

LEGAL STATUS OF  
FOREIGN STUDENTS  
IN GEORGIA



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(Legislative and Statistical Analysis)

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#### Abbreviations

EU - European Union

MFA - Ministry of Foreign Affairs of Georgia

MIA - Ministry of Internal Affairs of Georgia

MoES - Ministry of Education, Science, Culture and Sport of Georgia

PSDA - Public Service Development Agency

SSS - State Security Service

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## INTRODUCTION

The number of foreign students has significantly increased in Georgia during the last decade. In parallel to this, the cases of discrimination and xenophobic attitudes which puts foreign students in disadvantageous situation and creates obstacles in terms of implementation of their rights, remain the most challenging in the country. The main objective of the research is the description of the legal status of aliens (especially students) and the identification of the shortcomings that needs to be solved and refined. The research consists of four parts.

The first part discusses Georgian Policy on the International Educational Migration. Research analysis the part of the Migration Strategy Action Plan 2018 regarding the process of Internationalization of the Education which was adopted by the Government of Georgia. The activities envisaged by the Action Plan and the quality of their implementation is assessed. Likewise, based on the legislative initiatives presented in this field and the comments made by the Members of Parliament, the threats in the Educational Migration process are identified.

The second part of the research concerns the legislative basis for: granting a visa to foreign students, crossing the Georgian border and obtaining a residence permit. Problems existing in the law and practice have been identified, which prevents foreign students from coming to Georgia and continue their studies. In addition, on the basis of analyzing the statistical data requested from various Government Agencies, the State's possible discriminatory policy towards the students migrated from Asia and Africa was identified.

The third part is dedicated to the process of internationalization of education and the role of Georgian educational institutions in that regard. The ongoing process of implementation of the obligations taken by Georgia under the Bologna Process and current challenges are also assessed.

The final part of the research concerns the cooperation between Georgia and the EU in the field of migration, namely reviewing the obligations taken by Georgia under the Association Agreement and the Visa Liberalization Process, including the requirements of the Action Plan developed by the European Commission in this process.

At the end of the research, the relevant recommendations to various State Agencies are developed, implementation of which is of utmost importance in order to solve the problems identified in the process of Educational Migration.



## MAIN FINDINGS

The presented document includes an analysis of the problems in the field of educational migration in 2012-2018 and recommendations developed on that basis. During the course of the research, gaps in legislation and in practice, as well as the following trends were identified:

- Analysis of the border crossing statistics in recent years reveals, that foreign students from Asian and African countries face certain problems while entering in Georgia. There is a growing tendency on unjustified refusals while crossing the border. In particular, the Ministry of Internal Affairs of Georgia often refers to Article 11 (1) (i) of the Law of Georgia on the Legal Status of Aliens and Stateless Persons as grounds for refusal to enter Georgia, according which “An alien may be refused a Georgian visa or entry into Georgia in other cases provided for by the legislation of Georgia”. The Ministry uses this ground without reference to any other law, which raises doubts about possible discriminatory treatment.
- According to current regulations, an alien has ten days to appeal the decision on refusal to enter in Georgia. This term is unreasonably short in order for an alien to be able to protect his or her legitimate interests completely. Due to this short term, foreign students cannot manage or refuse to appeal the decision.
- Foreign students face problems while obtaining a study visa. The indicator for refusing the study visa for foreign students has been increased in recent years. In addition, it is problematic for foreign students to extend the visa. In order to apply for a residence permit, foreign student must have 40 days of legal stay in Georgia. For this purpose, foreign students often apply to the Ministry of Foreign Affairs for a visa extension of up to 40 days. According to the current practice, the Ministry only extends the visa for foreign students up to 10-20 days, which is not enough time to apply to the Agency.
- It is particularly difficult to obtain a study residence permit for foreign students. In this process, foreign students face obstacles at literally every stage – as during the application and review process, as well as

during the litigation process. These specific approaches point to possible discriminatory treatment.

- Mostly the Agency's refusal to issue a study residence permit is based on the State Security Service's secret conclusion, according which, the alien's entry into Georgia would endanger the public order. The Agency's decisions are unsubstantiated and do not provide the alien with information on what constitutes the threat to the State's public order.
- Foreign students face problems even at the stage of appealing the agency's decisions. In most cases, the court upholds an unsubstantiated decision made by the Agency and does not investigate the thoroughness of the conclusion issued by the State Security Service. In addition, there is a tendency to refuse universities to be involved as a third party in the litigation.
- Despite the measures taken by the state, there are circumstances that hinder the internationalization process of the education. In particular, there has been revealed a tendency for gross interference by the state in the activities of private educational institutions. This impedes the establishment of an independent educational space in Georgia.

# 1. RESEARCH METHODOLOGY

The aim of the research stands in identification of the problems existing in the field of Educational Migration and preparation of the recommendations for the relevant Government Agencies. In order to achieve the research objectives, the legislative framework regulating the Educational Migration and the statistical data covering 2012-2017 years period requested from various agencies had been examined. In particular, the research is based on:

1. *Analysis of legislative basis and statistical data regarding obtaining of Georgian visa and permissions for border crossing and residence by foreign students;*
2. *The ongoing process of internationalization of the education in Georgia, analysis of the legal basis and statistical data regarding the enrollment of foreign students in the universities accredited in Georgia;*
3. *The obligations taken by Georgia in frames of the visa liberalization regarding the border policy (specifically connected to the student visas);*

It is noteworthy that with the help of the Migration Commission the draft research was sent to the public agencies for their remarks. Only the Ministry of Education, Science, Culture and Sport has replied. The part of their observations was taken into consideration and the text of the research has been updated. The other part together with our answers is attached to the document as an Annex.

More detailed research methodology is described in the following chapters:

## ***1.1. Analysis of legislative basis and statistical data regarding obtaining of Georgian visa and permissions for border crossing and residence permit by foreign students***

With the aim to identify the existing problems in the process of border crossing, obtaining Georgian study visas and residence permits, Georgian legislative basis has been examined, in particular: relevant norms from Georgian law “on the Legal Status of Aliens and Stateless Persons”, the ordinance of the Government of Georgia “on Issuing of Georgian Visa, Extension of the Term of its Validity and Approval of

the Procedure for its Termination”, the ordinance of the Government of Georgia “on Approval of the Rules for Reviewing and Solving the Issue of Issuance of Residence Permit in Georgia”, the law of Georgia “on the State Border of Georgia” and other legal documents.

The research includes the analysis of the statistical data requested from the Ministry of Foreign Affairs of Georgia (hereinafter referred to as MFA/Ministry) and the Ministry of Internal Affairs of Georgia (hereinafter referred to as MIA), in particular, the requested information covers the data of 2012 – 2018 and reflects the situation regarding the issuing of the study visa in Georgia.

### ***1.2. Analysis of the legal basis and statistical data regarding the enrollment of foreign students in the universities accredited in Georgia***

For the purpose to examine the ongoing process of internationalization of the education in Georgia, Georgian migration strategy was analyzed, also several meetings with the representatives of authorized higher educational institutions of Georgia. Specifically, in the course of the project we collaborated with five authorized universities in Georgia (Tbilisi State Medical University, International Black Sea University, New Vision University, Grigol Robakidze University, University of Georgia) that offer students foreign language programs. That enabled us to define the legal status of foreign students and identify the shortcomings.

Furthermore, the relevant norms of the law of Georgia “on Higher Education”, as well as other Georgian normative acts regarding the recognition of the education received in foreign countries and norms regulating procedures for enrollment in the authorized higher education institutions of Georgia. For the identification of the shortcomings existing in the process of Educational Migration, the statistical data published by the National Statistics Office of Georgia on the enrollment of foreign students in Georgian educational institution was also analyzed.

### **1.3. The Obligations Taken by Georgia in frames of the visa liberalization regarding the border policy** *(specifically connected to the student visas)*

The strict visa and border policy in Georgia are often justified by the signed Association Agreement with the European Union and the obligations<sup>1</sup> taken in frames of the visa liberalization. In order to understand the real reasons behind it, we examined the relevant norms of the Association Agreement and the obligations taken by Georgia.

The selected research methodology allows for an accurate identification of the existing problems in the field of Educational Migration. Namely, the legislative framework together with analysis of the existing statistical data clearly illustrates how the state uses existing regulations. This reveals the existing legislative shortcomings and points on the potential threats to human rights violations.

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<sup>1</sup> See the Article at: <https://idfi.ge/en/statistical-information-on-foreign-citizens-being-granted-residence-permit> (accessed 23 December, 2019).

## 2. STATE POLICY REGARDING THE INTERNATIONAL EDUCATIONAL MIGRATION

Migration largely effects the cultural, social and economic spheres of the country; thus, it is utmost important for the States to develop correct policies. Since 2010, the international migration policy in Georgia is determined by the State Commission on Migration Issues (hereinafter referred as Migration Commission), which was set up on the basis of the Government's Ordinance No. 314<sup>2</sup>.

### 2.1. Objectives and Structure of the Migration Commission

The main objectives of the Migration Commission are to define the unified policy of the Government of Georgia in the field of migration and to improve the management of migration processes in Georgia<sup>3</sup>. With this aim, the Migration Commission approves the migration strategy, on the basis of which the annual Action Plans are elaborated. At this stage, the migration policy is defined by the Migration Strategy of Georgia 2016 – 2020<sup>4</sup>, which was preceded by the 2013-2015 strategy<sup>5</sup>. In 1997, the President approved the document with similar objectives for the first time, but due to the lack of enforcement mechanism, it has only a declaratory character. Thus, before the creation of the Migration Commission, state agencies independently defined the Action Plans regarding the migration issues.

The Migration Commission is representative body and comprises nine government entities, in particular, the representatives from: The Ministry of Education, Science, Culture and Sport, State Security Service, Ministry of Economy and Sustainable Development, Ministry of Justice, Ministry of Foreign Affairs, Ministry of Internal Affairs, Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs, Ministry of Finance and National Statistics Office. The Migration Commission is chaired by the Minister of

<sup>2</sup>Ordinance No. 314 of the Government of Georgia On Establishing State Commission on Migration Issues and Approving its Statute. Available at: [http://migration.commission.ge/files/scmi\\_ordinance\\_eng\\_\\_as\\_of\\_10.08.2018\\_.pdf](http://migration.commission.ge/files/scmi_ordinance_eng__as_of_10.08.2018_.pdf) (accessed 23 December, 2019).

<sup>3</sup>Regulation of the Government Commission on Migration Issues, Article 1.

<sup>4</sup>Migration Strategy of Georgia 2016 - 2020. Available at: [http://migration.commission.ge/files/migration\\_strategy\\_2016-2020\\_eng\\_final\\_amended\\_08.2018.pdf](http://migration.commission.ge/files/migration_strategy_2016-2020_eng_final_amended_08.2018.pdf) (accessed 23 December, 2019).

<sup>5</sup>Migration Strategy of Georgia 2013- 2015. Available at: [http://migration.commission.ge/files/migration\\_strategy\\_-\\_eng\\_1.pdf](http://migration.commission.ge/files/migration_strategy_-_eng_1.pdf) (accessed 23 December, 2019).

Justice and co-chaired by the Deputy Minister of the Interior. It is noteworthy that the other members of the Migration Commission are also Deputies Ministers, which should be assessed positively. Having the high ranked officials in the Migration Commission, authorized to make decisions, makes the Commission more effective.

It should be mentioned, that the Migration Commission actively cooperates with various international organizations, in particular the Commission is the partner of the International Organization of Migration which was founded in 1951 and actively works on the issues related to the International Migration. Georgia is also the partner of International Center for Migration Policy Development, United Nations High Commissioner for Refugees, European Union representation in Georgia and German International Cooperation Society (GIZ) in the field of migration. According to the Commission's decision, the abovementioned Organizations have a consultative status and are actively involved in the activities of the Commission, which should also be assessed positively.

## ***2.2. State Policy on Improving the Educational Migration and the Residence Permit Obtaining procedures***

Improvement of the visa and residence policy is one of the goals defined under Migration Action Plan 2018<sup>6</sup>. In order to achieve this goal, seven objectives are set up, from which the first and the fifth is the most important in the context of Educational Migration.

According to the Action Plan 2018, with the aim to improve the Educational Migration, the cooperation of the Ministry of Education, Science, Culture and Sport (hereinafter referred to as "MoES") with the higher educational institutions of Georgia on the issues related to the entry and stay of foreign students in Georgia was planned (objective 5). With the purpose to fulfill the abovementioned objective, it was planned to appoint contact persons in higher educational institutions of Georgia, responsible for providing consultancy for foreign students on the issues of entering and staying in Georgia. They had to identify the foreign

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<sup>6</sup>Migration Strategy of Georgia 2016-2020 , Action Plan 2018. Available at: [http://migration.commission.ge/files/ms\\_action\\_plan\\_2018\\_final\\_\\_amended\\_as\\_of\\_12.11.18\\_\\_en.pdf](http://migration.commission.ge/files/ms_action_plan_2018_final__amended_as_of_12.11.18__en.pdf) (accessed 23 December, 2019).

student's needs and communicate with MoES in that regard, which is the responsible entity for the performance of these activities.

GDI had requested the detailed information regarding the fulfilment of the abovementioned objective. According to the MoES response, in 2018, 1 366 individual consultations were provided for foreign students in nine different Universities (including private and State Universities). Among which, the highest number of consultations (400 - 400) were provided for Ivane Javakhishvili State University and Caucasus International University students. Although we requested the information regarding the exact number of contact persons assigned by the Ministry, MoES has not provided the information. Taking into account the fact, that the number of contact persons in Universities is defined as an indicator for the fulfillment of the objective (which is useless indicator to measure the performance quality), due to the lack of information we lack the possibility to evaluate other aspects of the implementation of this activity.

In order to improve the visa policy, government planned the improvement of the current regulatory framework and ensuring gradual approximation to the best international practice, taking into accounts the national interests and needs of Georgian state (objective 1). With that aim the according amendment to the normative act(s) on foreigners stay in Georgia was planned to be prepared and relevant gaps was planned to be identified (activities 1.2; 1,3). Public Service Development Agency (hereinafter referred to as PSDA/Agency) was defined as a responsible entity for the fulfillment of the activities.

Despite numerous requests and various attempts, PSDA had not provided the information regarding the progress of implementation of the activities defined under the Action Plan. Thus, it is not clear what steps have been taken in this direction.

State policy regarding the issuance of a residence permit, can be analyzed based on recent draft laws. In 2018, Parliament was repeatedly requested for legislative amendments to tighten the conditions for obtaining the residence permit. For example, on 20 October 2018, the Legislative initiative of the faction "National Movement" was registered, which provided additional requirements for obtaining labor and investment residence permits<sup>7</sup>. On 15 November, 2018,

<sup>7</sup>Draft Law. Available at: <https://info.parliament.ge/#law-drafting/16397> (accessed 23 December, 2019).



Zviad Tomaradze and 300,000 citizens registered a legislative initiative that complicated obtaining of the permanent and investment residence permits<sup>8</sup>. The legislative initiative prepared by the Ministry of Justice, information on which was disseminated on May 6, 2018 also includes tighten conditions<sup>9</sup>. This is accompanied by the comments made in media by the state agencies on the tightening the issuance of the residence permit<sup>10</sup>. It is obvious that the State policy is directed towards the complication of obtaining the right of foreigners to legitimately reside in Georgia, which negatively reflects on Educational Migration processes.

Thus, the migration policy in Georgia is defined by the Migration Commission, which approves the Migration Strategy and develops Action Plans. According to the Action Plan 2018, State policy is directed to the Internationalization of the Education and increasing the mobility of foreign student. In parallel to this, it plans to set additional requirements for obtaining the residence permit and complicating the process.

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<sup>8</sup> Draft Law. Available at: <https://info.parliament.ge/file/1/BillReviewContent/205551> (accessed 23 December, 2019).

<sup>9</sup>Information on the legislative initiative. Available at: [http://www.justice.gov.ge/News/Detail?newsId=7681&fbclid=IwAR2CDZwNEbxs4vgudT\\_hee3IKzzmR8mFKYIggJVBV4XLSdkuxzN8jisJc0g](http://www.justice.gov.ge/News/Detail?newsId=7681&fbclid=IwAR2CDZwNEbxs4vgudT_hee3IKzzmR8mFKYIggJVBV4XLSdkuxzN8jisJc0g) (accessed 23 December, 2019).

<sup>10</sup>Available at: <https://1tv.ge/news/lllkakha-kaladze-uckho-qveynis-moqalaqeebistvis-binadrobis-uffebis-minichebaze-kanonmdeblobashi-arsebuli-kharvezis-gamosworebas-itkhovs/> (accessed 23 December, 2019).

### **3. OBTAINING GEORGIAN STUDY VISA AND RESIDENCE PERMITS FOR STUDY PURPOSES AND CROSSING THE STATE BORDER BY FOREIGN STUDENT**

Aliens, wishing and planning to continue study in Georgia, initially have to obtain the right to legally reside in the country. For this purpose, they must receive D3 category immigrant visas first and afterwards the residence permit. Foreign students may encounter obstacles while obtaining visa, as well as at the stage of border crossing and obtaining residence permits.

Below, we will discuss the procedures for obtaining a visa, border crossing and residence permit based on analysis of the legislative acts. Based on the assessment of the statistical data, we will also identify the problems that aliens may encountered during Educational Migration in Georgia.

#### ***3.1. Obtaining Georgian visa by an alien and related problems***

Obtaining visa is one of the grounds of legitimate stay in Georgia. It is a defined form of conditional permit, which is placed in the traveler's passport (a visa blank) or is issued electronically (electronic visa). In the absence of the grounds of refusal to enter into Georgia or the fact of termination of the term to stay in Georgia, visa confirms the foreigners right to enter and stay in Georgia or travel in transit through the territory of Georgia.

Below we will discuss the visa obtaining procedure as well as the grounds for refusal, the forms of appeal and the problems identified in practice.

##### ***3.1.1. The Procedure and Terms for Obtaining Study Visa by Foreign Students***

As it was mentioned at the outset, it is necessary to obtain a long-term right for legitimate stay in the country, such as a residence permit in order to continue study in Georgia. Submission of the D3 category study visa is a necessary prerequisite for obtaining the residence permit. Consequently, obtaining of the visa is obligatory even for those foreign State citizens, with whom Georgia has a visa-free regime on the principle of reciprocity.

Foreigners willing to continue study in Georgia should obtain D3 category immigrant visas. The mentioned type of visa is issued upon individuals arriving in Georgia to study or conduct research at an authorized educational institution in Georgia and individuals arriving in Georgia to study within international programs. Thus, aliens can continue their studies only in authorized educational institutions.

In order to obtain Georgian visa, an alien shall apply to a diplomatic mission or consular office of Georgia. If an alien, in whose country of citizenship Georgia does not have a diplomatic mission or a consular office, may apply for a visa to a nearby diplomatic mission or consular office of Georgia.

When filling the application, foreigner must present all necessary documents, namely travel document (passport), consular fee, documents confirming the purpose of travel (e.g. certificate received from the university), travel insurance, documents confirming the residence in Georgia, etc. At the same time, documents must be submitted originally in Georgian or English, certification by apostille is also permitted. Otherwise, there will be defined a defect on the admissibility phase, after which the applicant will be given some time for its elimination. After passing the admissibility phase, the visa issuing authority shall begin to review the application.

### ***3.1.2. Legal grounds for refusal of the visa for study purposes and the problems identified in practice***

After the consideration of the visa application, one of four possible results may occur: (1) the request to be satisfied; (2) left without consideration; (3) termination of the proceeding; (4) the request not to be satisfied;

#### *Statistical data on granting of D3 category visas in 2014-2018*

During the research, statistical data on decisions made regarding the D3 category visa for study purposes was requested from the MFA. According to the above, 7 778 foreign visitors received the D3 category visa, among which the highest number – 5 416 visas were granted to Indian citizens, 537 - Nigerian citizens and 354 to Turkish citizens (see Table 1).

**Table 1**

	Was decided negatively	Was left without consideration	Was terminated	Was decided Positively
2014	51	2	2	1237
2015	99	17	6	1498
2016	48	0	0	1120
2017	472	2	0	2376
2018	1040	0	11	1547

According to the statistical data of 2014-2018, the number of positively decided applications varies from 1 120 to 2 376 and is relatively stable compared to the refusal to grant a visa. Based on statistics, in 2018, more than 1.5 times more people were refused of visa for study purposes than in 2014-2017 in total.

In 2014-2018, 1710 foreign students were refused of visa for study purposes for different grounds. It is observed the increase tendency of this indicator. In particular, in 2014, 1 292 aliens applied for the visa for study purposes, among which only 3,9% were refused. In 2015, 1 620 applications were registered, from which 6% of applicants were refused. In 2016 only 4,1% of 1168 applications were not satisfied. In 2017, among 2850 applications the Ministry refused for visa to 16.5% and in 2018 the refusal rate for the visa for study purposes increased by 40%.

It is noteworthy that neither the legislation related to granting the visa for study purposes has become tougher, nor the radical changes did taken place. It is unclear what other reasons could cause such an increasement of negative decisions on issuing a study visa.

### ***3.1.3. The Grounds for refusal of the visa for study purposes and statistical data***

It is important to review the grounds for refusal of Georgian visa. Alien may be refused to obtain a visa in the presence of the provisions stated by the law, which can be divided into two parts: (1) the grounds that are related to the proper presentation of the documentation and the necessary information; (2) The grounds relating to public order and safety.

Upon submission of the visa application, the applicant should act in good faith (*bona fide*), which is expressed in delivering true and correct information. Identification of false information is an absolute ground for refusal to grant a visa.

It is also important to present complete documents in a proper manner. In case of failing to provide the proof of insurance and sufficient financial resources, the applicant's claim will not be decided positively.

On the other hand, the applicant may meet all the requirements of the law, but be refused of visa if: his/her stay in Georgia poses a threat to the state security and/or public order of Georgia, or to the protection of the health, rights, and legitimate interests of citizens of Georgia and other persons residing in Georgia, the health of Georgian citizens or Georgian residents, rights and legitimate interests of Georgian citizens and other persons living in Georgia; Also, if his/her stay in Georgia is unacceptable because of foreign policy considerations;

In 2014-2018, foreigners were most likely to refuse to receive a visa for fraudulent information about their personality or travel purpose (9.5% of the applications submitted for the visa for study purposes) and for the purpose of the state security securing (6,3 % of the applications submitted for the visa for study purposes).

**Table 2**

The Grounds for Refusal of Visa	2014	2015	2016	2017	2018 (till November)
Non-submission of required documents	0	3	2	12	1
Submission of Incomplete or fake data	0	4	1	52	855
The absence of documents confirming Health insurance / sufficient financial resources	0	5	0	0	0
Unacceptable because of foreign policy considerations	0	0	1	0	1
Other requirements envisaged by the law	0	0	0	0	0
Non-payment of fine	0	2	0	0	0
Inappropriate manner	8	16	1	0	2
State security	40	26	38	397	100
Doubt about unlawful stay in Georgia	0	8	0	4	41
The purpose can be no longer confirmed	0	6	5	4	40
Submission of false documents	5	29	0	1	0

In 2018 (10 months data), 855 applicants were refused to receive a visa due to the facts of presenting fraudulent information on their personality or travel purpose. This indicator is approximately 16 times higher in compare with the previous years. It is noteworthy that, based on the content of the grounds, a visa issuing authority is obliged to examine each case individually and determine whether the purpose of the visit declared by the applicant coincides the reality. The factors of refusal by the Ministry is unclear when the foreign student presents the admission letter from the University confirming his/her enrollment, which in conjunction with other documents proves the real purpose of entry into Georgia. Such an increase tendency in refusal of the visa for study purposes on this ground causes reasonable doubts that the state intentionally tries to reduce the influx of the aliens in Georgia.

The refusal for granting the visa on the grounds of state security protection also raises legitimate questions. For making a negative decision on granting a visa on this ground, it is necessary to receive a conclusion from authorized body (State Security Service) on the unacceptability of granting Georgian visa, which is not substantiated. As a rule, the existence of such conclusion is an absolute ground for refusal to grant a visa. The law includes the same grounds for the decision to refuse to issue a study residence permit. In both cases, the state often uses this ground inappropriately and groundlessly restricts the rights of foreigners to enter and stay in Georgia. These problems will be extensively discussed in the context of issuing residence permits.

#### ***3.1.4. Appealing the decision on refusal of granting a visa***

The decision on granting a visa must be made within 30 calendar days and it may be appealed within 10 working days after the date of its acquaintance. The complaint shall be filled in a specially established form, in appropriate manner, in Georgian or with certified translation. Otherwise, it will be left without consideration. This complaint shall be considered without conducting an oral hearing within one month from submission of the complaint. The term of consideration of the complaint may be extended by a decision of the MFA for a period not exceeding 2 months. The decision can be appealed in common courts.

Taking into consideration the fact, that the decision to refuse granting a visa is an administrative act, it is appealed through an administrative procedure. Consequently, the decision shall be declared void if its illegality or unfairness is established.

### ***3.2. Crossing Georgian State Border by Foreign Students and Existing problems***

Foreigners entry into Georgia is regulated by the law of Georgia “on the Legal Status of Aliens and Stateless Persons”, which grants wide authority to the State Agencies to decide at the border whether the foreigner will enter into Georgia or not. While using this authority, the State Agencies are obliged to act in compliance with Georgian legislation, universally recognized principles of international law and international treaties of Georgia.

Below will be reviewed the procedure of border crossing, grounds for refusal and related problems.

#### ***3.2.1. Procedure of crossing the state border of Georgia and the procedure of returning of an alien to the receiving state as a result of deportation***

As a rule, foreigners shall enter and depart from Georgia during the hours established for cross-border movement through border checkpoints. Upon entry into Georgia, an alien is inspected at a border checkpoint, which is implemented by MIA.

##### *Documents to be presented during the border crossing*

During the inspection, an alien is obliged to present the travel document (passport or other travel document serving as a passport substitute), Georgian visa (in case of visa regime), health and accident insurance, hotel reservation and document confirming the existence of sufficient financial resources for living in Georgia. In addition, an alien who arrives for a study purpose in Georgia is obliged to present a D3 category visa or a residence permit. As a result of the inspection, the Border Police of the MIA gives consents to enter into Georgia, or refuses and returns him/her.

### *Obligations of Carrier Companies*

Before bringing an alien to Georgia, the Carrier Company is obliged to check foreigners' documents to ascertain whether he/she has a valid visa and travel documents required for entry into Georgia under the Law. Present the foreigner for inspection at border checkpoints immediately upon arrival. A Carrier Company shall be obliged to bear the costs of the return transportation of the foreigner and the expenses of his/her stay incurred before his/her return if the foreigner has been denied entry into Georgia because the inspection revealed the absence of the grounds and travel documents required by this Law for entering and/or staying in Georgia. Afterwards a carrier company may request the foreigner to reimburse any expenses the company incurred due to an alien's denial of entry into Georgia.

Thus, an alien's entry into Georgia is related to inspection at the border checkpoint where the Border Police of the MIA makes a decision on the alien's entry into Georgia.

### **3.2.2. *The grounds for refusal to entry into Georgia and the problems identified in practice***

The grounds for refusal to enter and granting visas in Georgia are identical, and according to the previous chapter, an alien may be refused to enter into Georgia in case of improper presentation of documents and even when he/she threatens public order. Furthermore, the list of grounds for refusal is not exhaustive, in particular, under Article 11, paragraph 1(i), a person may be refused entry into Georgia in any other case provided by the legislation of Georgia.

#### *The problem of separation of competences*

Article 11 of the law of Georgia "on the Legal Status of Aliens and Stateless Persons" defines the grounds for refusing a Georgian visa or entry into Georgia. It is noteworthy that the decisions on granting a visa and entering the border by a person are made by independent agencies (MFA, Consular and MIA). For this reason, it would be better to set the grounds in separate articles, thus the competences of the agencies would have been separated.



*The refusal to enter into Georgia due to the public order protection ground*

As in case of granting a visa, it is especially problematic to make the decision on the refusal to cross Georgia border by an alien on the ground of public order. According to the law, an alien may be refused to cross Georgia border if: his/her stay in Georgia poses a threat to the state security and/or public order of Georgia, or to the protection of the health, rights, and legitimate interests of citizens of Georgia and other persons residing in Georgia or his/her stay in Georgia is unacceptable because of foreign policy considerations. In both cases, there should be the conclusion of the authorized body - State Security Service (hereinafter referred to as "SSS"), which is not substantiated. Taking into account the fact, that the decision on permission to cross border by an alien is made by the staff members of MIA at the border checkpoint, this regulation should be considered as a legislative shortcoming. MIA does not proceed the statistical data on the refusal to enter into Georgia according to the different grounds, therefore we are deprived of the possibility to provide information about how many foreigners have been denied to cross Georgian border due to the abovementioned grounds. It is likely that due to the impossibility of submitting the conclusion in advance by the authorized body, this data may be low.

*The refusal to enter into Georgia in other cases provided for by the legislation of Georgia*

It is especially problematic in practice, that the list of grounds for refusal to enter into Georgia is non-exhaustive, in particular, according to the article 1, paragraph 1(i) of the law of Georgia "on the Legal Status of Aliens and Stateless Persons", the foreigner may be refused to enter into Georgia in other cases provided for by the legislation of Georgia. MIA considers this norm as a self-sufficient ground, in particular, administrative act does not define under which specific law the person is denied to enter into Georgia. The prove, that the issue is problematic indeed, is backed up with the number of cases proceeded at the Public Defender's Office of Georgia and the General Proposal adopted on 15 November 2017<sup>11</sup>.

In recent years, many foreigners who have been refused to enter into Georgia due to other cases provided for by the legislation have applied to the Public Defender's Office. Among them was GDI's beneficiary, Bangladeshi citizen A.H.,

<sup>11</sup>General Proposal of the Public Defender. adopted on 15 November 2017. №04-4/15894.

who was refused to enter into Georgia in April 2018 due to the above-mentioned ground. In spite of the attempts, at the stage of investigation, MIA did not provide the Public Defender with information exactly which circumstances envisaged by the law became the legal ground of the refusal.

In response to the vicious practice of the mentioned article, with the aim to change the practice regarding the refusal to enter into Georgia on the grounds of other cases provided for by the legislation, Public Defender adopted a general proposal on 15 November, 2017. The proposal indicates that the improper use of mentioned ground, systematically violates the interests of foreigners. In particular, MIA uses this norm in practice as an independent, self-sufficient ground for refusing to enter into Georgia and does not link it to any other, additional legal circumstances of restriction of rights. The abovementioned norm is of a supportive nature and does not originate a separate legal outcome. Thus, while using it, there must be an additional ground provided for by the legislation to refuse entry into Georgia. In addition, it is necessary to indicate in the administrative act, the exact law on the basis of which the person's right is restricted. It is absolutely inadmissible to refuse the foreigner to enter into Georgia only by indicating paragraph 11(i), when there is no relevant regulation set by the legislation.

The Public Defender relied on the practice of the Constitutional Court of Georgia and clarified: "While the Constitutional Court establishes strict conditions for justifying the interference in the right, the Ministry uses the disputed norm without any legal grounds and resolves the issue of entry into Georgia at its discretion. By such approach the Ministry ignores the principle of rule of law and, at the same time, by an illegal and unlawful use of the norm, the administrative body violates the legitimate interests of foreigners".

Although the general proposal of the Public Defender is dated November 15, 2017, MIA has not yet changed its approach. This confirms the letter of January 3, 2019 of the Public Defender in response to GDI's application to the case of a Bangladeshi citizen, according to which, the practice to refuse foreigners to enter into Georgia in the ground indicated at the border, as a self-sufficient norm continues.

### *Statistics of refusal to enter into Georgia*

In frames of the research, we requested the statistical data from MIA, regarding the entering and refusal to enter into Georgia of those aliens holding D3 category visa. According to the response of MIA, these data is not proceeded, but during the last three years the statistics regarding offenses revealed on Georgian state border, including the refusal to enter into Georgia is actively published, which gives an approximate picture in the context of the Educational Migration.

According to statistics, the rate of refusal to enter into Georgia during 2018 is increased almost 3,2 times comparing to 2016-2017. The border policy is especially strict towards the citizens of the Republic of Iran. Specifically, in 2016-2017 aliens were refused to enter into Georgia only in 108 cases, while in 2018, this number has increased almost 30 times. Considering that the Ministry does not publish the statistical data of the applications, we are deprived of the possibility to compare these two. Accordingly, it is possible that such an increase in refusal to enter of Iranian citizens into Georgia was proportionate to the increased number of refused foreigners willing to enter into Georgia.

**Table 3**

	2018	January 2016 – July 2017	2016-2017 3 <sup>rd</sup> Quarter
Iran	3224	51	57
India	2254	571	341
Turkey	744	492	81
Russia	944	230	119
Azerbaijan	669	418	89

In addition, for the last three years, most frequently the citizens of the neighboring countries (Russia, Turkey, Azerbaijan) Iran and India have been refused to enter into Georgia.

### ***3.2.3. How and where the decision on the refusal to enter into Georgia is appealed***

The decision to refuse the entry into Georgia is made by the authorized official of the Patrol Police Department of MIA. The decision may be appealed within ten

days from the date of its acquaintance in MIA. For this purpose, the person must fill the form of the complaint posted on the web site and submit it to MIA. MIA will consider the complaint within a month after submitting the complaint. This process can last for no more than two months.

#### *Problem of established ten days for appealing*

Generally, the short term for appealing is especially problematic in practice. Specified ten days are unreasonably short for an alien to be able to defend legitimate interests completely. After the refusal to enter into Georgia, an alien is forced to return to the country of departure. Generally, they do not have an information on the organizations or lawyers who might provide consultancy in Georgia. Even in case they arrange the communication with relevant persons in Georgia, preparation of the power of attorney due to the bureaucratic processes cannot be attested within the timeframe (an alien should initially prepare the power of attorney in the country of residence, verify it with apostille and then send it to Georgia where it should be translated and attested). On the other hand, it is also very difficult to get comprehensive legal assistance in foreign countries from foreign lawyers in such a short period of time, when they do not actively practice Georgian legislation. For these reasons, in most cases foreigners fail to present the complaint in a timely manner, due to the limitation period of the claim they lose the leverages for the protection of their rights.

### **3.4. Obtaining Residence permit for study purposes and Problems revealed in Practice**

The residence permit is one of the grounds for entering and staying in Georgia for a foreign citizen. Unlike visa, the validity period of the residence permit is much longer, namely, there are a permanent and temporary residence permits that can be issued for a maximum of six years. After the legislative amendments made in 2014, state grants the residence permits according to the purpose. An alien who has come to get an education in Georgia is obliged to take a temporary, residence permit for study purposes. With this aim, he/she must undergo the procedures envisaged by the law. These procedures and related problems will be discussed below.

### ***3.4.1. The procedure of obtaining the Residence Permit for study purposes***

The residence permits in Georgia is issued by PSDA. At the request for the residence permit for study purposes, an alien should apply and submit the following documents: travel document (copy of passport), copy of a document evidencing lawful stay in Georgia (D3 category visa), document on sufficient financial resources, confirming the monthly income at least twice as much as the average consumer subsistence minimum in Georgia, 3/4 cm photo and the document confirming payment of service fees. An application can be submitted personally and electronically through the PSDA Distance Services website <http://sda.gov.ge> In case of submitting the application electronically, an alien is obliged to submit the above-mentioned documents in Georgian language within ten days. The Agency may, at any stage of the administrative proceedings, request additional documentation to prove the facts and circumstances under this rule. On the other hand, the applicant also has the right to submit additional necessary documents in the process of reviewing the application. It should be noted that the application for obtaining the residence permit can be submitted by the representative, but in this case, it is a necessary condition that the alien should legally reside in Georgia.

After registering the application, the Agency starts administrative proceedings and checks whether the prerequisites for issuing a residence permit are satisfied. The Agency makes a negative decision only if there are grounds for refusal to issue a residence permit, which is defined under Article 18 of the Law of Georgia “on Legal Status of Aliens and Stateless Persons”.

### ***3.4.2. Problems in the Grounds for denying the issuance of Georgian residence permits***

Problems in practice are the grounds for refusal to issue a residence permit provided under Article 18, paragraph 1 (a) and (c), of the law of Georgia, “on Legal Status of Aliens and Stateless Persons”. specifically, the Agency may refuse to issue a residence permit if:

- there is a decision of an authorized body on the advisability of his/her residence in Georgia with regard to safeguarding state security and/or public safety interests;
- he/she is engaged in an activity that poses a danger to state security and/or public safety of Georgia.

The law does not clarify the authorized state Agency, however, based on the practice and the purpose of the article, the SSS could be meant.

Article 18 clarifies, what is meant under the protection of public safety (order), namely, it covers such cases, when: (1) the presence of the person in Georgia poses a threat to the relations with other states and/or international organizations; (2) there is an information indicating a high degree of probability of the person's connection with: (a) the armed forces of the country/organization with hostile attitude to the defense and security of Georgia, (b) the intelligence services of another state, (c) terrorist and/or extremist organizations, (d) the illegal circulation of drugs, arms, weapons of mass destruction or their components, human trafficking and/or other criminal organizations (including transnational criminal organizations).

Within three days after the submission of an application by the alien, PSDA addresses the SSS, which starts an investigation whether the above-mentioned grounds are satisfied. SSS prepares the conclusion and sends it to the Agency. While preparation of the conclusion, SSS has the obligation to inform the Agency in such form that it does not harm the interests of state secrets, state security and/or public order.

In recent years, the vicious practice on denial of issuance of Georgian residence permits based on the above grounds was introduced by the Agency and SSS. In particular, the SSS is preparing negative conclusions which are later shared by the Agency. It is noteworthy that the law authorizes the Agency to make a positive decision and issue a residence permit even in case of negative conclusion, but as a rule, the Agency does not use this authority. The high rate of unsubstantiated rejections causes a reasonable doubt that the state groundlessly restricts the rights of aliens and develops discriminatory policies.

A denial for issuing a residence permit can be appealed before court by an alien.

Taking into consideration that the conclusion of SSS is confidential, aliens have no opportunity to get acquainted with the main evidence against them. This puts him/her in an unequal position and prevents them the right to a fair trial.

It is noteworthy that the court practice is not homogeneous regarding the denial to issue a residence permit. According to the statistical data requested from the General Courts and PSDA, which was analyzed in 2018 report of the Public Defender<sup>12</sup>, by the final decisions made in 2017 and 2018, almost quarter of the decisions on the denial of issuing the residence permits with the protection of state security and/or public order ground, were annulled and sent to the Agency for repeated review. The statistics show that in most cases the decisions of the Agency are completely unjustified and groundless.

### ***3.4.3. Refusal to extend the Residence Permit for study purposes***

As it was initially mentioned, a residence permit is a short-term permit that can be issued for a maximum of six years. The Agency frequently issues a residence permit for foreign students for one year, which is not enough to undergo a study program in Georgia. Depending on the above, foreign students are obliged to apply to the Agency once more and request the prolongation of the residence permit.

During the research, GDI met with the representatives of the existing universities in Georgia to find out what problems did foreign students face during the obtaining the right to legally reside in Georgia. According to the information provided by them, it is especially common for the Agency to refuse the extension of the residence permit on the grounds of state security. Because of such vicious practice, foreign students often have to make a choice whether to continue their dispute in courts or leave Georgia and refuse to continue studies.

The universities explain that they are trying to support foreign students at the court, but as a rule, the court refuses to include the university's as a third party in the process.

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<sup>12</sup>The report by the Public Defender of Georgia on Human Rights and Freedom State in Georgia for 2018 Available at: <http://ombudsman.ge/res/docs/2019042620571319466.pdf> (accessed 23 December, 2019).

#### ***3.4.4. Problem of the deadline for submitting an application for obtaining the residence permit***

An application for obtaining the residence permit for study purposes by an alien, can be submitted 40 days prior to the expiry of his/her legal stay in Georgia. The Agency makes a decision on issuing the residence permit within 30 days after submitting the application. It is likely that the legislature's purpose was to define the 40-day deadline to bring the two regulations into conformity.

In case of violation of a 40-day period, the Agency establishes a gap and does not take an alien's application into proceeding. In this case an alien has two options: (1) refer to the Ministry and ask for the prolongation of the visa or (2) apply to the Agency and request to postpone the date of leaving Georgia. According to recent practice, alien's stay in Georgia is prolonged for only 15-20 days, which is not sufficient time to submit an application to obtain the residence permit.

One of the beneficiaries of GDI - A.A. faced the exact problem. He is a student of Ivane Javakhishvili State University, where the basis for his legal stay in Georgia was a study visa. He referred to the Agency for a residence permit by breaching 40-day period due to which his statement was considered as a defective. After that he addressed MFA for visa extension twice, which was satisfied, but in both cases the Ministry extended the visa for just a few days, which was not enough to submit an application to the Agency. Thus, even though he meets all the prerequisites for issuing a residence permit, he fails to submit an application to the Agency.

In order to solve this problem, it is necessary to inform foreign students about the duration of the term or to increase the timeframe.

#### ***3.4.5. Statistical data on the issuance of the Residence Permit***

During the implementation of the project, GDI applied to PSDA twice requesting the statistical data on issuing of the residence permit for study purposes for foreign students. In both cases, the Agency has received a letter and delivered the requested public information almost eight months later. The information provided along with the information published by the Governmental Commission on Migration is analyzed below.



According to the information published by the Migration Commission<sup>13</sup>, in 2012-2016 PSDA issued 10 124 residence permits, most of which were issued to the citizens of India, Iraq, Nigeria, Azerbaijan and Turkey.

**Table 4**

Year	Number of Issued Resident Permits
2012	876
2013	554
2014	1 130
2015	4 663
2016	2 901

As mentioned above, the grounds for denying the issuance of Georgian residence permits on the basis of the article 18 (a, c) of the law of Georgia on the Legal Status of Aliens and Stateless Persons is especially problematic. According to the data provided by the State Services Agency on March 5, 2019, from 2014 to 2017, 249 foreigners were refused the residence permits on the abovementioned grounds. Among them, the most frequently, the citizens of Nigeria (79 cases), Iraq (65 cases) and Bangladesh (14 cases) were denied. It should also be noted that on this basis, the indicator of denial of residence permits is increasing, in particular in 2014, the Agency reported 8 refusals, 17 - in 2015, 59 - in 2016, and 165- in 2017. Thus, the indicator increases almost three times from year to year. According to the Agency's response, no statistics on the refusal to issue a residence permit are provided on other grounds provided under Article 18 of the Law. Consequently, we lack the ability to fully analyze the statistics on denial to issue a residence permit.

It should also be mentioned, that in recent years, the number of people willing to obtain a residence permit has increased in Georgia. It is noteworthy that the ratio of positive and negative decisions on issuing residence permits in 2012-2016 is quite unstable. For more detailed picture, in 2012, the Agency satisfied about 81% of the applications and issued a residence permit (a 19% negative decision), in 2013, this number was 68% (32% of the applicants were denied a

<sup>13</sup>2017 Migration Profile of Georgia, pg.44-45, State Commission on Migration Issues. Available at: [http://migration.commission.ge/files/migration\\_profile\\_2017\\_eng\\_final\\_.pdf](http://migration.commission.ge/files/migration_profile_2017_eng_final_.pdf) (accessed 23 December, 2019).

residence permit), and in 2014 approximately 81% of the applicants received the positive decision (respectively, 19% was denied), in 2015, this number increased by 97% (only 3% was rejected) and finally, in 2016, 91% of the applications were positively decided (9% were not satisfied). Thus, the number of satisfied statements varies between 68% -97%.

**Table 5**

Year	Total Number of Applications	Positive Decision	Negative Decision
2012	9 545	7 772	1 773
2013	8 775	6 030	2 745
2014	12 460	10 125	2 335
2015	30 253	29 362	891
2016	18 883	17 219	1 664
Total:	79 916	70 508	9 408

## **4. THE ONGOING PROCESS OF INTERNATIONALIZATION OF THE EDUCATION, ANALYSIS OF LEGAL BASIS AND STATISTICAL DATA ON THE ENROLLMENT OF FOREIGN STUDENTS IN UNIVERSITIES ACCREDITED IN GEORGIA**

The internationalization of the education sector is an important part of the migration strategy for 2016-2020. Georgia committed to implement this obligation by joining the Bologna Process in 2005. Today, Georgia is among those 47 countries, whose main purpose is the establishment and consolidation of a Common European Educational Space<sup>14</sup>. For the internationalization of the education sector, on one hand, the state encourages Georgian students in the process of studying and acquiring experience abroad, and on the other hand simplifies procedures for continuing education for foreign students in Georgia.

With the aim to assist Georgian students, International Center for Education (hereinafter referred as Center) operating under the Government Administration was established in 2014, which annually finances the studying process of Georgian citizens in world's leading universities. Prior to the creation of the Center, Georgian students profited from Georgian President's program in 2008-2010, in frames of which Georgian students were financed from the President's Fund to continue study abroad. Later, from 2010 to 2014, the program was managed by the Ministry of Education and today it is under a full competence of the Center. Besides internal grants, Georgian students have the opportunity to use the exchange programs of other states participating in the Bologna Process, grants and scholarship programs, which significantly reduces the tuition fees. All of the abovementioned should be assessed positively as the younger generation, who has received high quality education abroad and uses it after in Georgia, is especially important for further development of the country.

According to the law of Georgia "on Higher Education", the State is obliged to facilitate international cooperation and exchange of students and professors with foreign educational institutions for the internationalization of the education.

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<sup>14</sup>The Bologna Declaration of 19 June 1999 . European Higher Education Area. Available at: [http://www.magna-charta.org/resources/files/BOLOGNA\\_DECLARATION.pdf](http://www.magna-charta.org/resources/files/BOLOGNA_DECLARATION.pdf) (accessed 23 December, 2019).

According to the objectives of Bologna Process, the mobility rate of foreign students should increase from 3 to 20 percent by 2020<sup>15</sup>. In order to achieve this goal, on one hand it is necessary to improve Georgian educational programs and improve the environment of the universities to increase the demand from foreign students and on the other hand to improve and simplify procedures for enrollment in accredited universities of foreign students.

In the following chapters we will discuss the process of internationalization of education in Georgia, positive impacts of educational migration, as well as the procedures for foreign students to continue studying in Georgia and analysis the statistics of the foreign students' enrollment in Georgian universities.

#### **4.1. The Process of Internationalization of Education in Georgia and existing shortcomings**

After joining the Bologna Process, the development of the educational sphere in Georgia first of all is expressed through the comprehensive development of common credit system and steps taken towards for the internationalization of the education system. As it was mentioned during discussing the state policy, one of the objectives of the state is to pursue the creation of the international educational space<sup>16</sup> and for the fulfilment of that goal, three objectives have been set up: (1) development and expansion of new scholarship and exchange programs that will allow the citizens of Georgia to acquire education or broaden their knowledge and experience abroad, (2) ensure the high quality of education and the internationalization of programs at higher educational institutions, and development of the adequate administrative Resources and (3) Promotion of Georgian educational institutions abroad.

It should be noted that all three objectives are aiming at the internationalization of the education, which should be assessed positively. According to statistics, which is discussed in details in the upcoming chapter, the study migration index has been sharply increased in recent years, and this is the main indicator of

<sup>15</sup>Migration Strategy of Georgia, 2016-2020, pg.18. State Commission on Migration Issues. Available at: [http://migration.commission.ge/files/migration\\_strategy\\_2016-2020\\_eng\\_final\\_amended\\_08.2018.pdf](http://migration.commission.ge/files/migration_strategy_2016-2020_eng_final_amended_08.2018.pdf) (accessed 23 December, 2019).

<sup>16</sup>Migration, Action Plan 2018. The State Commission on Migration Issues. Available at: [http://migration.commission.ge/files/ms\\_action\\_plan\\_2018\\_final\\_\\_amended\\_as\\_of\\_12.11.18\\_\\_en.pdf](http://migration.commission.ge/files/ms_action_plan_2018_final__amended_as_of_12.11.18__en.pdf) (accessed 23 December, 2019)

internationalization of education. The role of the educational institutions in this process, together with the involvement of the state, which is reflected in an implementation of the above tasks, is particularly important.

In the course of the research, GDI lawyers regularly conducted meetings with representatives of private and state universities (including Tbilisi State Medical University, New Vision University, Black Sea International University). At these meetings the issues of legal status of foreign students in Georgia and the procedures for enrollment in foreign language programs were discussed. According to the information, provided by the universities, they were actively working on the admission of foreign students, namely, they cooperate with foreign universities which facilitates the development of exchange programs and the establishment of various bilingual programs.

Attraction of foreign students is a difficult process, in which students should be fully informed and motivated, which is an important challenge for Georgian universities. According to the ISET survey, most of the higher educational institutions of Georgia are using recruiting agencies operating in Georgia and in other countries to attract foreign students<sup>17</sup>. According to the same survey, most foreign students learned about the prospect of continuing study in Georgia through this agency. Educational institutions should also use other mechanisms to actively utilize agency services, which will make Georgian universities more popular and preferred on the world market.

One of the important shortcomings in the process of internationalization of the education is the disbalance between Georgian citizens migrated to study in foreign countries and foreign students' migration in Georgia. According to the last years, the number of foreign students in Georgia is about 15 times more than Georgian students studying abroad. Based on these data, we can conclude that the state and universities still have a number of steps to take to provide more Georgian students with the motivation and ability to get education abroad.

The hindering factor of internationalization of the education in Georgia may be the duration of the Master's Program. As a rule, the duration of Master's Program

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<sup>17</sup> *Brief Migration Profile Foreign Students in Georgia, 2017. Pg.11. The State Commission on Migration Issues. Available at: [http://migration.commission.ge/files/migraciis\\_profil\\_i\\_a5\\_eng.pdf](http://migration.commission.ge/files/migraciis_profil_i_a5_eng.pdf) (accessed 23 December, 2019)*

in leading European universities consists of one year. Unlike this, educational institutions in Georgia are obliged to distribute Master's Program credits on two years. This can negatively affect foreign students, for whom a one-year program may be more favorable due to financial or other factors. It is noteworthy that the amendments to the Law of Georgia "On Higher Education" is planned, resulting the reduction of the duration of the Master's Program up to one year and the Bachelor's Program up to three years. It is noteworthy, that the Master's degree program is planned to be reduced to one year, while the bachelor's degree program will be reduced to three years. This change will have a positive impact on the number of foreign students entering Georgia.

Finally, the autonomy of educational institutions and the free, stable environment is of particular importance for internationalization of the education. Several precedents in recent years have raised suspicions that the state issues artificial barriers for educational institutions. The case of Black Sea International University should be noted in this regard. By the decision of the Council of the National Center for Educational Quality Enhancement (hereinafter referred to as Council), the University was restricted from the admission right for one year in 2018. The decision was based on the debt of the University before the state and seizure of its whole property. The Council did not take into consideration the positive assessment of the University authorization standards by the group of experts, nor did it take into account that the dispute was still ongoing in the court and that the University, by its own initiative had imposed the whole disputed sum in advance into the state budget to avoid further risks<sup>18</sup>.

It is noteworthy that it was not the first unjustified decision made by the Council. Due to the minor errors, the authorization has been abolished to the Agricultural University in 2013, which was followed by the public protest<sup>19</sup>.

Considering the abovementioned facts, the state should promote the development of free educational space and do not create artificial barriers for educational institutions.

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<sup>18</sup>The statement of the Black Sea International University. Available at: <https://www.ibsu.edu.ge/en/media-ibsu/news-en/1726-2018-07-18-11-36-23> (accessed 23 December, 2019)

<sup>19</sup>The Statement. Available only in Georgian at: <http://liberali.ge/articles/view/3053/aghudgeba-tu--ara-agrarul-universitets-avtorizatsia> (accessed 23 December, 2019)

## **4.2. The foreign student's Impact on the Country's Economy**

The arrival of the foreign students in Georgia is positively reflected on the economic development of the country. According to the research of the International School of Economics of Tbilisi State University (ISET) conducted in 2017, the total annual financial expenditure of the foreign students is 195 million GEL, which is 0.6% of Gross Domestic Product (GDP) and 6% of Service export<sup>20</sup>.

The basic expenditure of the foreign student is the tuition fee. As a rule, foreign students pay higher tuition fees comparing to Georgian citizens. For example, if Georgian student pays 2 250 GEL as a tuition fees in Tbilisi Medical University, the fee for foreign students equals to 8 000 USD. Other necessary expenses include accommodation fee. Accordingly, the increased study migration indicator increases the demand on accommodation, which has a positive economic impact on local tenants. In addition, foreign students, just like Georgian citizens, pay taxes that affect the country's budget. Other costs added to the above, include transport, food and daily consumption items expenses.

Foreign students are contributing to the development of Georgian universities. The tuition fees paid by them, allow the Universities to improve their educational programs, equip with relevant inventory and compete with foreign educational institutions.

It should be noted that foreign students have less influence on Georgian labor market. According to the ISET survey, 65% of foreign students are planning to continue their studies at the next level, including 8% in Georgia. Less than 30% considers employment after graduation, including only 5% - employment in Georgia<sup>21</sup>. Thus, the influence of foreign students in the context of employment in Georgian economy is quite small.

All above mentioned indicates, that foreign students have a significant impact on Georgia's economy during their stay in Georgia. If the Educational Migration rate continues to increase, it is expected that the economic benefits from foreign students will increase accordingly.

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<sup>20</sup>Brief Migration Profile Foreign Students in Georgia, 2017. Pg.11. The State Commission on Migration Issues. Available at: [http://migration.commission.ge/files/migraciis\\_profil\\_i\\_a5\\_eng.pdf](http://migration.commission.ge/files/migraciis_profil_i_a5_eng.pdf) (accessed 23 December, 2019)

<sup>21</sup>Ibid.

### **4.3. Recognition of Foreign Education**

Recognition of foreign education is a mandatory requirement to be admitted in the accredited educational institutions of Georgia. It is essential that education acquired abroad was adapted to the relevant qualifications granted by the educational institutions in Georgia. Recognition is valid to general, vocational and higher education.

The National Center for Educational Quality Enhancement (hereinafter referred to as “Center”) is responsible for recognition of foreign education in Georgia in accordance with Georgian legislation and international agreements. The procedure for recognition of foreign education is established by the order #98/N of the Ministry of Education and Science of Georgia<sup>22</sup> adopted on October 1, 2010.

The foreign student should apply to the Center with the request on recognition of foreign education. The application must be accompanied with: a copy of the applicant’s identity card (in case of foreign citizen, the notarized translation of the copy of Passport), In the case filing an application by another person, the document certifying the authority thereof (power of attorney), a translated and notarized copy of an educational document (in case of recognition of general education - Certificate of complete general education and its supplement; in case of recognition of higher education - Higher Education Diploma and its supplement with an official transcript of grades) and the application fee payment receipt. The procedure of recognition of qualification acquired abroad can be proceeded through regular and expedited procedure.

After submitting the application, the Center shall initiate the administrative proceedings, namely, determine the compatibility of the results achieved during the study abroad with the national qualification framework of the relevant study stage results, after which the Center addresses the educational institution of the higher education to determine the compliance of the foreign vocational and higher education with the educational program. With a view to recognition of professional or higher education acquired during the period of study abroad, the institution shall establish the compatibility of the learning outcomes, attained by the person concerned during the period of study abroad with the educational

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<sup>22</sup>Order N 98/N of the Minister of Education and Science of Georgia 1 October 2010 Tbilisi On Approval of the Procedure of Validation of Georgian Educational Documents and Recognition of Foreign Education and Fees. Available at: <https://eqe.ge/res/docs/2014120819002519282.pdf> (accessed 23 December, 2019)



programs offered thereby and elaborate the conclusion on the basis of the Center's address within 10 days.

Based on this conclusion, the Center makes a decision on recognition or the refusal to recognize of the education. According to the recognition document issued by the Center, the relevant higher educational institution shall enroll an entrant or student with a foreign educational document to the higher education institution of Georgian.

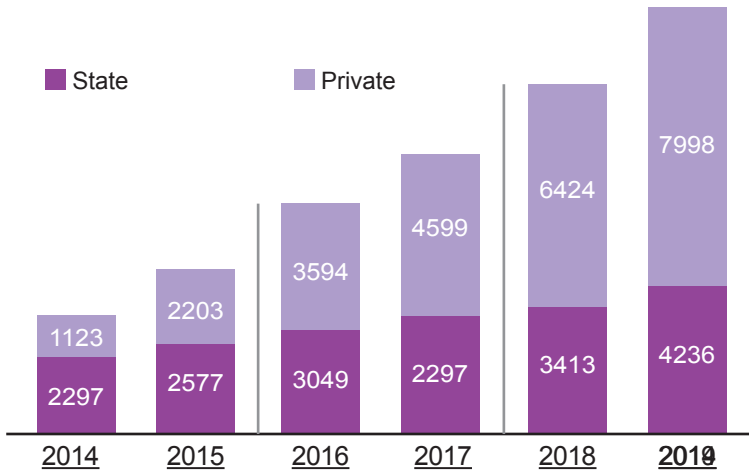
In the course of the research, the statistical data regarding the recognition and the refusal to recognize of the foreign vocational and higher education was requested from the Center. The center replied, that the statistical data on that regard is not proceeded, therefore they were not able to provide the requested public information. As it was mentioned above, GDI lawyers actively met the representatives of different higher education institutions during the project implementation. On the question, whether foreign students faced certain obstacles during the recognition of the education they acquired abroad, their answer was negative / or they could not recall such cases in their practice. Also, no foreign beneficiaries had addressed the organization with similar problems during the project. Based on this discussed information, we can assume that recognition of the general and higher education received abroad is carried out adequately and without creation of artificial barriers.

#### ***4.4. Analysis of Statistics of Foreign Student Enrollment in Georgian Educational Institutions***

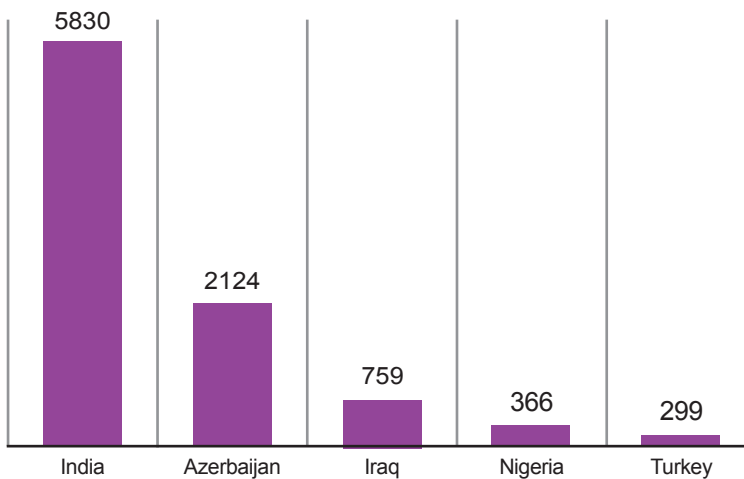
The enrollment of foreign students' in Georgian educational institutions has significantly increased in recent years. If only 3 420 foreign students underwent the study course in Georgian Universities in 2014, this indicator increased 3,5 times in 2018-2019 and achieved a record rate of 12,234. It is noteworthy that in 2014-2015 the preferable choice of foreign students was State Universities, the data of 2016-2019 shows, that foreign students are more interested in the programs offered by private universities<sup>23</sup>.

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<sup>23</sup>The analysis is based on the data published by the National Statistics Office of Georgia. Available at: <https://www.geostat.ge/en> (accessed 23 December, 2019)

**Graphic 1<sup>24</sup>***Distribution of foreign students in state and private universities(2014-2019)*

The majority of foreign students in Georgia are citizens of India, Azerbaijan, Iraq, Nigeria and Turkey. It is noteworthy that in the 2014-2019, the indicator of educational migrant - foreign students from above listed countries in Georgia is steadily high.

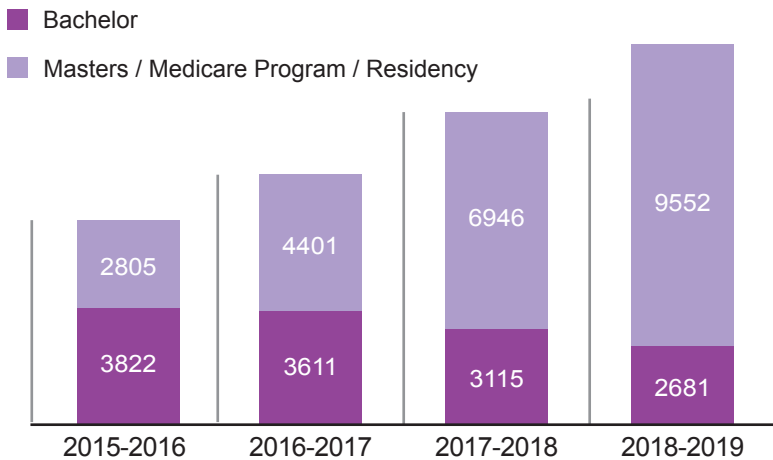
**Graphic 2***Distribution of foreign Students by countries (the beginning of 2018 -2019 Academic year)*

<sup>24</sup>The data describes the number of foreign students in educational institutions at the beginning of the year.

According to statistics, continuing studies on bachelor's and master's programs are more preferable for foreign students. Professional programs offered by Georgian educational institutions are less popular. By the beginning of the 2018-2019 academic year, only 4 foreign students were enrolled in such programs.

### **Graphic 3**

*The Number of foreign students in higher educational institutions according to programs*



Health and social security programs are most popular among foreign students. Tbilisi State Medical University has been steadily receiving hundreds of foreign students for relevant programs over the years. For foreign students, it is also desirable to continue studying in Georgia on social science, business and law programs.

According to statistics, agricultural programs are least popular among foreign students. By the data of the beginning of 2018-2019 academic year, none of the foreign students are enlisted on the abovementioned educational programs in Georgia.

**Table 6**

	2015-2016	2016-2017	2017-2018	2018-2019
Education	75	7	8	9
Humanitarian Sciences and Arts	221	192	192	160
Social Sciences, Business and Law	2044	2354	2186	1776
Science	257	210	271	286
Engineering, Processing and Construction Fields	163	139	183	195
Agriculture	3	8	12	0
Health and Social Security	3805	5024	7106	9716
Service	75	78	113	92

Thus, the analysis of the statistics of foreign students' enrollment in Georgian educational institutions in 2014-2019 shows, that in recent years, Georgia has become a preferred country for foreign students to acquired education, which is for sure result of internationalization of the education.

All of the above mentioned indicates, that supporting Georgian students to acquired education abroad, as well as development and popularization of Georgian educational institutions in order to motivate foreign students to continue their studies in Georgia is of utmost importance for the further development of the country. In addition, it is necessary to create free educational environment and not artificial barriers which will complicate the enrollment of foreign students in Georgian Universities. Thus, the state will promote internationalization of the education, which has a positive impact on the country's economic development.

## 5. OBLIGATIONS TAKEN BY GEORGIA BEFORE THE EUROPEAN UNION AND UNDERTAKEN MIGRATION POLICY

The relations between Georgia and the European Union (hereinafter referred to as “EU”) have begun since 1992, after the recognition the independence of Georgia by the EU. The cooperation between the EU and Georgia is expanding with the years. The signing of the Association Agreement<sup>25</sup> and the Visa Liberalization process made this relationship even tougher.

Below we will discuss the obligations taken by Georgia in the framework of this cooperation, developed migration policy by the state and the existing challenges.

### ***5.1. Obligations Taken under the Association Agreement and the Compatibility of Migration Policy with the Association Agreement***

By signing the Association Agreement in 2014, Georgia has made an important step in the process of integration with the EU. After signing of the Agreement, the special Association Agenda has been defined for Georgia, which includes reforms in the fields of economy and foreign security.

#### ***5.1.1. Obligations Taken by Georgia under the Association Agreement***

By signing the Association Agreement, Georgia has undertaken a number of obligations, including the arrangement of migration policy. The Association Preamble specifically refers to the necessity of ensuring the legal migration. According to the article 15, the Parties are obliged to the reaffirm the importance of a joint management of migration flows between their territories and shall establish a comprehensive dialogue on all migration-related issues, including legal migration, international protection and the fight against illegal migration, smuggling and trafficking in human beings<sup>26</sup>.

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<sup>25</sup>Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part. Available at: [https://eur-lex.europa.eu/legal-content/en/TXT/PDF/?uri=CELEX:22014A0830\(02\)](https://eur-lex.europa.eu/legal-content/en/TXT/PDF/?uri=CELEX:22014A0830(02)) (accessed 23 December, 2019).

<sup>26</sup>*Ibid.* Article 15(1).

According to the Association Agreement, Georgia is obliged to develop and implement national legislation and practices as regards international protection, with a view to satisfying the provisions of the Geneva Conventions<sup>27</sup>.

In addition, Article 16 of the Association Agreement states that Georgia is obliged to ensure the full implementation of the Agreement between the European Union and Georgia on the readmission<sup>28</sup> of persons residing without authorization<sup>29</sup>. According to the above agreement, Georgia is obliged for the readmission of its own national, as well as citizens of foreign countries and stateless persons if they have a visa or residence permit issued by Georgia. The Parties shall also continue to endeavor to enhance mobility of citizens and shall take gradual steps towards the shared objective of a visa-free regime in due course, provided that the conditions for well-managed and secure mobility set out in the two-phase Action Plan on Visa Liberalization are in place.

Thus, by signing the Association Agreement, in the context of migration policy, Georgia took the obligations: to promoting legal migration, regulate the migration legislation, fight against illegal migration and to enforce the international acts.

### **5.1.2. Compatibility of Migration Policy with the Association Agreement**

Following the signing of the Association Agreement, the law “On the Legal Status of Aliens and Stateless Persons” was adopted in order to regulate the migration legislation in Georgia and replaced the regulations existed before<sup>30</sup>. This law regulates the grounds for foreigners, arriving and legally staying in Georgia.

It should be noted, that the original edition of the law established strict visa regime. In particular, after the adoption of the law, the number of states whose citizens were able to enter into Georgia without visa was decreased. The 360-

<sup>27</sup>*Ibid.* Article 15, para 2(b).

<sup>28</sup>Permit issued by the State upon person for the reentry in the state where he/she previously entered and resided illegally.

<sup>29</sup>Agreement between the European Union and Georgia on the readmission of persons residing without authorization. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A22011A0225%2803%29> (accessed 23 December, 2019).

<sup>30</sup>Previously, the rights of aliens were regulated by the law with the same title: “on the Legal Status of Aliens and Stateless Persons” (2005) and Georgian Law on “Temporary Entry, Staying and Departure of Foreigners in Georgia” (1993).

day term of legal stay in Georgia was also decreased, after the amendments, an alien could stay in Georgia for 90 days in the course of 180 days of visa free regime. According to the explanation of the Minister of Justice, the changes in legislation and the establishment of such strict regime for foreigners was the obligation taken under the Association Agreement<sup>31</sup>. Also, the Minister clarified, that before the entry into force of the law, anyone could enter the country and stay without any restrictions, which was not in line with the European standards.

It should be specifically mentioned, that the obligation for tightening the visa procedures was not the obligation taken under the Association Agreement. In particular, none of the Association Agreements provisions obliges Georgia to change the migration policy the way to complicate the entry of foreigners into Georgia. As mentioned in the previous chapter, the Association Agreement obliges Georgia to fight only illegal migration and regulate legislation. It does not provide specific instructions and does not set out precise obligations on how to achieve these goals. Consequently, it does not impose the obligation to Georgia to tighten the visa regime. Making decision on this issue is entirely Georgia's prerogative.

According to the amendments made in the Law of Georgia "On the Legal Status of Aliens and Stateless Persons" in 2015, citizens of 94 countries have been granted the right to enter into Georgia and stay for 1 year without visa<sup>32</sup>. This change should be assessed positively. Georgia is not facing the necessity of tightening visa policy. At this stage, it is important for Georgia to fully utilize the positive effects of migration and not to impose artificial barriers that will complicate the entry into Georgia for aliens.

Thus, Georgia does not have an obligation to tighten migration policy under the Association Agreement. In contrast, visa liberalization has further increased the migration rate, which once again demonstrates that joint efforts to promote migration and usage of its benefits in the main objective of parties in the process of integration with EU.

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<sup>31</sup>The Interview of the Minister of Justice - Tea Tsulukiani. Available at: <http://www.justice.gov.ge/News/Detail?newsId=4685> (accessed 23 December, 2019).

<sup>32</sup> Amendments to be taken to the Law of Georgia "On the Legal Status of Aliens and Stateless Persons". Available at: <https://matsne.gov.ge/ka/document/view/2841058?publication=0> (accessed 23 December, 2019).

## **5.2. The State Obligations Undertaken under the Visa Liberalization and the Results of Visa Liberalization**

In June 2012, negotiations on visa facilitation was officially initiated between Georgia and the EU. In February 2013, Georgian government was given an Action Plan which included four blocks<sup>33</sup>. Georgia was gradually fulfilling the obligations under the Action Plan, which resulted in a logical outcome - facilitation of visa regime.

Below we will discuss the obligations taken by Georgia under the visa liberalization and the post visa liberalization period.

### **5.2.1. Obligations Taken by Georgia under the Visa Liberalization**

As it was mentioned, the Visa Liberalization Action Plan consisted of four blocks: (1) Document Security, including biometrics, (2) Integrated Border Management, Migration Management, Asylum; (3) Public Order and Safety (4) External Relations and Fundamental Rights. Each block consisted of two phases. The first phase included legislative and political framework reforms, and the second - the enforcement of the mentioned reform. All four blocs comprised 65 tasks that were mandatory to fulfill for facilitation of the visa regime.

#### *Document Security, including biometrics*

According to the Action Plan, Consolidation of the legal and institutional framework ensuring the integrity and security of the civil status and civil registration process, including the registration of all Georgian citizens in a unified and secure electronic population registry, with adequate safeguards as far as highest data protection standards are concerned were envisaged.

The legislative framework should have been consolidated with the aim to introduce the biometric passports. The clear timeframes for the complete roll-out of the biometric passports should have been adopted. In addition, issued passports should have been relevant to ICAO standards<sup>34</sup> and should have replaced other passports that did not meet this standard.

<sup>33</sup>EU-Georgia Visa Dialogue, Action Plan on Visa Liberalization. Available at: <http://migration.commission.ge/files/vlap-eng.pdf> (accessed 23 December, 2019).

<sup>34</sup>The standards elaborated by the International Civil Aviation Organization (ICAO).



### *Integrated Border Management, Migration Management, Asylum*

The main requirement of the EU regarding the border management was consolidation of the legal and institutional framework according to the EU and international standards. In addition, the State should have adopted the national Integrated Border Management (IBM) Strategy and Action Plan, which was implemented by Georgian government in 2014. The adopted strategy aimed at enhancing state's border security, strengthening the peace and stability in the country and region, as well as integration into the European Union and the North Atlantic Alliance<sup>35</sup>.

The main requirement regarding the migration management, was the regulation of the legislation and the joint fight against illegal migration. According to the Action Plan, Georgia should have carried out reforms in the field of legal migration, including support for foreigners' integration and reintegration of Georgian citizens. In addition, the Migration Management Action Plan and monitoring mechanisms of migration flow should have been created.

Improvement of Asylum Policy was important for the visa liberalization process, in particular the consolidation of legal and institutional framework in line with EU law and international standards.

### *Public Order and Safety*

The state obligation to ensure public order and safety was prevention and fighting against organized crime, terrorism and corruption. With this purpose, according to the Action Plan, the state was obliged to consolidate the legal and institutional framework in line with EU law and international standards, elaborate the Action Plan and undertake special measures. As well as to enhance the cooperation between judiciary and investigative bodies.

### *External Relations and Fundamental Rights*

The main requirement of the fourth block was the provision of the right of free movement for aliens and stateless persons. For this purpose, Georgia was obliged to carry out special measures to ensure that the rights of aliens and stateless persons are not subject to unjustified restrictions. The State should not restrict

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<sup>35</sup>Governmental Ordinance No 226 on the "Approval of the State Border Management Strategy of Georgia". Available only in Georgian language, at: [http://migration.commission.ge/files/ibm\\_strategy\\_geo.pdf](http://migration.commission.ge/files/ibm_strategy_geo.pdf) (accessed 23 December, 2019).

the person with discriminatory motives, in particular, should not treat persons differently based on any ground such as: gender, race, color, ethnic or social origin, health status (including HIV/AIDS), language, religion or belief, political or any other opinion, membership of national minority, property, birth, disability, age or sexual orientation. In order to reach these objectives, Georgia has adopted the Law of Georgia “on the Elimination of All Forms of Discrimination” (the so-called “Anti-discrimination Law”).

Georgia was gradually fulfilling the requirements under the Action Plan, which resulted in a logical outcome - facilitation of visa regime

### **5.2.2. Post - visa liberalization period**

After the facilitation of visa regime, the European Commission periodically publishes the report highlighting the main problems and challenges the state is facing.

In the report of 2017<sup>36</sup> (First Report under the Visa Suspension Mechanism), the European Commission positively assessed the implementation process of the Action Plan elaborated by the Migration Commission. The report also indicated the necessity to popularize regulations that are valid after the visa liberalization.

An effective fight against organized crime is one of the important challenges for Georgia. According to the second report (Second Report under the Visa Suspension Mechanism), organized crime groups from Georgia are still reported as one of the most frequently represented non-EU nationalities involved in serious and organized crime in the EU. The abovementioned report, as well as the previous report specifically indicates on this problem<sup>37</sup>. It is without a doubt that the state should continue to take effective measures to avoid organized crime.

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<sup>36</sup>Report from the Commission to the European Parliament and the Council, *First Report under the Visa Suspension Mechanism, 2017*. Available at: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-is-new/news/20171220\\_first\\_report\\_under\\_suspension\\_mechanism\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-is-new/news/20171220_first_report_under_suspension_mechanism_en.pdf) (accessed 23 December, 2019).

<sup>37</sup>Report from the Commission to the European Parliament and the Council, *Second Report under the Visa Suspension Mechanism, 2018*. Available at: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20181219\\_com-2018-856-report\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20181219_com-2018-856-report_en.pdf) (accessed 23 December, 2019).

Another challenge that Georgia faces is the increased number of asylum-seekers. In 2018, the number of asylum seekers has almost doubled since 2017. In addition, comparing to 2016-2017, the number of Georgian citizens illegally residing in the territory of the EU has been increased.

Visa liberalization is an important process that promotes Georgia's approximation with the European family. The above-mentioned problems can threaten the process. In order to avoid this, it is necessary for State to maintain the current situation, take into consideration the recommendations of the European Commission and take appropriate measures to solve the problems.

## **RECOMMENDATIONS:**

### ***To the Parliament of Georgia:***

- To prepare legislative amendments in the Article 11 of the Law of Georgia “on Legal Status of Aliens and Stateless Persons” with the aim to separate the competences of the Ministry of Foreign Affairs of Georgia and the Ministry of Internal Affairs of Georgia;
- To prepare legislative amendments and increase the 10-day term of appeal for refusal to enter into Georgia to one month;

### ***To the Ministry of Foreign Affairs of Georgia:***

- Take effective steps to safeguard the principle of Equality while making decisions on granting visas to foreign nationals and not to restrict their rights groundlessly, with discriminatory motives;
- Raise the standard of substantiation of the decisions on refusal to grant visas to foreign nationals;
- Investigate all circumstances important for the case during the administrative proceeding concerning granting visas to aliens and do not base the decision to refuse a visa only on the conclusion of the authorized body;
- Prolong the date of expiry of visa up to 40 days, when the alien’s application for obtaining the residence permit is considered as defective due to the absence of sufficient days of legal stay in Georgia.

### ***To the Ministry of Internal Affairs of Georgia:***

- Take effective steps to safeguard the principle of Equality while making decisions on issuing the permission on entry into Georgia to foreign nationals and not to restrict their rights groundlessly, with discriminatory motives;
- If the decision on the refusal to enter into Georgia is made on the ground defined in the Article 11, paragraph 1(i) of the law of Georgia “on Legal Status of Aliens and Stateless Persons”, it should be substantiated and clarified, exactly which law became the legal ground of the refusal. Also, all possible measures should be taken to change the practice of self-sufficient use of the abovementioned norm.
- Carry out special measures for prevention the involvement of Georgian citizens in the organized crimes on the territory of the European Union;

***To the Public Service Development Agency:***

- Take effective steps to safeguard the principle of Equality while making decisions on issuing the residence permit and not to restrict their rights groundlessly, with discriminatory motives;
- Raise the standard of substantiation of the decisions on refusal to issue residence permits to foreign nationals;
- Investigate all circumstances important for the case during the administrative proceeding concerning issuing the residence permit to aliens and do not base the decision to refuse to issue a residence permit on the conclusion of the authorized body;

***To the State Security Service:***

- Detailly explore the case of the foreign applicants and issue the negative conclusions only if there are real evidences that the person's entry into Georgia will threaten public safety and state interests.

***To the Common Courts:***

- Detailly explore the grounds of the cases on refusal to: enter into Georgia, to grant the visa and issue the residence permit to aliens and ascertain the possible signs of discriminatory motives;
- Explore the grounds of the State Security Service's conclusion;
- Involve the educational institutions as a third party in the cases regarding the refusal to prolong the validity of residence permits for study purposes;

***To the Ministry of Education, Science, Culture and Sport of Georgia:***

- Promote the process of internationalization of education, in particular to carry out special measures that will raise the recognition of Georgian Educational Institutions;
- Assist Georgian Educational Institutions in their activities and ensure the possibility of their free development;
- Increase awareness of foreign students, in particular, provide them with complete information on their own rights and legal mechanisms for its protection (especially regarding issues of obtaining the residence permits and their prolongation).

**Annex 1****NOTES OF THE MINISTRY OF EDUCATION,  
SCIENCE, CULTURE AND SPORT OF GEORGIA  
AND GDI'S RESPONSES**

1. *„In addition, on the basis of analyzing the statistical data requested from various Government Agencies, the State's possible discriminatory policy towards the students migrated from Asia and Africa was identified“.*

*According to the position of the Ministry, the research does not reveal the discriminatory policy of the state, therefore we consider it as authors subjective opinion and not a fact-based conclusion.*

*Response: This is the author's assessment based on the statistics analyzed in the research, at the same time the sentence is not written in assertive form, but only presents the assumptions.*

2. *In order to form a complete impression on the results of the research, it is important for the Ministry to know which particular Universities were involved in the meetings (by indicating the participants) and which research tool were used.*

*Response: The list of universities was specified.*

3. *„One of the important shortcomings in the process of internationalization of the education is the disbalance between Georgian citizens migrated to study in foreign countries and foreign students' migration in Georgia. According to the last years, the number of foreign students in Georgia is about 15 times more than Georgian students studying abroad “.*

*According to the position of the Ministry, this cannot be considered as a negative indicator. Georgian higher educational institutions are focused on one-semester exchange and joint programs. In addition, the fact that more foreigners are coming to Georgia, indicates to the readiness of the higher educational institutions for the existence of English language programs and their qualitatively implementation.*

*It is unclear how could you obtain the statistical data on the number of persons from Georgia, who went abroad for study purposes, as no such data is collected by any state agency.*

*Response:* *The research only emphasizes that it would be better to do more to support Georgian students in the field of education. And the fact that many foreign students are coming to Georgia for study purposes, is on the contrary assessed positively.*

*As regards the source of the statistics, the statistics are published by the National Statistics Office of Georgia “Number of Students studying abroad and foreign Students<sup>1</sup>.”*

4. *„It is noteworthy that the duration of the Master’s Program will be reduced up to one year and duration of the Bachelor’s Program up to three years. This change will positively affect the number of foreign students entering Georgia “.*

*According to the position of the Ministry, according to the amendment in the article 7 (o14) of the law of Georgia “on Higher Education” - approves the rules of the elaboration of development of undergraduate educational program (including at least 180 credits) and master’s educational program (including at least 60 credits) based on the nomination of the National Center for Educational Quality Enhancement;*

*Response:* *No changes were made in the legislation during the study period; thus, the subject of evaluation was the initiative.*

5. *“Based on this conclusion, the Center makes a decision on recognition or the refusal to recognize of the education. According to the recognition document issued by the Center, the relevant higher educational institution shall enroll an entrant or student with a foreign educational document to the higher education institution of Georgian”.*

*According to the position of the Ministry, in accordance with the articles 52(3) and 52<sup>1</sup> (7) The procedure for continuing education of foreign nationals at authorized higher education institutions of Georgia is regulated*

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<sup>1</sup>*Statistical data available at: <https://www.geostat.ge/en/modules/categories/61/higher-education> (accessed 23 December, 2019)*

by the Minister's Order No. 224/n of December 29, 2011. Accordingly, foreign citizens are granted the right to study on the basis of an Order of the Ministry.

Response: This order sets out the general criteria and admission procedures (for example: taking the exam, submitting documents, etc.). The research indicates that the higher education institution makes the decision in accordance with the rules established by the Georgian legislation, which implies the regulations prescribed by this exact Order.

According to the position of the Ministry, in 2017 and 2018, approximately 10,500 foreigners were granted the permission to study on an undergraduate and one-level medical education programs (5 and 6-year programs, after completing which, the awarded qualification equals to the master's degree, though this does not mean that the study period covers 2 years) at Georgia's higher education institutions, and up to 480 foreigners on master's degree programs. Therefore, 3,5 times increased number of foreign students on master's degrees is unrealistic.

Response: The data was updated.

6. The recommendation to the Ministry of Education, Science, Culture and Sport of Georgia: "Increase awareness of foreign students, in particular, provide them with complete information on their own rights and legal mechanisms for its protection (especially regarding issues of obtaining the residence permits and their prolongation)".

According to the position of the Ministry, this issue falls within the competence of the Public Service Development Agency.

Response: According to the Migration Commission's Action Plan, The Ministry of Education, Science, Culture and Sport is responsible for carrying out such activities (conducting meetings aiming at raising awareness), which is why this recommendation was made to them.