municipality.

¹³⁷ In general, in terms of inclusive education, one student has a hearing problem and needs a sign language specialist, the school does not even have a psychologist. The school also has 3 assistants for students with special needs and requires additional 5 assistants.

¹³⁸ Teachers received training in inclusive education last year, but the lack of communication skills with students on the autism spectrum remains a challenge.

¹³⁹ Letter MES 6 21 0001061686 of the Ministry of Education and Science of October 8, 2021.

Since July 18, 2020, the LEPL Internally Displaced Persons, Ecomigrants and Livelihood Agency¹⁴⁰ has been implementing the integration program for persons living in Georgia under international protection, foreigners with legal grounds, asylum seekers and stateless persons with relevant status.¹⁴¹ According to the agency, the reception center is adapted for persons with disabilities. In case of any obstacle while receiving information or using the service, the information/service will be provided to the beneficiary in a form acceptable to him/her. However, the agency, despite the requested information, does not focus on what measures it takes to ensure the accessibility of specific programs to persons with different types of disabilities. Also, the agency does not process statistical information on persons with disabilities involved in the relevant components, which hinders the possibility of seeing a complete picture.

In accordance with the current regulations, participation in the services provided by the social rehabilitation and child care program is equally available to non-citizens in Georgia. Nevertheless, the LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking does not record/process such information/statistics.¹⁴² This complicates data analysis and evidence-based research on persons with disabilities.

The focus group meeting held with representatives of the LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking revealed that the agency is mainly limited to placing asylum seekers, including persons with disabilities, in appropriate housing.¹⁴³ Agency representatives have information about the support appointment procedure, however, focus group participants could not recall a case when they made a court representation for support appointment. According to the information provided by the Tbilisi City Center and regional centers of the LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking, they have not processed cases of recognition of persons with international protection as recipients of psychosocial support.¹⁴⁴

In terms of social protection of asylum-seekers with disabilities and those with international protection, the fact that they are not provided with an appropriate social package despite the single cases of determining disability status - this shall be assessed negatively.¹⁴⁵ Consequently, the needs arising from their disability remain unmet by the state.

There are also challenges in terms of employment of asylum seekers. As a result of the focus group conducted with the World Vision organization, it was found that only 1 person with disability was assisted in finding employment.¹⁴⁶

¹⁴⁰ Letter №03/10234 of the LEPL Internally Displaced Persons, Ecomigrants and Livelihood Agency of June 17, 2021.

¹⁴¹ The program is envisaged by the 2021 action plan for the implementation of the "2021-2030 Migration Strategy of Georgia" approved by the Resolution No. 629 of the Government of Georgia on December 20, 2019.

¹⁴² Letter №07/8554 of the LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking, October 1, 2021.

¹⁴³ October 13, 2021 - Online meeting with representatives of the Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking.

¹⁴⁴ Letter №07/349 of the LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking - 20.01.2022.

¹⁴⁵ Focus group meeting with World Vision, October 28, 2011.

¹⁴⁶ A person with an amputated limb got a job at a gas station.

8.5. *Right to Health*

Asylum seekers with disabilities and those with international protection also face certain problems in terms of access to health services. Although after arrival at the shelter, a World Vision social worker assesses the beneficiaries' health needs and prepares appropriate referrals, mental health remains a problem, as consultation with a psychiatrist and psychologist is not free. It is also problematic to receive those services that are not covered by the universal healthcare program.¹⁴⁷ The state reacts only to an aggravated mental health problem, when the criteria for providing inpatient psychiatric care are met, but timely detection and prevention is a problem.¹⁴⁸

9. Human Rights Situation of Women Asylum Seekers and those with International Protection

In recent years, the Public Defender of Georgia has been actively addressing the human rights situation of women asylum seekers and those with international protection, which is caused by their special needs.¹⁴⁹ A number of national¹⁵⁰ and international documents, including the United Nations Sustainable Development Mechanism, call on countries to achieve equal opportunities for women and men. Among them, the objective of General Recommendation No. 32 of the UN Convention on the Elimination of All Forms of Discrimination Against Women calls on member states to respect and protect the rights of **women asylum seekers** and to prevent discrimination.¹⁵¹ The provisions of the Convention strengthen and extend the international legal protection regime to refugee and stateless women and girls, especially because there are no provisions¹⁵² directly related to gender equality in the relevant international documents.¹⁵³

Despite the national legislation,¹⁵⁴ the purpose of which is to protect the rights of asylum seekers, refugees, persons with humanitarian status and persons under temporary protection and to create socio-economic guarantees, the situation of women asylum seekers and those with international protection is quite difficult. According to the information provided by asylum-seeking women, their main

¹⁴⁷ Focus group meeting with World Vision, 28 October 2021, as well as focus group meeting with migrant women, 17 December 2021.

¹⁴⁸ Focus group meeting with migrant women, December 17, 2021.

¹⁴⁹ The 2020 parliamentary report of the Public Defender of Georgia, Available at: <<https://rb.gy/0avf7q>> [last visited on: 15.02.2022].

¹⁵⁰ Law of Georgia "On Gender Equality".

¹⁵¹ United Nations Convention on the Elimination of All Forms of Discrimination Against Women, Optional Protocol and General Recommendations of the Convention, Tbilisi, 2018, available at: <<https://rb.gy/qj7h3v>> [last visited on 15.02.2022].

¹⁵² United Nations Convention on the Elimination of All Forms of Discrimination Against Women, Optional Protocol and General Recommendations of the Convention, Tbilisi, 2018, Available at: <<https://rb.gy/qj7h3v>> [last visited on 15.02.2022].

¹⁵³ 1951 Convention Relating to the Status of Refugees and its 1967 Additional Protocol, 1954 Convention Relating to Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.

¹⁵⁴ Law of Georgia "On International Protection".

challenges include integration into society, language barrier, access to services of healthcare or socio-economic support programs.¹⁵⁵

It is especially important to study the human rights conditions of women who are in the country with young children, without a circle of supporters or other family members, as they may have additional challenges and needs.

9. 1. Access to Education and Promotion of Employment

The economic development of the country is significantly dependent on the economic empowerment of women, although there are many problems to this end in Georgia. The scale of poverty and unemployment makes women vulnerable in double terms.

In the process of economic empowerment of asylum seekers and persons with international protection, women may be more vulnerable because they have special needs. It might include lack of knowledge of the language of the host country, lack of access to education, restriction of employment in public service, etc.

Despite the integration programs of the LEPL Internally Displaced Persons, Ecomigrants and Livelihood Agency,¹⁵⁶ according to the women beneficiaries of the Asylum Seekers Reception Center, they have no access to Georgian language courses or other professional courses. Among the mentioned reasons, it is important to note that programs focused on women's professional training are short-term and incomplete, therefore, women do not get the proper knowledge that will ensure their employment. In addition, the Georgian language course has not been conducted in recent years. According to the administration of the reception center for asylum seekers, an agreement is planned to be signed with the Zurab Zhvania State Administration School on providing language courses to those with the age of majority, although this process has been going on for several years now. According to the beneficiaries, even if such a program is introduced, it will be problematic for women who are employed during the day to attend it, which clearly indicates that the language courses are not flexible and adapted to women's needs. Registration for educational courses is also a problem, since registration is only in Georgian, therefore, due to lack of knowledge of the Georgian language, they are deprived of the opportunity to apply to the offered courses.

In addition to access to education, the employment of asylum seekers is particularly problematic, which directly affects their further economic empowerment. During a visit to the reception center for asylum seekers, the difficult economic situation of the women living in the institution became evident.¹⁵⁷ According to the beneficiaries, the Office of the United Nations High Commissioner for Refugees -

¹⁵⁵ Meeting with the beneficiaries of the reception center for asylum seekers, October 22, 2021. Meeting with (Iranian) women seeking asylum and those without international protection and citizenship, December 17, 2021.

¹⁵⁶ 34 out of the 75 beneficiaries registered for Georgian language courses are women.

¹⁵⁷ The visit was made on October 22, 2021.

UNHCR provides financial assistance only for 6 months, therefore attention was paid to the lack of funds and difficulties in delivery.¹⁵⁸

According to the administration of the reception center for asylum seekers and its beneficiaries,¹⁵⁹ when they are placed in the facility, they are provided with the minimum basic food and hygiene items, which does not include baby food, hygiene products for women, including baby diapers, clothes, medicines, etc. This is linked to additional financial resources.

Women who manage to rent an apartment with their own funds have similar problems as the beneficiaries living in the reception center for asylum seekers.¹⁶⁰ There is an acute problem of unemployment, women are mostly employed in cleaning services, where the pay is minimal and they cannot cover their basic needs.

Women asylum seekers and those with international protection who were in Georgia without a spouse/partner and were presenting themselves as single mothers, faced a particular challenge despite having the single parent status.¹⁶¹

According to the provided information, their main challenges include socio-economic problems. They have to deal with emotional difficulties every day because they cannot meet the basic needs of the children on their own. In the conditions of the new coronavirus pandemic, their situation has become even worse. Transition of kindergartens and schools to remote mode created additional barriers in terms of employment. They also do not have access to retraining or skills-development programs.

According to the beneficiaries living in the reception center for asylum seekers, in addition to the lack of jobs for them, in particular, the possibility of employment tailored to the needs of single mothers, the issue of leaving their children is also a problem. The facility does not have a staff of babysitters, which is vital for them. Despite the problem, the representatives of the institution say that they do not see the need to add more staff.

Although international organizations UNHCR and World Vision are actively working to improve the human rights situation of asylum seekers, those with international protection and stateless persons in the country, and to provide them with various types of assistance,¹⁶² support services are insufficient and require more attention and effective steps from the state.

9.2. Violence Against Women and Domestic Violence

¹⁵⁸ According to the information provided, the amount is 175 GEL per month and it is delivered in a late manner: 2 months after the request.

¹⁵⁹ A visit to the reception center for asylum seekers in Martkopi was carried out on October 22, 2021.

¹⁶⁰ Meeting on December 17, 2021. 7 women from Iran attended the meeting.

¹⁶¹ Based on the data of October 11, 2021 of the unified electronic database of the LEPL State Services Development Agency, none of the stateless persons in Georgia having such status, have established the status of a single parent in 2020-2021. Letter №13433 of the Ministry of Justice of Georgia of October 12, 2021.

¹⁶² Financial assistance, transportation, training programs.

In recent years, the state has taken important steps to fight violence against women and domestic violence. Among them, a number of legislative and institutional changes have been introduced. Despite this, prevention of violence against women and domestic violence and effective response from the state is still a challenge in the country.

Studying human rights conditions of women asylum seekers and stateless women living in Georgia was particularly important for the Office of the Public Defender of Georgia, because in the conditions of the Covid pandemic,¹⁶³ they may have found themselves in a very difficult situation due to the language barrier and lack of economic independence.

Subsequently, in the framework of monitoring, a number of meetings were held with women asylum seekers and those with international protection. Despite their trust in the Office of the Public Defender,¹⁶⁴ it was difficult for them to talk about violence, especially domestic violence. This may be due to the cultural-traditional factors and stereotypical views established in the community, as well as low level of awareness about the forms, manifestations and risks of violence. Among them also are lack of trust in the law enforcement agencies and lack of information on existing protection and assistance programs for victims of violence.

According to the information provided, they knew who to turn to in case of violence,¹⁶⁵ although it was clearly stated that they could not interfere in "family matters" and, according to their traditions, the woman could not dare to speak out loud about the violence committed against her. The meeting also highlighted the lack of information about shelters and services available to victims of violence, such as free legal and psychological services. The lack of information limits their ability to escape from the violent environment and to use the services that are potentially vital for them.

Despite the fact that the Law of Georgia on International Protection (Article 10)¹⁶⁶ prohibits discrimination, and it clearly applies to asylum seekers and persons with international protection, women spoke about discriminatory attitudes, both by society and by representatives of state agencies.

Meetings with women asylum seekers and stateless women made the need to conduct information campaigns on the topic of violence against women and domestic violence clear, on the one hand, to raise awareness of their rights and, on the other hand, to provide information about the services available to victims of violence in the country.

Unfortunately, there is no separate statistical data on cases of violence committed against women belonging to the vulnerable group, including women asylum seekers, in the country. Therefore, it is almost impossible to see the magnitude of the problem and to identify the gaps. It is also unknown how many women asylum seekers and those with international protection have benefited from protection and assistance services for victims of violence.

¹⁶³ During the covid regulations implemented in the country, movement by transport was restricted.

¹⁶⁴ Which was manifested in sincere conversations with the representatives of the Public Defender of Georgia on various problematic issues.

¹⁶⁵ Only police was named.

¹⁶⁶ Law of Georgia "On International Protection".

9.3. *Sexual and Reproductive Health*

Sexual and reproductive health includes issues such as maternal and child health, access to pregnancy, childbirth and postnatal care services, prevention of sexually transmitted diseases, access to contraceptives, etc. When discussing sexual and reproductive health, we are not only talking about health issues, but also about human rights.¹⁶⁷

A woman's right to sexual and reproductive health is recognized by a number of international and national legal instruments, and every person has the right to information and access to safe and effective modern health services in the country.

The Office of the Public Defender also examined the conditions of women asylum seekers and those with international protection in terms of sexual and reproductive health rights, as well as the extent to which Georgian health care programs and services take into account their specific needs.

According to the information gathered, although asylum seekers and persons with international protection are involved in the universal health care program in the country, they can only receive an initial consultation with a doctor, since a visit to a specialist and subsequent treatment are associated with high costs, which they cannot afford.¹⁶⁸

In addition to access to a specialist, there is also the problem of purchasing medicines. Despite the help of the World Vision, which involves refunding the money when presenting the receipt for the purchased medicines, there are cases of refusal to refund the expenses.¹⁶⁹

In addition, the failure to accept documents issued by the state was named as an obstacle to receiving medical services.¹⁷⁰

Access to health care services is quite problematic for women living in asylum seeker reception centers. According to the provided information, the majority of women living in the institution are unemployed, it is impossible for them not only to visit a doctor and to receive treatment, but also to move. According to representatives of World Vision, asylum seekers and persons with international protection are supported with transportation for pre-planned visits to the doctor, although this was not confirmed as a result of the meetings held.¹⁷¹

The Public Defender of Georgia, requested information from the Ministry of IDPs from the Occupied Territories, Labour, Health and Social Affairs of Georgia, about the barriers faced by women

¹⁶⁷ Cairo International Conference on Population and Development (ICPD) establishes a clear link between reproductive health, human rights and sustainable development - International Conference on Population and Development (ICPD), 05.09.1994, Available at: <<https://rb.gy/3m2sm9>> [last visited on 15.02.2022].

¹⁶⁸ Meeting with Iranian women. December 17, 2021.

¹⁶⁹ Meeting with Iranian women, December 17, 2021. According to the provided information, after submitting the receipt of the purchased medicines, the money was not returned. The reason behind being that the person could afford to buy expensive medicines.

¹⁷⁰ The clinic located in Rustavi, which does not serve asylum seekers and persons with international protection, was particularly negatively assessed.

¹⁷¹ Meeting with women beneficiaries of the Martkopi Asylum Seekers Reception and Accommodation Centre, October 22, 2021.

representing this group in terms of receiving reproductive health services and the measures taken by the Ministry to eliminate these barriers. According to the Ministry, it has received a single application of the asylum seeker, which was related to the problem of inclusion in the state program of maternal and child health. As a result of examination of the issue, a technical barrier related to the procedure was identified, which was resolved in a timely manner.¹⁷² In addition, according to the received information, the Ministry of Health constantly conducts consultation meetings with various agencies, including the UNHCR office, to identify the needs of persons with international protection and asylum seekers, and to provide information about the health services available to them.

However, we have received opposite information at the reception center for asylum seekers. When meeting with the women living in the facility, they all mentioned the need for a gynecologist, which has been unavailable to them for years.¹⁷³ According to them, they discussed this with the administration of the institution several times, they wanted to be able to consult a gynecologist on the spot, however, their request remained unanswered. The small number of women using health services clearly confirms the problems of using the existing programs.¹⁷⁴

According to the information provided, the beneficiaries at the Asylum Seekers Reception and Accommodation Centre in Martkopi also lack access to contraceptives. In addition, stereotypic and demeaning approaches were also highlighted. According to the women, both the employees of the institution and the beneficiaries have a stereotypical attitudes to the need for contraceptives¹⁷⁵ It should be noted that barriers to access to contraceptives pose a threat to the protection of women's sexual and reproductive health and rights.

According to the information provided by the women asylum seekers and those with international protection, the language barrier also prevents them from receiving complete information and appropriate services at medical institutions. There is often a need for an interpreter, which is unavailable to women. At the same time, demeaning, xenophobic attitudes of medical personnel undermine their dignity and prevent their access to appropriate medical services.

The Office of the Public Defender of Georgia also studied the situation related to sexual and reproductive health in educational institutions, the extent to which adolescent asylum-seekers and those with international protection had the opportunity to receive information from the school regarding the above-mentioned issues. Unfortunately, full integration of complex education about human reproduction and sexuality into the formal education system remains a challenge. This component is only superficially a part of school education and it cannot provide proper information to teenagers, which was also confirmed by the representatives of the administration of public school No.

¹⁷² Letter №01/16193 of the Ministry of IDPs from the Occupied Territories, Labour, Health and Social Affairs of Georgia of October 20, 2021.

¹⁷³ 7 women attended the meeting. October 22, 2021.

¹⁷⁴ In 2020, the number of women who benefited from the state health protection programs, among the persons seeking asylum in Georgia, was 13, and in 2021 – 5, respectively.

¹⁷⁵ According to the information provided, contraceptive use is perceived as a "bad tone". They don't even dare to voice the need for contraceptives.

23.¹⁷⁶ However, the contrary opinion of the teachers of Martkopi public school No 2 shall also be noted. According to the information provided, it is unacceptable and inadmissible for them to teach sexual and reproductive health and rights at school. Established negative beliefs and attitudes prevent the integration of sexual and reproductive health and rights issues, and lead to low awareness among adolescents in this direction, which may have a negative impact on the health and well-being of adolescent girls. A number of studies confirm the negative impact of stigma related to reproductive health on the physical and psychological health of girls. Stigma related to sexuality and reproductive health creates a taboo around menstruation that causes girls to feel ashamed and worsens both their physical and mental health.¹⁷⁷

10. Human Rights Situation of Minor Asylum Seekers and Those with International Protection

10.1. Review of International Standards and National Legislation Regarding Minors

Considering their needs, specificity and vulnerability, minor asylum seekers and those with international protection, require effective, well-resourced mechanisms of protection and support, which will respond to the case in a timely manner, with a child-friendly approach and taking into account his/her best interests. This is important to make the stressful and emotional process relatively easy for them. In addition, it is necessary for the state, in which the minor asylum seeker or the minor with international protection is present, to provide the child with access to all the basic needs necessary for his full development, with timely, effective and coordinated action.

Article 22 of the United Nations Convention on the Rights of the Child sets the obligation of member states to ensure the protection, assistance and realization of the rights guaranteed by the Convention and other legal acts on human rights for a child who is seeking refugee status or is considered as a refugee. The same article guarantees the child's right to family reunification, which means that the state will take all appropriate measures to trace the family of an unaccompanied minor and to ensure their reunification. In addition, it is necessary for a child who is separated from family members to have access to the child care guarantees provided by national legislation for minors with similar needs.

The obligation established by Article 3 of the Code of Children's Rights, according to which the best interests of the child shall be a primary consideration when taking decisions regarding a minor, also applies to the issues of granting international protection, family reunification and care. According to the general comment No. 14 of the United Nations Convention on the Rights of the Child, the best interest of the minor must be determined taking into account the peculiarities of each individual case; in the decision-making process, the specificities of the particular minor, his/her situation and needs

¹⁷⁶ Meeting with the administration of Public School No. 23. October 18, 2021.

¹⁷⁷ Study on Menstruation stigma and Violations of Related Rights at Georgian Public Schools, Available at: <https://rb.gy/0bykur> > [last visited on 15.02.2022].

must be taken into account. In addition, the decision, in turn, must comply with the rights and freedoms of the child guaranteed by the Convention.¹⁷⁸

It is important to note that the Law of Georgia "On International Protection" also establishes an obligation to take into account the best interests of a minor when making a decision, and to pay special attention to the principle of family reunification, the well-being of the minor, his/her social development, safety and his/her opinion.¹⁷⁹ According to the same law, an unaccompanied minor must be accommodated with due consideration of his/her best interests; it is also necessary to inform the state care agency, which ensures the appointment of a guardian/care-giver/supporter. The state has the same obligation towards a minor who is under temporary protection and is left without a legal representative. Family members of the minor should be consistently traced, if possible.¹⁸⁰ In case the child is left without an accompanying person, his/her guardian is responsible for filing the application for international protection.

In addition, for the best interests and protection of the child, it is important that persons working with minors have appropriate qualifications and use a child-friendly approach. This process should be attended by a specialist who is focused on supporting the child and protecting his/her interests. Based on this, Article 38 of the Law of Georgia "On International Protection" establishes the obligation to interview children left without a legal representative only in the presence of appointed representative by them. In case the minor is at a penitentiary or other detention facility, an interview with him/her is possible only in the presence of the lawyer. Only a specialist with the necessary skills and qualifications is authorized to interview the child.

As already mentioned, the state must ensure that minors have access to all the rights, which are guaranteed by both international and national legislation. It is also noteworthy, that in accordance with the Law of Georgia "On International Protection", a minor accompanied by an asylum seeker, a person with a refugee or humanitarian status, or that with a temporary protection, or a minor left without such a person, should have access to education, health care and social protection services that are provided for the citizens of Georgia. We will discuss the issue of health care, access to education, and inclusion in social and support services of children with international protection and asylum seekers more specifically in the following subsections.

10.2 Minor's Access to Health, Social Care and Education Services

Right to Education

According to Article 28 of the United Nations Convention on the Rights of the Child, the state is obliged to ensure that minors in its territory have access to education, which means free and compulsory

¹⁷⁸ General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, 2013, Available at: < <https://rb.gy/eik51a> > [last visited on 15.02.2022], Para. 32.

¹⁷⁹ Law of Georgia "On International Protection", Article 12.

¹⁸⁰ Ibid, Article 25.

primary education, the encouragement of secondary and higher education, and the implementation of all measures necessary to reduce the rate of school drop-outs. As already mentioned, the Convention on the Rights of the Child imposes an obligation on member states to ensure that minors with international protection and asylum seekers have access to all the rights provided for by national legislation and international agreements, including the right to education.¹⁸¹

The relevant articles¹⁸² of the Law of Georgia "On International Protection" foresee the right of minors with international protection and asylum seekers to enjoy the right to pre-school, secondary and higher education. In order to promote general education, according to the same law, the Ministry of Education and Science of Georgia is tasked, to ensure that asylum seekers and persons with international protection attend Georgian language courses, which is one of the most important steps to ensure that children have access to education. Also, the commitment of the Ministry of Education and Science of Georgia to promote the local integration of persons with international protection and asylum seekers in coordination with the Ministry of Internal Affairs of Georgia and the Ministry of IDPs from the Occupied Territories, Labor, Health and Social Protection of Georgia, including minors, is particularly important.

General Education

In order to study the issue of access to the right to education of minors with international protection and asylum seekers, the Office of the Public Defender had communication with the Ministry of Education and Science of Georgia, the Ministry of Internal Affairs of Georgia, Asylum Seekers Reception and Accommodation Centre in Markopi and the principals and teachers of the educational institutions where minors are enrolled. Additionally, as part of the study, interviews were conducted with persons with international protection and asylum seekers about the legal status of their minor children.

According to the information received from the Ministry of Education and Science of Georgia,¹⁸³ since 2015, the Ministry of Education and Science of Georgia has been implementing the sub-program "Ensuring Access to General Education for Minor Asylum Seekers, Those with International Protection and Minors Placed in the Migration Department of the Ministry of Internal Affairs". The programme supports general education of minor asylum seekers and those with international protection from 6 to 18 years of age and those who have been placed in the temporary placement center of the Migration Department of the Ministry of Internal Affairs.

Within the framework of the sub-program, the beneficiaries are enrolled in three public schools for a one-year course twice a year (September, January), according to the list provided by the Migration Department of the Ministry of Internal Affairs.¹⁸⁴ Pursuant to the Ministry of Education and Science of

¹⁸¹ United Nations Convention on the Rights of the Child, 1990, Article 27.

¹⁸² Law of Georgia "On International Protection", Articles: 56, 58, 61, 75.

¹⁸³ Correspondence: MES 6 21 0001061686 - 08/10/2021.

¹⁸⁴ In particular, Tbilisi Public School No. 81, Tbilisi Ilia Chavchavadze Public School No. 23, Martkopi Public School No. 2 of Gardabani Municipality.

Georgia, as of September 2021, a total of 25 minors are involved in the sub-program.¹⁸⁵ Due to the spread of the new coronavirus in Georgia, since March 2020, within the framework of the sub-program, teaching of the Georgian language has been going on without interruption, in a remote/electronic format. However, in terms of geographic availability and time flexibility of the service, the fact that the program is implemented in only 3 public schools and students can be enrolled in it only twice a year creates challenges. The correspondence of the Ministry of Education and Science also mentioned that in order to promote the education of children living in the temporary placement center of the Migration Department of the Ministry of Internal Affairs, based on the memorandum signed in 2016 between the Ministry of Education of Georgia and the Ministry of Internal Affairs of Georgia, general education and program funding is promoted for minors placed in the center, as a result of which they have the opportunity to receive general education in a specific environment. In July 2021, 8 minors were placed in the center, who, based on the agreement signed between the Ministry of Education and Science of Georgia and Gogita Kiknadze Tbilisi Public School No. 182, will be provided with the services foreseen by the sub-program in a remote format. In order to conduct lessons, the school has three teachers hired by contract. Nevertheless, the fact that enrollment in the educational program in the Georgian language is possible only twice a year, and only 3 public schools provide the service to children, it is not flexible in time, nor geographically available.

The interviews conducted by the Public Defender's representatives with school teachers and persons with international protection and asylum seekers revealed that despite the measures taken by the state, minors with international protection and asylum seekers face many obstacles in the process of receiving education. First of all, it should be noted that the language barrier makes it especially difficult for children to actively participate in the learning process and prevents them from fully mastering the educational program. According to the parents, minors, despite being included in the language course, find it difficult to understand the curriculum, especially in science subjects.

Taking into account the above-mentioned challenges, cases were identified when a child is enrolled at a level lower than his/her age. The language barrier of minors is an important obstacle according to public school employees too. An opinion was expressed with the representatives of the Public Defender that it is better for the children to enroll in the school after passing the Georgian language course and learning the language at a certain level and to be involved in the learning process, the content of which, in such a case, will be easily understandable to them. However, in this regard, the need to promote the socialization of children with international protection and asylum seekers is also significant, where the school plays a particularly important role. In addition, according to the representative of one of the educational institutions, children learn the Georgian language much easier when going to school, communicating with their peers and during the lesson. According to the information received from an employee of one of the educational institutions, taking into account the language barrier, it would be better to have specially developed manuals for minors with international protection and asylum seekers, which would be tailored to their needs.

¹⁸⁵ There are 6 students enrolled at Tbilisi Ilia Chavchavadze Public School No. 23, 19 students in Martkopi Public School No. 2 of Gardabani Municipality, and no children are enrolled in the program at Tbilisi Public School No. 81.

A number of challenges related to the language barrier were also highlighted in terms of communication between school employees and parents of minors. Some of the public school employees noted that often the parents do not speak any of the languages known to them, and in such cases it is very difficult to communicate with them. However, there was also a case where, according to one of the parents, the school teachers themselves do not try to communicate with him/her in any way despite the fact that he/she knows the English language.

According to the teachers and management of the public school, there is no discriminatory approach, conflict between children and bullying on ethnic grounds. In addition, in order to eliminate the discriminatory attitudes, they conduct educational events. However, during the interview, one of the parents mentioned that the students had a racist attitude, and one of the teachers had an islamophobic attitude and prejudice towards the child.¹⁸⁶

When investigating the issue, in particular, the interviews with the deputy director of one of the schools and the teachers revealed that in the educational process, children are not provided with the information defined by the national curriculum of Georgia and given in the textbooks of the subject. According to the explanation provided by the deputy director, he/she does not consider it necessary to talk with children, especially boys, about issues of sexual and reproductive health. To this end the Office of the Public Defender requested from the Ministry of Education and Science of Georgia information about the violations revealed as a result of the assessment of the case and the response to such incidents. The Ministry of Education and Science of Georgia studied the existing situation in the school and determined that the school violated the relevant provisions of the Law of Georgia "On General Education", "National Curriculum" and "Teacher's Code of Professional Ethics". In order to prevent such cases and to strengthen the capacities of school teachers, a number of events were planned, including a short course on the "health of the reproductive system" in the school, a meeting with the teachers of biology and civic education of the Martkopi public school No. 2, on a topic such as "Reproductive System and Health". The cooperation with the representative (coach) of the national curriculum implementation group with the biology teacher of public school No. 2 was also planned, to support him/her and to share the experience.¹⁸⁷ In relation to the same fact, the Office of the Public Defender had a written communication with the Resource Officers Service of the General Educational Institutions. According to the information received, the Resource Officers Service is planning to conduct informational meetings with school teachers on discrimination issues. In addition, within the scope of its competence, the Resource Officers Service conducts and will hold informative meetings with students in the future too on topics such as bullying, cyberbullying, hate speech and discrimination.¹⁸⁸

The physical environment of the institution was inspected during the monitoring carried out on October 22, 2021 at the Martkopi Asylum Seekers Reception and Accommodation Centre. There is a sports field next to the building. In the yard there is equipment for children's leisure, which is relatively outdated, however, as the representatives of the Public Defender were explained, the management of

¹⁸⁶ The parent did not talk about public schools of Tbilisi No. 81, Tbilisi No. 23 and Martkopi No. 2.

¹⁸⁷ Correspondence received: MES 6 22 0000387081 - 14.04.2022.

¹⁸⁸ Correspondence received: MES 8 21 0001232165 - 16/11/2021.

the institution plans to purchase new equipment. In the building of the center there is an educational room with computer equipment. In addition, the institution has a room for children's entertainment, where cognitive literature and toys are stored. However, it is possible to use the resource of the room only when the educator arrives at the institution.

It is worth noting that the children living in the Martkopi Asylum Seekers Reception and Accommodation Centre were intensively met by the educator of the non-governmental organization World Vision, who conducted various cognitive activities with the children. However, based on the restrictions provided by the Covid regulations, the provision of this service has been significantly limited, which, according to the parents of the minors, has had a negative impact on the children.

Preschool Upbringing and Education

The Office of the Public Defender also studied the issue of access to pre-school upbringing and education of minors with international protection and minor asylum seekers. According to the information obtained as a result of the interview with the parents of minors, they were able to register their children in kindergarten without any hindrances. However, access to pre-school care and education for young children of asylum-seekers living in the Martkopi center is problematic. In particular, the kindergarten, where minors living in the shelter are enrolled, is several kilometers away from their residence. Public transport does not operate in Martkopi, and according to the beneficiaries, they wait for hours at the bus stop for private minibuses. According to them, sometimes the transport does not stop at all. In addition, travel by minibuses is associated with daily expenses, the resources of which, given the shortage of the aid package for asylum seekers, they do not have. Therefore, often, especially in winter, when the weather worsens and it is difficult to move on foot, children cannot be involved in the educational process.

Impact of Covid Regulations on Right to Education

According to the information received from the educational institutions in the framework of the study, the children were involved in the educational process without any hindrances, and the parents' involvement was also ensured. Against this, the majority of parents with international protection and asylum seekers indicated that the transition to distance learning significantly disrupted the learning process. Due to the language barrier, they could not help their children, some of them translated through internet sources what the teacher said to their child both during the lesson and during the Georgian language course at the online lesson.

There was also a case of not having the necessary equipment to be included in the teaching process. One of the mothers with many children mentioned that the children started classes at the same time, which created a big obstacle considering the small living space. According to the parent, when switching to distance learning they formally agree in the EMC program that they take responsibility for the child's inclusion in distance learning, however, they often do not have the opportunity to do so in reality, due to the lack of space at home, problems with equipment or access to the internet. If they do not agree to distance learning, they have no other alternatives for learning. Minors also participate remotely in the Georgian language programme, which makes the distance education process even

longer and tiring. The transition to distance education and the closing of kindergartens cut preschool children off from the educational process. In addition, according to the beneficiaries of the Martkopi Centre, since children, cannot be left unsupervised even for a short time due to their age and internal regulations of the institution, beneficiaries cannot find employment, which has an even more negative impact on their financial situation. This problem is especially acute for single mothers living in the reception center.

10.3. Health Care and Inclusion in Social Services

Both international and national legislation establish the obligation to provide health care and access to appropriate services for the child. Among them, the Law of Georgia on International Protection establishes the state's obligation to ensure access to health services for minors seeking asylum and international protection.¹⁸⁹

In the framework of the study, interviews with asylum seekers revealed that despite universal health care, access to medical services for minors is associated with a number of challenges. According to the parents, the children have had all the necessary vaccinations appropriate for their age, however, when receiving medical services, due to the language barrier, it is difficult for them to communicate with doctors, get acquainted with prescriptions and even purchase medicine. In this process, the center's beneficiaries are assisted by a specialist from the non-governmental organization World Vision. However, according to parents, it is often difficult to contact the representatives of the organization, especially on weekends. Asylum seekers also find it difficult to buy medicine for their children. The representatives of the Public Defender communicated with the representatives of World Vision regarding this issue. According to the information received from them, the beneficiaries are reimbursed the costs of the medicine in case of submission of relevant documentation, which is confirmed by the parents themselves. But they also point out that they have to submit a new doctor's prescription every time to get reimbursed for the medicine, which is associated with additional time and costs for them.

During the monitoring carried out at the Martkopi Asylum Seekers Reception and Accommodation Centre, the representatives of the Public Defender were also informed that the beneficiaries were not provided with the necessary items for emergency assistance. The package they receive at the arrival at the center does not include diapers and baby food. In the institution, they often have to call an ambulance, and when returning to the center, if accompanied by a minor, they use a taxi, which is also associated with additional costs. In this regard, the representatives of the Public Defender were informed by the representatives of the World Vision that a car is provided for the beneficiaries, which serves them as much as possible. According to them, in case of presenting the receipt, the beneficiaries are reimbursed the amount paid for the taxi when returning from the medical institution to the center. Beneficiaries of the Martkopi Center say that they usually have to travel by taxi with their children, not all taxi drivers give receipts, which makes it even more difficult to get reimbursed.

¹⁸⁹ Law of Georgia "On International Protection", Articles: 56, 58, 61, 75.

It should be positively assessed that the non-governmental organization World Vision ensures the involvement of a psychologist with the beneficiaries of the Martkopi Center and their children. However, the last specialist came to the institution a few months ago. The psychologist's visits were particularly negatively affected by the restrictions imposed on the basis of the Covid regulations and the repeated declaration of quarantine in the center itself. Parents living in the center indicated to the need for continuous involvement of a psychologist with them and their children. They talked about the traumatic experience and positively evaluated the intervention made so far.

11. Recommendations

In order to eliminate the challenges outlined in the report and to improve the Human Rights situation, special proposals and recommendations have been developed for the relevant state agencies.

Proposal to the Parliament of Georgia:

- To add other credible humanitarian assistance grounds to the Law of Georgia "On International Protection" as a prerequisite for granting humanitarian status;
- To introduce amendment to the Law of Georgia "On International Protection" and define 9 months as the maximum period for considering the application for international protection;
- To review the fourth paragraph of Article 7 of the Law of Georgia "On International Protection" and comply it with the Geneva Convention of 1951 and the Constitution of Georgia;
- To revise paragraphs "b" and "g" of Article 57 of the Law of Georgia "On International Protection";

Recommendations

To the Minister of Internal Affairs of Georgia:

- To develop specific measures to solve the problem of overcrowding of the asylum system;
- To intensively train persons authorized to conduct the international protection procedure on interview techniques and issues of cooperation with an interpreter;
- To ensure participation of properly trained interpreters in the international protection procedure;
- To continue unhindered internal control of the quality of the international protection procedure and ensure its improvement;
- To introduce amendment to the Order No. 33 of April 6, 2020 of the Minister of Internal Affairs of Georgia "On Approving the Asylum Procedure" and include the standards and aspects of communication with persons with disabilities, including the service of a sign-language interpreter;

- To produce statistics of asylum seekers with disabilities and persons with international protection according to the type of disability;
- To ensure the training of the employees of the Asylum Seekers Reception Center of the Migration Department of the Ministry on the issues of persons with disabilities, including the provision of detailed information according to different types of disability, for proper communication with persons with disabilities and identifying their needs;
- In the scope of its competence, to take appropriate measures to introduce free consultations of psychologists and psychiatrists;
- To hold informational meetings with asylum seekers and persons with international protection on the topic of violence against women and domestic violence;
- To provide asylum seekers and persons with international protection the opportunity to use an interpreter, including in the case of the need to receive external services from the shelter;
- To assess technical and internet-related needs to ensure the inclusion of the minors living in the Matkopi Center in the educational process; within its competence, to ensure the use of the technical resources already available in the center for the educational process;
- To take into account the food and diapers needed by the minor when transferring hygiene products and food at the Martkopi Center, if necessary;
- To update the entertainment and recreation equipment for children in the yard of the Martkopi Centre;
- To take all appropriate measures within its competence, to actively involve the psychologist with the children living in the center.

To the Minister of IDPs from the Occupied Territories, Labour, Health and Social Affairs of Georgia:

- To develop a draft legal act on unified approaches to the integration of immigrants;
- To make a timely decision and introduce Georgian language courses at the Zurab Zhvania State Administration School;
- To provide primary health care providers with detailed information on the rights of persons under international protection;
- To take the necessary measures to provide free psychiatric and psychological counseling to asylum seekers with disabilities and those with international protection and to finance medical services for this group of persons that are not covered by the universal health care program;
- To train medical staff on issues of equality and non-discrimination.

To the Minister of Education and Science:

- To ensure the production of statistic of student asylum seekers with disabilities and those under international protection, or students with special needs, involved at every stage of education;
- To increase the terms of enrollment in the one-year Georgian language course and, based on the agreement with public schools, to make it available in all regions;
- To provide access to Georgian language courses for asylum seekers and persons with international protection living in Kutaisi and Batumi;
- To ensure flexibility of the enrollment procedure for Georgian language courses. For example, to make it possible to enroll beneficiaries on a quarterly basis;
- To identify gaps of teaching methods of Georgian language and adapt these methods to the needs of beneficiaries.

To LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking:

- To ensure the production of statistics of persons with disabilities benefiting from state social programs or seeking such benefits, who are asylum seekers or are under the international protection, including when recording cases of violence;
- To ensure, in accordance with the law, immediate appointment of a caregiver and training of social workers on asylum issues;
- To provide unhindered interpreter services for social workers;
- To start active work with the relevant state agencies to provide the appropriate social package for asylum seekers with disabilities and those with international protection.

To LEPL Internally Displaced Persons, Ecomigrants and Livelihood Agency:

- To create a unified database of beneficiaries, where, in addition to personal data, their capabilities and needs will be indicated;
- To disseminate information about integration programs via social network/website;
- Within the scope of its competence, to ensure the production of statistics of asylum seekers with disabilities and those with international protection.

To the City Hall of Gardabani Municipality:

- To assess the issue of geographical access to the educational process of the minors living in the Martkopi Center and to take appropriate measures to ensure the inclusion of the children in the educational process.