

LEGAL STATUS OF FOREIGNERS AND RACISM IN GEORGIA

2022
R E P O R T



TOLERANCE AND DIVERSITY INSTITUTE

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USAID სავაჭრობის უზენაესობის პროგრამა
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TOLERANCE & DIVERSITY INSTITUTE

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INTRODUCTION

One of the most important factors impacting upon the legal status of foreigners in Georgia in 2022 is the full-scale war that Russia started against Ukraine, which caused an increased flow of migrants to Georgia from the mentioned countries, especially from the Russian Federation. In this context, it is particularly interesting to note the state's policy regarding the entry of foreign citizens into Georgia and their use of various state services.

This area of politics is also noteworthy in relation to the treatment of journalists, civil activists, artists and politicians who are critical of the Russian government, some of whom are declared to be “foreign agents” in Russia. It is also interesting in relation to the treatment of citizens of North Caucasian Russia, especially after Vladimir Putin announced military mobilization.

The report also refers to cases of discriminatory attitudes towards migrants motivated by racial intolerance. People living in Georgia from African and Asian countries still talk about differential treatment in public and private interactions. The unjustified practice of refusing residence permits to citizens of certain countries remains a concern.

In the light of Russia's full-scale war against Ukraine, the legal situation and the needs of refugees from Ukraine became particularly relevant in Georgia, and this is also described in the report. In the same context, some aspects of the legal status of migrants who came from Russia because of the consequences of the war and their activities, are also referred to.

METHODOLOGY

The report aims to review and analyze the legal and political aspects related to the legal status of foreigners, and to racism and xenophobia in Georgia during 2022. In the process of preparing the report, various research tools were used, including the content analysis method. This included analysis of relevant legislation and practice, policy documents, reports of international and local organizations, and public information requested from the executive and judicial authorities. The report also draws on interviews conducted by TDI. The policy and practice of the state are evaluated, taking into account the constitutional and international standards of human rights protection.

In the process of working on the report, in terms of the collecting and processing of information, the main obstacle faced was the lack of transparency and accountability of the relevant state agencies. Compared with previous years, the accountability of agencies and their non-fulfillment of the obligation to provide public information has significantly worsened. For the purposes of this report, the most important source of information is the relevant statistical data on the issuance of residence permits and on foreign nationals crossing Georgia's borders. This data will provide information on the citizenship of applicants, the grounds given for refusal, and other criteria. Unfortunately, despite numerous attempts, TDI was unable to obtain the complete information from the responsible public agencies, which significantly limited the final findings of the report.

KEY FINDINGS

Access to public information and the non-transparent policies of public agencies

In the reporting period, the accessibility of public information from public agencies sharply deteriorated. Such practices by the public agencies create obstacles for non-governmental and research organizations who are seeking to evaluate state policy on human rights protection.

Selective and allegedly discriminatory policy of the state on the crossing of the state border

Recently, citizens who are critical of the Russian government face serious obstacles in the process of crossing the Georgian border. In 2022, dozens of Russian journalists, human rights defenders and politicians critical of the Kremlin were refused permission to cross the border. Also, since 2021, the government has been creating obstacles for Ukrainian public figures seeking to enter Georgia.

Following the start of the full-scale war in Ukraine in February 2022, the rate of cases of alleged discrimination against Russian citizens of the North Caucasus increased, with an increase in incidents where they were refused permission to cross the border. These refusals allegedly were based on their various external, religious and cultural attributes, as well as on their ethnic origin.

The problematic policy of issuing residence permits

The practice of unjustified refusals to issue residence permits remains a significant challenge. These refusals are based, in almost all cases, on a negative evaluation issued by the State Security Service.

Representatives of African and Asian countries point out that the state's policy towards them is still discriminatory and they are often denied residence permits without justification. Among them are foreign students who face obstacles in continuing their studies. The authorities did not provide TDI with detailed statistical data.

From February 24, 2022 to April 11, 2023, citizens of the Russian Federation submitted a total of 10,304 applications for residence permits, of which 32.5% (3,340) were rejected citing the interests of state security, and more than half, 56% (5,759) were allowed. Compared to the corresponding period of 2021, the applications by Russian citizens increased by 54%, and the rate of permits granted increased by 25%.

Throughout the same period, 943 applications for residence permits were submitted by Ukrainian citizens, 5% of which were rejected, on grounds of state security protection, and 85% were approved.

1925 applications were submitted by citizens of Belarus. 28% (543) of them were not endorsed on grounds of state security protection, and 61% (1167) were endorsed.

The problem of issuing electronic visas to representatives of specific countries

The service of issuing e-visas by the Ministry of Foreign Affairs of Georgia contains some shortcomings: it is completely unavailable to Nigerian citizens, for whom the use of the abovementioned service is extremely important. Due to the Covid-19 pandemic, the issuance of e-visas has been suspended even for those foreigners who are normally eligible for it. Although the main reason for the suspension of the service was the pandemic, the Ministry of Foreign Affairs did not resume its delivery for the citizens of India until May 2023 (almost a year after the end of the pandemic).

Asylum seekers

Compared to previous years, the number of cases considered within the asylum procedure has doubled, and the rate of granting asylum status in the reporting period has mainly increased by granting humanitarian status to Ukrainian citizens.

Refugees from Ukraine

The state does not keep an accurate record of the statistics of Ukrainian refugees entering Georgia, leaving it or remaining in the country. Also, the government of Georgia does not have a unified and effective strategy and policy to help them.

According to the data of the United Nations High Commissioner for Refugees (UNHCR) in February 2023, there were 25,101 Ukrainians in Georgia, and according to the data of May 9, 2023 – 24,182. Most of them are from Mariupol and Kharkiv, cities that were particularly affected by the war.

According to the 2023 study of Care Caucasus, the main challenges for Ukrainian refugees are financial income and unemployment.

Racial discrimination

In 2022 a total of 5 guilty verdicts were issued by the Criminal Chamber of the Tbilisi Court of Appeal for crimes committed with national, ethnic and/or racial motives.

For the purposes of statistics produced by the state, the concept of “race” includes: “race”, skin color, language, citizenship, national and ethnic affiliation, and origin, which excludes the possibility of accurate accounting of the specific bias motivation of each crime committed.

The Ministry of Internal Affairs launched an investigation into a total of 56 criminal cases, which showed signs of racial discrimination.

The prosecutor’s office commenced criminal prosecution on 14 cases of crimes motivated by racial intolerance, and a total of 18 people were identified as victims.

During the reporting period, 7 persons were convicted of crimes motivated by racial intolerance (the investigation of 5 of them began during the reporting period).

The issue of correctly qualifying the crime remained a problem in the decision of the Tbilisi Court of Appeal of February 16, 2023 in the case of the murder of Vitali Safarov: a crime committed on grounds of ethnic intolerance and anti-Semitism.

Racism against people from certain countries in public and private interactions is still problematic. Migrants from African and Asian countries, in addition to the obstacles they face when receiving public services (entry at the border, obtaining a residence permit), often talk about discriminatory experiences in public spaces, such as obstacles created when attempting to rent an apartment, discriminatory treatment in commercial banks, etc.

1. THE POLICY OF ALLOWING CROSSINGS OF THE STATE BORDER

1.1. STATISTICAL INFORMATION

In 2022, against the background of the commencement of a full-scale war against Ukraine by Russia, the situation regarding crossings of Georgia's borders by foreign nationals gained significantly greater public attention. In this regard, it should be noted that the statistical information, processed by the state and made public, on persons displaced across the borders of Georgia, is incomplete. The Public Defender of Georgia also speaks about the problematic nature of the lack of a full and reliable database in connection with the crossing of the border.¹

According to the data published by the Ministry of Internal Affairs on persons who moved across the state border of Georgia during 2022, the border was crossed 15,643,097 times (entry + exit), of which 69% of these crossings were made by citizens of foreign countries.² In addition, in 2022, out of 5,502,041 cases of persons entering Georgia from a foreign country, 3,571,465 persons stayed for 24 hours or more.³

In the reporting period, compared to 2021, significant changes can be observed in terms of the number of incoming visitors from individual countries. For example, whereas in 2021 there were 291,511 arrivals from Russia, 358,014 from Turkey, and 218,349 from Armenia, in 2022 this number increased to 1,459,541 in the case of Russia, 1,030,199 in the case of Turkey, and 1,018,771 in the case of Armenia.⁴ Against this background, the number of recorded arrivals from Ukraine increased by only 32%, from 168,961 to 223,697 units.⁵ However, the Ministry of Internal Affairs does not specify the citizenship of those persons who entered Georgia from the listed countries. Accordingly, the significant increase in the number of foreigners arriving from Armenia and Turkey in 2022 may be indicative of substantial numbers of Russian citizens who arrived in Georgia via these countries.

1 Report of the Public Defender of Georgia, 2022, "On the state of protection of human rights and freedoms in Georgia – 2022. Available in Georgian at: <https://www.ombudsman.ge/res/docs/2023033120380187763.pdf>. p.309.

2 Ministry of Internal Affairs of Georgia, 2022. "Statistical data of persons and vehicles moved across the state border of Georgia". Available in Georgian at: <https://info.police.ge/uploads/63dba9f1763d9.pdf>

3 Ibid.

4 Therefore, a 401% increase was recorded in the case of Russia, 188% in the case of Turkey, and 367% in the case of Armenia.

5 Ministry of Internal Affairs of Georgia, 2022, "Statistical data of persons and vehicles moved across the state border of Georgia". Available in Georgian at: <https://info.police.ge/uploads/63dba9f1763d9.pdf>

The National Statistics Office of Georgia (Geostat) provides data on the citizenship of persons entering Georgia. Among the foreign nationals entering Georgia in 2022 who were aged 15 or above, Russian citizens formed the largest group, at an average of 76.3 thousand persons per month, or 916.6 thousand persons over the whole year. The second largest group were Turkish citizens, at an average of 59.2 thousand persons per month. In the case of citizens of Ukraine and EU member states, these numbers are respectively 12.6 thousand persons per month, and 21.5 thousand persons per month.⁶

In order to get more detailed information on this issue, TDI applied to the Ministry of Internal Affairs⁷ and requested that they provide information on how many foreign citizens seeking entry into Georgia were refused permission to cross the border, and indicating the citizenship of those refused entry. TDI requested information about the legal grounds for refusing visitors permission to cross the border. Even though the Ministry of Internal Affairs refused to provide us with this information,⁸ they informed us that the information containing the data of the persons who crossed the state border is posted on the official website of the Ministry – info.police.ge, where relevant statistical data is periodically published. However, the data published on that website does not even include general information about the number of foreigners who are not allowed to enter Georgia, let alone indications of their citizenship and the legal grounds for non-admission.

Regarding this issue, the Public Defender claims that according to the information received from the Ministry of Internal Affairs, 3,246,757 citizens of foreign countries entered Georgia in 2022, and 21,698 foreigners were refused entry, although the Ministry does not have statistical data on the specific legal grounds for refusal.⁹

According to common practice, the Ministry of Internal Affairs refers to Article 11, Clause 1 of the Georgian Law On the Legal Status of Foreigners and Stateless Persons as the reason for refusing entry into Georgia, without providing any additional specification or explanation. According to these legal provisions, the granting of a Georgian visa or entry into Georgia may be denied to a foreigner in cases other than the ones provided for by Georgian legislation, and different from the cases listed in the same paragraph.

This Clause provides that, in addition to the cases listed in the first paragraph of Article 11 the legislation of Georgia provides for other cases on the basis of which a foreigner may be refused a Georgian visa or permission to enter the country. Accordingly, if the border guard refuses to allow

⁶ National Statistics office of Georgia, 2022, “Foreign Visitor Statistics – Distribution of Visitors by Nationality”. <https://www.geostat.ge/en/modules/categories/102/inbound-tourism>

⁷ Letter by Tolerance and Diversity Institute (TDI) of January 17, 2023, N 833/01/2023.

⁸ Letter of the Ministry of Internal Affairs of Georgia of January 18, 2023, MIA 2 23 00149594.

⁹ Report of the Public Defender of Georgia, 2022, “On the state of protection of human rights and freedoms in Georgia – 2022”. Available in Georgian at: <https://www.ombudsman.ge/res/docs/2023033120380187763.pdf>. p.309.

a foreigner to enter the country on the basis of this Article, he/she must specify (substantially) the reason for refusal provided by the legislation of Georgia (a specific legal act and its specific provision(s)). This would then provide the legal basis for denying the foreign national entry into Georgia. However, it is not usually the case that such specifications are made.

This practice is especially noticeable in relation to the treatment of citizens of African and South Asian countries. For example, according to information published in the media, South Asian medical students say that it is common for tourists and students from their countries, who have all the proper documents, to be refused entry, and to be put back on the next flight without any explanation. They tell how Indian and Nigerian students were sent back from Georgia without a proper reason being given or explained.¹⁰ A fifth-year student of the Faculty of Medicine recalls how the border guards took him away for questioning when he first arrived in Georgia.¹¹

In the light of the ongoing war in Ukraine, it is interesting to analyze the policy of the Georgian authorities when dealing with citizens of Ukraine, Russia and Belarus. From the data processed by the Institute for Development of Freedom of Information, it is clear that in March 2022, 340 citizens of Russia, 65 citizens of Ukraine, and 16 citizens of Belarus were refused entry to Georgia.¹² In this regard, it is noteworthy that in March 2022, following the beginning of the full-scale war, both in quantity and percentage, more citizens of Ukraine were refused entry to the country than citizens of Belarus.¹³

According to the survey of the public attitudes regarding the mass entry of Russian citizens into Georgia, the policy implemented by the government in this matter is unacceptable for the majority of the population. In particular, according to 57% of respondents, the government's approach to the issue is unacceptable. On the other hand, only 29% of respondents support the government's policy. In addition, 69% of respondents support the establishment of a visa requirement for Russian citizens.¹⁴

10 Civil.ge. 2022. "South Asian Students in Georgia Are Getting More than They Bargained For," 2022. <https://civil.ge/archives/498699>

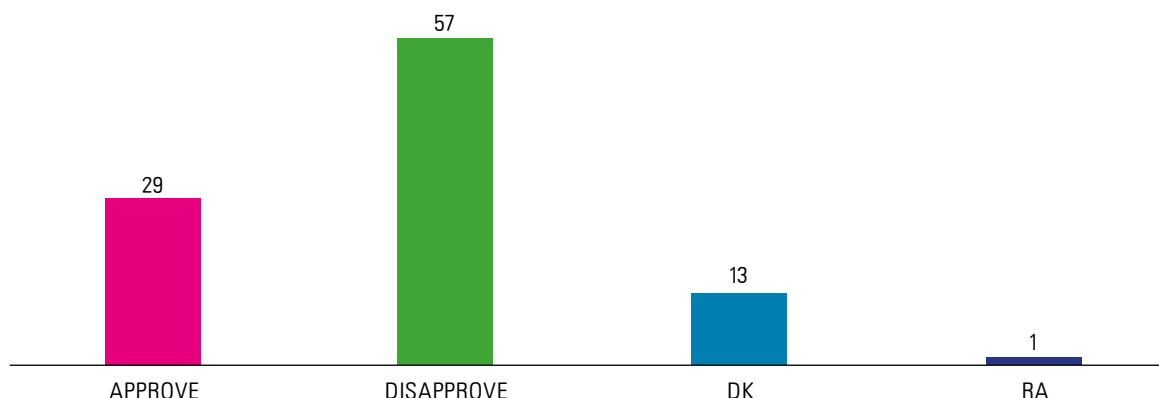
11 Ibid.

12 Accordingly, only 0.75% of Russian citizens, 0.38% of Ukrainian citizens, and only 0.08% of Belarusian citizens were refused entry to the country.

13 Institute for Development of Freedom of Information (IDFI), 2022, "Georgian Border Crossing Statistics of Citizens of Ukraine, Russia and Belarus – March, 2022". https://idfi.ge/ge/border_crossing_statistics_of_citizens_of_ukraine_russia_and_belarus

14 Conducted on behalf of NDI by CRRC Georgia, 2023, "Public Attitudes in Georgia - Results of Face-to-Face Survey Conducted in December 2022" <https://shorturl.at/dtxY7>

Do you approve or disapprove of the Georgian authorities' approach regarding Russians entering Georgia?



NDI, 2022

1.2. OBSTACLES FOR UKRAINIAN PUBLIC FIGURES WISHING TO CROSS THE BORDER

Since 2021, the government has been creating obstacles for Ukrainian public figures who wish to enter Georgia.

Ukrainian **journalist Dmitry Gordon** was refused entry to Georgia and was sent back from the border on October 27, 2021.¹⁵

Gordon claims that he was told at the border that he is banned from entering Georgia. According to him, **Maria Barabash**, the head of the Ukrainian office of the former president of Georgia, Mikheil Saakashvili, was not allowed to enter the country either. Gordon wanted to meet Saakashvili.¹⁶

Earlier, Saakashvili's Ukrainian lawyer, **Yevgeny Hrushovets**, was also not allowed to enter the country. The Ministry of Internal Affairs has no answer to this either.¹⁷

On October 27, 2021, the **Public Defender of Ukraine Lyudmila Denisova** said that she was kept at the border of Georgia and was allowed to enter the country only after several phone calls. The Ministry of Internal Affairs did not explain this either.¹⁸

Ukrainian **TV presenter Roman Dribnoi** was also not allowed to enter Georgia. As Dribnoi relates, he was not allowed to cross the border at the airport and was sent back without explanation: "The

¹⁵ TV company Formula. "This is now the second day that the Ministry of Internal Affairs has provided no answer as to why Dmitry Gordon was not allowed into Georgia" 2021. Available in Georgian: <https://formulanews.ge/News/59043> Civil.ge, "Ukrainian Journalists, Lawyer Reportedly Barred from Entering Georgia". 2021. <https://civil.ge/archives/450441>

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

police talked to me, as usual, and they asked me all the usual questions. “We have the right not to state the reason, but you will get detailed information on the document we are giving you.” They put me back on the same plane and sent me to Warsaw. While boarding the plane, I looked at the passport and the said document. Under the heading, “Reasons” it simply said, “other reasons”.¹⁹

1.3. CROSSING OF THE GEORGIAN BORDER BY RUSSIAN JOURNALISTS, HUMAN RIGHTS DEFENDERS AND POLITICIANS

Recently, when attempting to cross the Georgian border, Russian citizens who are critical of the Russian government and wish to flee from repression face serious obstacles, which, in most cases, result in them being unable to enter Georgia.

For example, Russian **journalist Dmitry Aleshkovsky**, co-founder of the charity fund *Nuzhna Pomosh* (‘help needed’) and founder and head of the media portal *Takie Dela*, says that on September 7, 2022, after flying from Yerevan to Tbilisi, a woman sitting in the border security booth, holding a piece of paper with his name written on it, redirected him to the police booth. The police officer, who gave his name, but not his position, questioned him in detail about his place of residence, activities and purpose in coming to Georgia, after which he was returned to Yerevan without any explanation.²⁰ In this case, it is significant that Aleshkovsky crossed the border almost 60 times during the 6 years he lived in Tbilisi, but he began to face problems only after he was designated in Russia as ‘an agent of a foreign country’ in July 2022.²¹

In March 2022, **David Frankel**, a **journalist** from the independent Russian-language publication Mediazona, and **journalist Mikhail Fishman** of the independent TV company Dozhd, were not allowed to enter the country.²²

Another Russian **blogger critical of the Kremlin, Alexey Romanov**, was not allowed to enter Georgia after waiting for about 6 hours at the Sadakhlo checkpoint of the Georgian-Armenian border.²³

Philip Dzydako, a **Russian writer** who opposes the Russian authorities, and who is the brother of Tikhon Dzyadko, a journalist working for Dozhd, along with Sasha Shvedova (another Dozhd journalist) were not allowed to enter Georgia.²⁴

¹⁹ Tabula, “Ukrainian TV Presenter Not Allowed in Georgia”. 2022 Available in Georgian at: <https://tabula.ge/ge/news/691488-sakartveloshi-ukraineli-telecamqvani-ar> Interpressnews, “Ukrainian TV presenter says he was denied entry to Georgia”, 2022. <https://www.interpressnews.ge/en/article/121672-ukrainian-tv-presenter-says-he-was-denied-entry-to-georgia/>

²⁰ Nemsadze, Gvantsa, “From whom is the border protected – how do we know who is not allowed to enter Georgia?” – Explanations of the Ministry of Internal Affairs.” 2022, Available in Georgian at: <https://shorturl.at/qwFHS>

²¹ Ibid.

²² Ibid.

²³ Ibid.

²⁴ Gvindadze, Sandro and Arabuli, Nastasia, 2023, “There is no place for agents in Georgia. How and why are Putin’s opponents not allowed in?” Available in Georgian at: <https://www.radiotavisupleba.ge/a/32322694.html>

Lyubov Sobol, the main ally of the imprisoned Russian opposition politician, Alexei Navalny, was also denied entry to Georgia.²⁵

Katya Arenina, a journalist of Proekt, Pussy Riot activist Nika Nikulshina, and the editorial manager of Mediazona **Gala Latigovskaya** were also unable to enter Georgia.²⁶ None of these were given reasons why they were refused entry.²⁷

Another Russian opposition **journalist, Alexandra Shevchenko,** was not allowed to enter Georgia.²⁸

On February 14, 2023, **Anna Rivina, Russian activist and human rights defender** and founder of the No Violence Foundation, who is designated as a ‘foreign agent’ in Russia, was refused entry into Georgia.²⁹

On September 5 within the reporting period, another critic of the Kremlin, Russian **photojournalist Vasily Krestyaninov,** was sent back from Georgia.³⁰

On June 16, 2022, the Kabardino-Balkar **blogger, Insa Lander,** who is being prosecuted in Russia, was not allowed to cross the Georgian border.³¹

In addition, representatives of several Russian opposition parties, who do not engage in public activities and whose names are unknown to the general public, were not allowed into Georgia without any reasons being given. Neither the law-enforcement agencies nor the Georgian government have made any comment about these cases.³²

Dmitry Bykov, a Russian writer and dissident who opposes Putin’s regime, was finally allowed into Georgia after several hours of delay.³³

1.4. NORTH CAUCASIANS CROSSING THE GEORGIAN BORDER

On September 21, 2022, Vladimir Putin announced a partial military mobilization in Russia, after which Russian citizens began to leave the country en masse. Some of them decided to go to Georgia, and among them were citizens of North Caucasian Russia.

²⁵ Civil.ge, 2022, “Another Russian journalist was not allowed into Georgia”, <https://civil.ge/archives/507558>

²⁶ Radio Liberty, 2022. “Russian journalists and activists were not allowed into Georgia”, Available in Georgian at: <https://www.radiotavisupleba.ge/a/32133223.html>

²⁷ Ibid.

²⁸ Jam News. 2023. “Another Russian Opposition journalist, Alexandra Shevchenko was not allowed into Georgia”, <https://jam-news.net/shevchenko-was-not-allowed-into-georgia/>

²⁹ Ibid.

³⁰ Ibid.

³¹ Ibid.

³² Ibid.

³³ Ibid.

It was reported in the media that the border guards were turning away a large number of North Caucasians attempting to cross the state border, without giving reasons.³⁴ Non-governmental organizations also issued a statement on the alleged discrimination.³⁵

Respondents from the North Caucasus mentioned in an interview with the media that the border guards kept them in a specially allocated room (room N222) for an additional check, probably because of their different appearance, religious and cultural attributes, and because in their passports they had indicated the North Caucasus as their place of birth.³⁶ North Caucasians were separated from other people who wanted to enter Georgia, they were taken to the above mentioned room, where they were asked about their personal information and information related to entering Georgia. Their photos were taken, and after waiting for several hours (and sometimes several days³⁷) they were often sent back.³⁸

TDI conducted two in-depth interviews with Russian citizens living in Kabardino-Balkaria and Chechnya. Both of them talked about different treatment and profiling at the border based on alleged religious grounds:

“What I witnessed was humiliating and degrading treatment; cardboard boxes were laid out for people and they slept there. Men would shave their beards and say that it is easier to get in without a beard. Only the North Caucasians were treated like that” – 35-year-old Bulat.

“They focused on my last name. I was wearing a hijab, and they asked me why I was dressed like that. Then they asked me in detail when I converted to Islam, whether I had a teacher or not, whether my husband was also a Muslim or not, and whether he converted me to Islam. My husband lives in Batumi and I used to visit him with my six-year-old son. Other women who wore veils also said that they focused on religion excessively” – 32-year-old Nina.

According to the Recommended Principles and Guidelines on the Protection of Human Rights at International Borders issued by the Office of the United Nations High Commissioner for Human Rights, any unequal treatment of migrants at international borders must serve a legitimate and proportionate purpose as provided by law. In particular, measures taken in response to illegal

34 Kevanishvili, Eka, 2022, “Room #222 – Why the North Caucasians are not allowed into Georgia?”, available in Georgian at: <https://www.radiotavisupleba.ge/a/32021032.html>.

35 Social Justice Center, 2022, “Allegedly Discriminatory Approach to North Caucasians at the Border Inspections are concerning”. https://socialjustice.org.ge/en/products/shemashfotebelia-chrdiloet-kavkasielebis-mimart-sazghvarze-shemotsmebis-savaraudo-diskriminatsiuli-manera?fbclid=IwAR0ZZbUhvXpDZtgJLan19z-GnWt9Q9NG2zFWnZdDQvKmtECYg4NiZ_Mc2xk

36 Kevanishvili, Eka, 2022, “Room #222 – Why the North Caucasians are not allowed into Georgia?”, Available in Georgian at: <https://www.radiotavisupleba.ge/a/32021032.html>

37 Mikhalenko, Lydia, 2022, “Most of them were Chechens, Ingush, Dagestanis”, – who and how fled to Georgia”, Available in Georgian at: <https://www.radiotavisupleba.ge/a/32074430.html>

38 Kevanishvili, Eka, 2022, “Room #222 – Why the North Caucasians are not allowed into Georgia?”, Available in Georgian at: <https://www.radiotavisupleba.ge/a/32021032.html>

migration, to counter terrorism, trafficking or the illegal immigration of migrants, should not be discriminatory in purpose or effect, which can also be manifested in the fact that migrants may be subject to discrimination on prohibited grounds. **These measures should not be discriminatory regardless of whether migrants are smuggled or are victims of trafficking.**³⁹

1.5. EXPLANATIONS GIVEN BY THE AUTHORITIES ON REFUSING CITIZENS OF FOREIGN COUNTRIES ENTRY INTO GEORGIA

The Deputy Minister of Internal Affairs, Aleksandre Darakhvelidze, states that “those persons who may pose a threat to the country’s security are refused entry and are turned away from the country’s borders”.⁴⁰ According to him, “the decision on whether they may or may not enter the country is based on the criteria specified in the law and on the basis of the information that the state agencies have”.⁴¹ Darakhvelidze notes that “the nationals of foreign countries are filtered at the state border by various ‘legal and other mechanisms’”.⁴² According to his explanation, a person wishing to enter Georgia is checked “in the existing database of the Ministry of Internal Affairs”.⁴³ These databases include different types of open and closed information, based on which, according to Darakhvelidze, a decision is made on whether an individual may or may not enter Georgia.⁴⁴ According to his explanation, the databases include the information received from the State Security Service, which may be based on the information received from the services of foreign countries.⁴⁵

Considering this explanation, it is particularly significant that during the reporting period alone, about 15 Russian human rights defenders, politicians and journalists who are critical of Putin’s government were not allowed to enter Georgia, and some of these are designated as “foreign agents” in Russia, which is why they face a threat of political retribution there.⁴⁶ This circumstance makes us believe that the Georgian authorities are assisting the Russian authorities in persecuting local human rights defenders, critical media and political opposition.

The anti-Ukrainian and loyal attitude towards Russia is also indicated by the comments of the representatives of the Georgian government on the artificially created obstacles at the border.

³⁹ UN Office of the High Commissioner for Human Rights. 2014. “Recommended Principles and Guidelines on Human Rights at International Borders”, <https://www.refworld.org/docid/56d00ea54.html>

⁴⁰ Radio Liberty, 2022, “Russian journalists and activists were not allowed into Georgia”, Refworld.org, 2022. Available in Georgian at: <https://www.radiotavisupleba.ge/a/32133223.html>

⁴¹ Nemsadze, Gvantsa, 2022, “From whom is the border protected – how do we know who is not allowed to enter Georgia?” – Explanations of the Ministry of Internal Affairs”, Available in Georgian at: <https://shorturl.at/qwFHS>

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ In this regard, it is worth noting that after the invasion of Ukraine, the Russian authorities adopted a new law, according to which, spreading any of information which the Kremlin considers “fake”, a person can be punished with a large fine or many years in prison. <http://bit.ly/418q7Ym>

For example, Georgian Dream MP Gia Volski said about not allowing Dimitri Gordon into the country: “I think that Gordon is not merely a journalist; I think that he is also Saakashvili’s political ally and he came to Georgia not for purely journalistic activities – his real reasons for coming here were to escalate the situation, to create tension, and start a scandal. For these reasons, in my opinion, if I were in the place of the border guard, I would have decided not to let him in”.⁴⁷ Regarding Gordon, the chairman of the ruling party, Irakli Kobakhidze, said: “The main thing is that, of course, we will not allow anyone to stage a show. I cannot explain why a specific agency did not allow a specific person to enter Georgia”.⁴⁸

Chairman of the ruling party, Irakli Kobakhidze, said that it is better for the Public Defender of Ukraine to pay more attention to the “thousands” of prisoners who are “held” in Ukrainian prisons. Shalva Papuashvili, the Public Relations Secretary of Georgian Dream, stated that the Public Defender of Ukraine in Georgia is a “private person” and added that “the jurisdiction of the Ombudsman is limited to the country in which she is”. “Georgia is not a country which can be treated as everyone’s doormat. An MP of Ukraine, or a public defender, should be kind and respect the sovereignty of our country”, said another MP of Georgian Dream, Irakli Kadagishvili.⁴⁹

⁴⁷ Tabula, “Volski about Gordon: He was not entering Georgia for purely journalistic activities, he’s Saakashvili’s ally” 2021 Available in Georgian at: <https://tabula.ge/ge/news/675223-volski-gordonze-mkholod-zhurnalisturi-sakmistvis>
Georgia’s Reforms Association, “To welcome or not to welcome: GD’s double standards on allowing Russians and Ukrainians into Georgia”, 2022 <https://grass.org.ge/en/inmedia/to-welcome-or-not-to-welcome-gds-double-standards-on-allowing-russians-and-ukrainians-into-georgia>

⁴⁸ Radio Liberty, 2021 <https://www.radiotavisupleba.ge/a/31533474.html>

⁴⁹ civil.ge “The MPs of the Georgian Dream criticize the Public Defender of Ukraine”, 16/11/2021, <https://civil.ge/archives/455549>

2. THE ISSUE OF OBTAINING A RESIDENCE PERMIT IN GEORGIA

The state's problematic policy on the issuing of residence permits remained unchanged during the reporting period. The practice of refusing to issue residence permits without proper justification remains a significant challenge. Such refusals are based, in almost all cases, on negative evaluations issued by the State Security Service.

TDI applied to the Public Service Development Agency (hereinafter referred to as the "agency") in order to request public information regarding applications for residence permits during 2022.⁵⁰ The information requested included data on the number of applications for residence permits submitted, the number of approved applications, and the number of refusals issued, in each case indicating the citizenship of the applicant.⁵¹ In response to the letter, the agency provided incomplete information to TDI.⁵²

According to the information provided, in 2022 decisions were made on a total of 27,909 residence permit applications. Of these, 23,426 applications were approved and 4,483 were rejected. Applications for study residence permits formed the largest category among these applications (with a total of 10,650 applications of this type). Less negative decisions are made on applications for study residence, in particular, 256 negative decisions (2.4%) were made on a total of 10,650 submitted applications. The highest rate of refusal of applications is found among applications for work residence permits. In particular, approximately (2,216 units) of the 6,850 applications submitted within this category were refused.⁵³

According to subsections "a" and "c" of Article 18, paragraph 1 of the Law of Georgia On the Legal Status of Foreigners and Stateless Persons, a foreigner may be refused a residence permit in Georgia if "(a) there is a decision of an authorized body on the inadvisability of his/her residing in Georgia in order to ensure the protection of state and/or public security interests; (c) He or she carries out activities that threaten state security and/or public order in Georgia."

⁵⁰ Letter by Tolerance and Diversity Institute (TDI) of January 31, 2023, N 836/01/2023.

⁵¹ Including those referring to cases where the reason for refusing to issue a residence permit was a negative recommendation of the State Security Service of Georgia (on the basis of subsections "a" and/or "c" of the first paragraph of Article 18 of the Law on Foreigners and Stateless Persons);

⁵² Letter by LEPL Public Service Development Agency of February 13, 2023, N 01/34014.

⁵³ Annex to the letter of the LEPL Public Service Development Agency N 01/34014 dated February 13, 2023.

The vast majority (4,441 cases) of the 4,483 negative decisions taken by the state on residence permit applications in 2022 were based on evaluations submitted by the State Security Service of Georgia. In addition, the agency informs us that there are no recorded cases when, notwithstanding the negative conclusion prepared by the security service, the agency made a positive decision on issuing a residence permit to a citizen of a foreign country.⁵⁴ Therefore, despite the fact that the evaluation of the State Security Service is not mandatory and is of a purely recommendatory nature, the agency still unconditionally refuses to satisfy the application when such negative evaluations have been offered.

TDI has been studying state policies towards migrants for many years, especially those from Africa and Asia. The analysis of the state policy shows that, since 2015 in particular, the authorities have been exhibiting a selective and discriminatory attitude when considering applications for residence permits by persons coming from these continents. This may be indicative of systemic racism.⁵⁵

As the official statistical data of 2012–2017 confirmed, applicants of Nigerian, Cameroonian, Egyptian, Indian, Bangladeshi and Pakistani origin were the most likely to have their applications for residence permits refused. The refusals, in most cases, were based on negative evaluations by the State Security Service. In this same period, 26% of Nigerian applicants, 37% of Egyptian applicants, and 6.29% of Russians applicants, were refused residence permits.

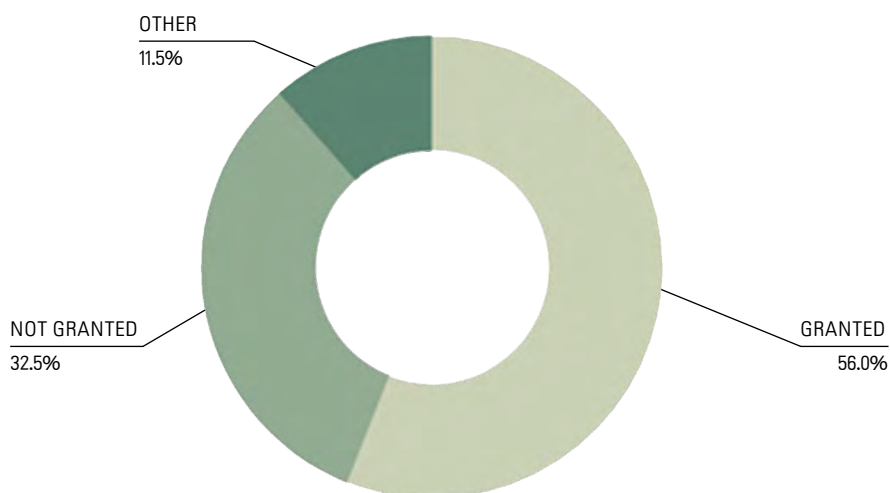
Despite several attempts, TDI was unable to obtain 2022 statistical data from the Public Services Development Agency, which would show the rates of applications, rejections, grounds for rejection by the citizenship of the applicants, including those from African and Asian countries. Consequently, since public information on this issue has become somewhat opaque, TDI lacks the ability fully to assess the state's policies toward foreign nationals, including the dynamics of alleged systemic racism.

Although, TDI constantly studies and monitors the legal situation of migrants living in Georgia. Representatives of African and Asian countries point out that the state's policy towards them is still discriminatory and they are often denied residence permits without explanation. Among them are foreign students who face obstacles in pursuing their studies.

⁵⁴ Letter of LEPL Public Service Development Agency, N 01/34014 dated February 13, 2023.

⁵⁵ Tolerance and Diversity Institute (TDI), 2019, "Racial Intolerance and Xenophobia. Rights of Foreign Nationals in Georgia", available at: http://tdi.ge/sites/default/files/tdi_report_on_racial_discrimination_and_rights_of_foreigners.pdf

Statistics of the Issuance of Residence Permits for Russian Citizens



TDI was able to obtain relatively detailed information on residence permits for citizens of Russia, Belarus, and Ukraine. According to the statistics provided by the Ministry of Justice of Georgia,⁵⁶ from February 24, 2022 to April 11, 2023, citizens of the Russian Federation submitted a total of 10,304 applications for residence permits, of which 32.5% (3,340) were rejected, with state security protection being cited as a reason for the rejection, while 56% (5,759) were granted. The remaining 11.5% are either still under consideration or their processing has been suspended.

28% (1,590) of the approved applications were for permanent residence permits for family members of Georgian citizens or persons who have lived in Georgia for 10 years; 10% were submitted by former citizens of Georgia. Study, short-term and work residence permits make up 45% of the approved applications, while 15% of the permits issued were for the purpose of family reunification, 1.5% were for investment permits and 0.5% were for other types of residence permit.

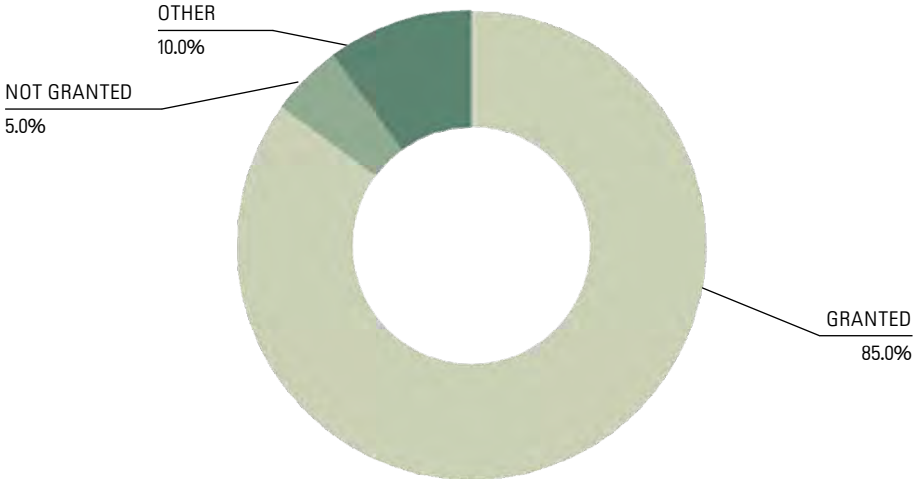
Comparing statistics over a number of years, one may conclude that the trend of Russian citizens' requests for residence permits and the granting of those permits shows a significant increase compared to previous years. For example, compared to the corresponding period in 2021, referrals increased by 54%, and the granting of permits increased by 25%. This increase is even more noticeable when compared to statistics from 2019 and 2020. Compared to the corresponding period in 2019 (March–July), 1,321 (+185%) more Russian citizens applied to the agency for a residence permit in 2022. The number of approved applications, compared to 2019, was 972 (+155%) more, 1598 in total.⁵⁷

⁵⁶ Letter of the Ministry of Justice of April 26, 2023, N 01/97285.

⁵⁷ Institute for Development of Freedom of Information (IDFI), 2022, "Residence permits issued to citizens of Russia (March–July)", available in Georgian at: https://idfi.ge/ge/residence_permits_issued_to_citizens_of_russia

An analysis of the residence permits issued to Russian citizens over recent years shows that in 2022, the rate of residence permits issued for permanent residence had in fact decreased, whereas the granting of permits had increased in almost all other categories of application, including applications for short-term residence, family reunion, study and labour. The greatest increase in approved applications, compared to the previous year, was observed in work residence (+173%) and short-term residence (+157%) permits.⁵⁸

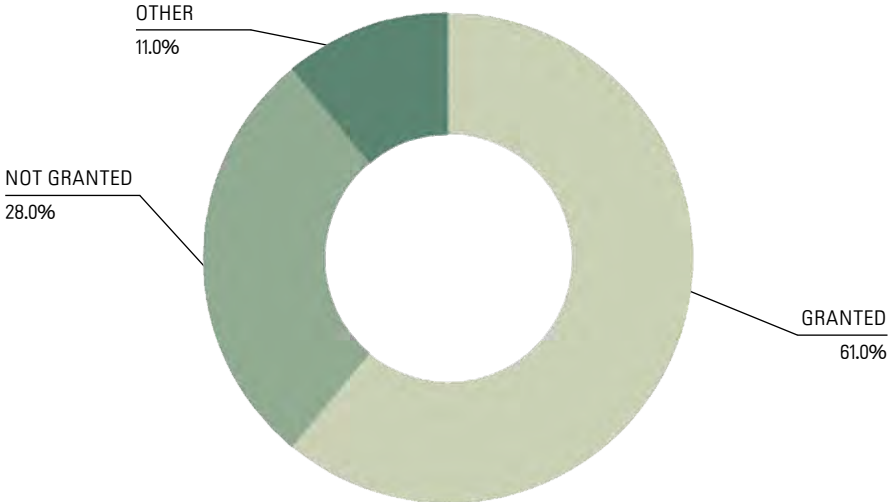
Statistics of the Issuance of Residence Permits for Ukrainian Citizens



In the same period, only 943 applications for residence permits were submitted by Ukrainian citizens, 5% of which were rejected on grounds of state security protection, and 85% were approved.

1925 applications were submitted by citizens of Belarus. 28% (543) of them were not granted on grounds of state security protection, and 61% (1167) were granted.

Statistics of the Issuance of Residence Permits for Belarusian Citizens



58 Ibid.

3. THE PROBLEM OF ISSUING ELECTRONIC VISAS

Indian and Nigerian students make up a significant proportion of the foreign students in Georgia. Consequently, they periodically have to obtain a Georgian visa, which is very difficult due to the fact that the diplomatic and consular institutions of Georgia are often very far away from their places of residence.

The Ministry of Foreign Affairs of Georgia has an electronic visa issuing service. However, this service has some shortcomings.

In the conversation with TDI,⁵⁹ Indian and Nigerian students identified the impossibility of/delay in obtaining an electronic visa as one of the problems they face.

Obtaining an electronic visa means obtaining a Georgian visa without going to a diplomatic or consular institution of Georgia, by sending an electronic application through the electronic visa portal (www.evisa.gov.ge).

In connection with this issue, TDI requested⁶⁰ the following information from the Ministry of Foreign Affairs:

1. For the citizens of which countries is it permissible to use the e-visa, and for citizens of which countries, and since when, is it not permissible?
2. Can the citizens of Nigeria and India use the service?
3. Has there been a delay in the process of using the e-visa service for the citizens of India and Nigeria? If there has, when and for what reason did it happen?

The written response of the Ministry of Foreign Affairs⁶¹ incompletely/inaccurately answered the questions asked by the organization. In particular, in response to the first question, the Ministry pointed out that the information about the citizens of the countries that can use the electronic visa portal (www.evisa.gov.ge) is publically available and the said information can be viewed by any person on the website of the electronic visa portal www.evisa.gov.ge.

⁵⁹ Focus groups were held on April 8, 2023.

⁶⁰ Letter of Tolerance and Diversity Institute (TDI) of May 22, 2023, N852/05/2023 (sent on May 23).

⁶¹ Letter of the Ministry of Foreign Affairs of June 5, 2023, № 01/18693.

However, the website does not provide a unified list of those states, the citizens of which may obtain an electronic visa.

Regarding the use of the e-visa service by Nigerian citizens, the ministry informed us that the service is unavailable to them. To get a Georgian visa, they have to apply to one of the following diplomatic representations of Georgia: the Embassy of Georgia in the Arab Republic of Egypt, the Embassy of Georgia in the Federal Democratic Republic of Ethiopia, the Embassy of Georgia in the Republic of South Africa.

This circumstance presents a major obstacle for Nigerian students enrolled in Georgian universities, because the listed states are very far away from the Federal Republic of Nigeria and it is extremely difficult for Nigerian students to get there to obtain a visa. According to them, the best way out of this situation would be to provide them with the opportunity to obtain an electronic visa.

Regarding the interruption of the e-Visa service, the Ministry informed us that during the period of the COVID-19 pandemic, taking into account the existing restrictions, the operation of the e-Visa portal was suspended, including for Indian citizens. From the month of May 2023, citizens of the Republic of India can use the e-Visa portal without hindrance again.

Considering that in the spring of 2022, almost all regulations related to the COVID-19 pandemic (including restrictions on international flights) were lifted and the pandemic was practically declared over, delaying the restoration of the e-visa service for a year should be considered unjustified.

4. ASYLUM SEEKERS

As of December 31, 2022, 1473 asylum seekers are registered in the country.⁶² Most of them are citizens of Ukraine (516), Turkey (203), Iran (194) and Russia (115).⁶³

45 asylum seekers requested international protection (asylum) at the state border of Georgia. Compared with previous years, the number of reviewed cases had doubled, and the rate of granting asylum status in the reporting period increased principally through the granting of humanitarian status to the citizens of Ukraine.⁶⁴

During 2022, out of 1323 considered cases, 822 persons were rejected.⁶⁵ The grounds for refusal, in the main, were lack of the grounds necessary for receiving asylum (793 persons), and 29 asylum seekers were refused on grounds of security.⁶⁶ The reviewed cases do not include cases of the termination of the case due to self-reporting and non-appearance. Among the persons who were refused on the grounds of security, there are 14 citizens of Afghanistan and 2 citizens of Syria, in whose countries of origin the facts of human rights violations are still well known.

⁶² Ministry of Internal Affairs, 2022, “The data of the Ministry of Internal Affairs”. Available in Georgian at: https://info.police.ge/page?id=630&parent_id=258

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ Report of the Public Defender of Georgia, 2022, “About the state of protection of human rights and freedoms in Georgia – 2022”, Available in Georgian at: <https://www.ombudsman.ge/res/docs/2023033120380187763.pdf> p. 309.

5. CONDITIONS OF UKRAINIANS WHO ARRIVED TO GEORGIA AFTER THE START OF THE WAR

5.1. STATISTICAL INFORMATION

As a result of Russia's military aggression in Ukraine, more than 7.8 million people became refugees. According to February 2023, some of these, more than 160,000 Ukrainians, entered Georgia. However, the state does not produce accurate statistics about Ukrainian nationals entering Georgia, leaving Georgia, and remaining in the country. Also, the government of Georgia does not have a unified and effective strategy and policy for helping them.⁶⁷

According to the data of the United Nations High Commissioner for Refugees (UNHCR) in February 2023, there were 25,101 Ukrainians in Georgia,⁶⁸ and according to the data of May 9, 2023 – 24,182 most of them came from Mariupol and Kharkiv, cities that were particularly badly affected by the war.

Initially, Ukrainians had the right to enter Georgia without a visa and stay for a full year.⁶⁹ On February 24, 2023, the Government of Georgia made an amendment to Resolution No. 255 of June 5, 2015, amending it through Resolution No. 81, and the period of visa-free stay for Ukrainian citizens was extended to two years.⁷⁰

According to the data of the Ministry of Internal Affairs, in 2022, 367 citizens of Ukraine were granted humanitarian status.⁷¹ The relatively low number of appeals made by Ukrainians for grants of humanitarian status is principally due to uncertainty; many expect that the war will end and they will be able to return home. Also, the financial and social assistance received by those obtaining humanitarian status is minimal.⁷²

67 The Social Justice Center. 2023, "State policy towards Ukrainian refugees living in Georgia is fragmented and weak", 2023 <https://socialjustice.org.ge/en/products/sakartveloshi-mtskhovrebi-ukraineli-ltolvilebis-mimart-sakhelmtsifo-politika-fragmentuli-da-sustia>

68 Unhcr.org. 2023. "Ukraine Refugee Situation – RRP Achievements," 2023. <https://data.unhcr.org/en/dataviz/291?sv=54&geo=0>

69 Government of Georgia, 2015, "Resolution of the Government of Georgia #255", available at: <https://matsne.gov.ge/en/document/view/2867361?publication=0>

70 Government of Georgia, 2023, "Resolution of the Government of Georgia No. 81", available in Georgian at: <https://matsne.gov.ge/ka/document/download/5732020/0/ge/pdf>

71 Ministry of Internal Affairs, 2022, "Data from the Ministry of Internal Affairs", available in Georgian at: https://info.police.ge/page?id=630&parent_id=258

72 Jam News, 2022, "From Ukraine through Russia – the fate of Ukrainian refugees in Georgia", available in Georgian at: <https://jam-news.net/ge/ukrainidan-rusetis-gavlit-ukraineli-ltolvilebis-bedi-saqartveloshi/?fbclid=IwAR2W33Kof26N3H73uAtHfSgHI8W6tXy mJJVmTHh1XQnizQWlp9K57gNX1Vs>

5.2 FINANCIAL DIFFICULTIES, EMPLOYMENT AND DAILY NEEDS

According to the 2023 study of Care Caucasus,⁷³ the main challenge for Ukrainian refugees is the difficulty in obtaining an income and employment. Almost half of the respondents were looking for a job at the time of the survey.

Regarding the needs of Ukrainian refugees in Georgia, 35% of the refugees interviewed by the United Nations High Commissioner for Refugees (UNHCR) and World Vision Georgia⁷⁴ stated that they do not have money for basic needs, 19% said that they do not have access to water and food, 16% stated that they lack adequate clothes and shoes.

According to the study, during the survey period, only 16% of these refugees were employed; For 31%, the main source of income was aid provided by international non-governmental organizations, by the state, or by volunteers. 28% of the respondents used personal savings for basic needs, and 22% used retirement savings.

From July 13, 2022, a program was launched for Ukrainian citizens⁷⁵ which provides financial assistance for 1) those persons who entered Georgia between February 1, 2022 and July 15, 2022 inclusive, and after February 24, 2022 were unable to return to their country of citizenship and/or permanent residence. These refugees are placed in hotels financed by various public institutions, and require assistance provided for by the decree of the Government of Georgia; and 2) those persons who entered Georgia after July 15, 2022 and are unable to return due to military action. In this case, they will be given monthly financial assistance in the amount of 300 GEL per family and an additional 45 GEL per person. August 2023 is defined as the end date for the program.

5.3. LIVING CONDITIONS

One of the main needs of refugees from Ukraine is affordable housing. Under Decree N.387, adopted by the Georgian government in 2022, the original arrivals from Ukraine were accommodated throughout various hotels and hostels across the entire country. Also, the private sector, and international and local organizations provided refugees with housing.

On August 1, 2022, the government of Georgia closed the program for providing housing for Ukrainian refugees. According to information provided to TDI by the Ministry of IDPs, Labor, Health and Social Protection from the occupied territories of Georgia, as of June 2023, a ten-day program

73 CARE Caucasus, 2023, "CARE Rapid Gender Analysis: Ukrainian Refugees in Georgia", https://care-caucasus.org.ge/uploads/Rapid_Gender_Assessment_Final_07.06.2023.pdf

74 UNHCR Georgia/World Vision Georgia, 2022, "UKRAINIAN REFUGEES in GEORGIA PROFILE, INTENTIONS and NEEDS", <https://www.wvi.org/sites/default/files/2022-12/Ukrainian%20Refugees%20in%20Georgia%20Assessment%20Report%20November%202022.pdf>

75 Decree of the Government of Georgia N1254, available in Georgian at: <https://www.moh.gov.ge/ka/publicinformation/list/116/?year=2022>

of placement in a temporary shelter is in effect for those considered to be in the vulnerable category.

A large number of Ukrainian nationals in Georgia cannot find affordable housing. 56% of respondents stated that they live in a rented apartment, and 45% said that, due to financial difficulties, they do not know how long they will be able to stay in their current accommodation.⁷⁶

Ukrainians interviewed by TDI report that they had cases where landlords, despite the agreement, suddenly increased the amount of rent, and they were forced to leave the apartment with their families. There were also cases when potential tenants refused to rent the apartment.

5.4. ACCESS TO HEALTHCARE SERVICES

24% of Ukrainian refugee respondents interviewed by the United Nations High Commissioner for Refugees (UNHCR) and World Vision Georgia have a disabled person in their family, and 21% have one family member with a chronic disease.⁷⁷

Access to healthcare services and medication is one of the main challenges for Ukrainian refugees. 26% of the respondents indicated that they had problems with accessing medical care during the last month. The main reason for this was financial hardship; 27% could not afford to buy medication. More than half of the refugees did not have information about available services.

5.5. SPECIFIC NEEDS OF WOMEN AND CHILDREN

According to research by Care Caucasus,⁷⁸ Ukrainian students face different treatment at school. Ukrainian children are less likely to participate in extracurricular activities due to lack of financial resources or language barriers. Some Ukrainian students were victims of bullying. A case of sexual harassment was also brought to light in one of the big cities.

According to Care Caucasus, qualitative research has shown that some women are victims of sexual harassment and domestic violence. Some of the Ukrainian women interviewed mentioned that there were cases of sexual harassment in taxis in Georgia, and they were sometimes offered shelter in exchange for an intimate relationship.

⁷⁶ UNHCR Georgia / World Vision Georgia, 2022, "UKRAINIAN REFUGEES in GEORGIA PROFILE, INTENTIONS and NEEDS", <https://www.wvi.org/sites/default/files/2022-12/Ukrainian%20Refugees%20in%20Georgia%20Assessment%20Report%20November%202022.pdf>

⁷⁷ UNHCR Georgia / World Vision Georgia, 2022, "UKRAINIAN REFUGEES in GEORGIA PROFILE, INTENTIONS and NEEDS", <https://www.wvi.org/sites/default/files/2022-12/Ukrainian%20Refugees%20in%20Georgia%20Assessment%20Report%20November%202022.pdf>

⁷⁸ CARE Caucasus w., 2023, "CARE Rapid Gender Analysis: Ukrainian Refugees in Georgia", https://care-caucasus.org.ge/uploads/Rapid_Gender_Assessment_Final_07.06.2023.pdf

6. RACIAL DISCRIMINATION

6.1. STATISTICS OF CRIMES MOTIVATED BY RACIAL DISCRIMINATION

In order to study the statistics of crimes motivated by racial intolerance, TDI analyzed the data based on public sources and also on letters received in response to requests for information from various agencies.

According to the information provided by the State Security Service of Georgia, during the reporting period, the Service did not initiate any investigation based on Articles 142 and 142¹ of the Criminal Code of Georgia (crimes committed on the grounds of racial intolerance). Furthermore, in 2022, according to the information of the Supreme Court of Georgia, no case was brought before the court nor was any case considered in connection with the crimes provided for by Articles 142 and 142¹ of the Civil Code. As for crimes committed with national, ethnic and/or racial motives provided for by the first part of Article 53¹ of the Criminal Code, in 2022, according to the information provided by the Tbilisi Court of Appeal, the Criminal Chamber of the Tbilisi Court of Appeal issued a total of 5 guilty verdicts in such cases.

According to the 2022 combined statistics report on Intolerance Crimes Based on Discrimination, during the reporting period the Ministry of Internal Affairs initiated investigations into a total of 56 criminal cases which showed evidence of racial discrimination.^{79, 80}

For the purposes of the aforementioned statistics, the concept of “race” includes: “race”, skin colour, language, citizenship, national and ethnic affiliation, and origin.⁸¹ thus excluding the possibility of accurately determining whether the crime was committed out of motives of hatred of skin colour as such, or whether, for example, the hatred, discrimination or intolerance was directed at ethnic groups historically inhabiting Georgia, toward whom a xenophobic attitude was being displayed. From this point of view, the statistics provided are defective and need to be refined.

⁷⁹ 50 of them related to discrimination based on race alone, 5 of them combined race with gender, and 1 combined race with religion.

⁸⁰ Ministry of Internal Affairs of Georgia, Prosecutor’s Office of Georgia, Supreme Court of Georgia, 2022. “Combined Statistics Report on the Crimes of Intolerance Based on Discrimination”. https://www.geostat.ge/media/51738/Hate_2022.pdf. p. 4.

⁸¹ Ibid, p. 4.

As for the data of the Prosecutor’s Office of Georgia, in 2022, the Prosecutor’s Office started criminal prosecution for 14 cases of crimes motivated by racial intolerance, in addition, it used the diversion mechanism in 1 case and halted criminal prosecution in 1 case. A total of 18 persons were identified as victims of this category of crime.⁸² It should also be noted that 7 persons were convicted for crimes committed on the grounds of racial intolerance during the reporting period (5 of which were investigated during the reporting period).⁸³

6.2. THE MURDER CASE OF VITALI SAFAROV

According to the decision of the Tbilisi Court of Appeal of February 16, 2023 in the case of the murder of Vitali Safarov, a crime committed on grounds of ethnic intolerance and anti-Semitism, the issue of correctly categorizing the crime remained a problem. On September 30, 2018, 25-year-old Vitali Safarov, a Georgian citizen and human rights defender, was murdered. The conflict started in one of the bars located on Freedom Square in Tbilisi. Safarov died on the spot with multiple wounds after being stabbed to death.

According to the factual and legal circumstances of the case, the participation of two people was evident in the murder, and the clearly anti-Semitic and xenophobic language of the assailants indicated that the crime was committed on the basis of intolerance. At the same time, the perpetrators’ connection with neo-Nazi groups was obvious.⁸⁴

Nevertheless, the Tbilisi City Court, by its verdict of June 22, 2019, removed the religious, national or ethnic intolerance elements from their determination of the defendants’ motives, and found them guilty only of group murder and sentenced each of them to 15 years in prison. All parties appealed this verdict through the Tbilisi Court of Appeal. The prosecution and Vitali Safarov’s family demanded that the action be qualified as a deliberate, group crime, which was committed precisely on the basis of ethnic/religious intolerance.⁸⁵

On February 16, 2023, the decision of the Tbilisi Court of Appeal upheld the verdict of the court of first instance. The case continues in the Supreme Court of Georgia.

⁸² Ibid, p. 7.

⁸³ Ibid, p. 16.

⁸⁴ Human Rights Center, “Details and legal assessment of the murder case of human rights defender Vitali Safarov”, September 5, 2019, available at: <http://www.humanrights.ge/index.php?a=main&pid=19945&lang=eng>

⁸⁵ “The Court of Appeal left the verdict in the case of Vitali Safarov unchanged – the word of the Supreme Being is ahead”, Radio Liberty, February 16, 2023, available in Georgian at: <http://bit.ly/3Z2YheK>

6.3. OTHER CASES OF RACIAL DISCRIMINATION

Apart from those cases of racial discrimination that have a criminal element, racism against people from certain countries in public and private relations is still problematic. During the reporting period, TDI conducted meetings and interviews with migrants from African and Asian countries,⁸⁶ the majority of whom are temporarily in Georgia for educational purposes. In addition to the obstacles created when receiving public services (entry at the border, obtaining a residence permit), they discuss discriminatory experiences in public spaces, obstacles created when renting an apartment, different treatment in commercial banks, etc.

According to a study conducted by the International Organization for Migration, 43% of migrants surveyed in Georgia claim to have been the object of antipathetic, discriminatory or hostile treatment both before and during the Covid pandemic.⁸⁷

6.3.1. DIFFICULTIES IN FINDING HOUSING

According to students from Asian and African countries, they face discrimination when renting accommodation because of their skin colour/country of origin. A fourth-year medical student says that on some apartment rental websites, landlords openly issue a warning to Indian and African students and tell them not to bother calling.⁸⁸

In a conversation with the media, an Egyptian student recalls that during the process of renting an apartment, a real estate agent told him that the owner was interested in where the person who wanted to rent the apartment was from. When the student told him that he was Egyptian, the agent immediately offered another apartment, explaining that the owner had problems with people of colour and that he could not be of any help.⁸⁹

In a conversation with TDI, African and Indian students note that it had been difficult for them to rent an apartment in previous years, but in 2022, after the number of Russian citizens in Georgia and, consequently, apartment prices, increased significantly, it became almost impossible for them to find and rent an affordable apartment.

⁸⁶ Focus groups held by TDI in April 2023 with African and Indian students.

⁸⁷ IOM UN MIGRATION. 2022. "PROVISION of ASSISTANCE to VULNERABLE MIGRANTS in ARMENIA, AZERBAIJAN, and GEORGIA within the FRAMEWORK of IOM'S GLOBAL COVID-19 RESPONSE."
<https://georgia.iom.int/sites/g/files/tmzbd11311/files/documents/COVID-19%20Situation%20Report%20Apr%20-%20Aug%202022%20ARM%20AZER%20GEO.pdf>

⁸⁸ Kokaia, Lana, 2022, "South Asian Students in Georgia Are Getting More than They Bargained For", 2022. Available in Georgian at:
<https://www.radiotavisupleba.ge/a/31670416.html>

⁸⁹ Ibid.

6.3.2. STEREOTYPICAL PREJUDICES

Students often face prejudice in public transport, for example, an Egyptian student said he was twice forced off the bus because the conductor thought he was not going to pay the fare.⁹⁰

Some of the students talk about stereotypical attitudes even in educational spaces, for example at the university, where they have repeatedly said that Indians “live in unhygienic places”.⁹¹ This kind of attitude often creates barriers in relationships.

| 90 Ibid.

91 Ibid.

RECOMMENDATIONS

Whenever a public information request is made, **public agencies** should ensure the full and accurate provision of the requested information.

The Ministry of Internal Affairs of Georgia should:

- Implement a non-discriminatory policy on allowing foreigners to enter Georgia;
- Produce and publicize detailed statistics of visitors crossing the Georgian border (indicating the citizenships of non-admitted persons and the grounds for non-admission);
- Eliminate the practice of refusing to admit foreign nationals into Georgia without adequate justification, and explain each case of refusal with specific grounds defined by the law On the Legal Status of Foreigners and Stateless Persons;
- Promptly, effectively and impartially investigate each crime committed on grounds of alleged racial/national intolerance.

The Prosecutor's Office of Georgia should:

- Ensure proper supervision of the investigation of crimes committed on the basis of racial/ethnic intolerance, in order to conduct a prompt, efficient and objective investigation;
- Ensure that the targets of violence committed on the basis of racial/national intolerance, in cases where that basis has been properly established, are granted the status of victim in a timely manner;
- In carrying out a criminal prosecution, highlight the motive of alleged racial/national intolerance where relevant, and include this motive clearly in the indictment.

The Ministry of Internal Affairs of Georgia, the Prosecutor's Office of Georgia and the Supreme Court of Georgia, while producing statistics of crimes motivated by intolerance on the grounds of racial or ethnic discrimination, (where the concept of "race" includes: "race", skin colour, language, citizenship, national and ethnic affiliation and origin), should also record these different bias motives and intolerance distinctly for each case, and collect and report this data separately, presenting it in a unified, annual statistical report.

The Public Service Development Agency should:

- Provide reasonable justification for refusing to issue residence permits to representatives of foreign countries;
- Justify the use of discretionary powers granted by law when making a decision on each case;
- Not allow discrimination based on race/ethnicity or other grounds in the process of administrative proceedings;
- Properly investigate the applicant's private interests, discuss the issue of competition between private and public interests, and justify the use of discretionary powers when making a decision based upon these powers in favour of one of them regardless of the existence of a negative evaluation by the State Security Service in a case regarding the issuance of a residence permit at the stage of administrative proceedings, and take into account the principle of family unity when issuing a residence permit for the purpose of family reunion.

The Ministry of Foreign Affairs of Georgia should make the service of issuing electronic visas available to the citizens of such countries who, due to their studies or other activities in Georgia, are frequently required to obtain a Georgian visa.

