



TBILISI, 2014

AMENDMENTS IN THE IMMIGRATION POLICY AND CHALLENGES RESULTING FROM IT

GEORGIA'S REFORMS ASSOCIATES (GRASS)



ELENE KHOSHTARIA, NINI JASHI, GIORGI JANGIANI, TARIEL KIPSHIDZE, AND
SERGI KAPANADZE



Amendments in the Immigration Policy and challenges resulting from it

This policy brief is prepared by Georgia's Reforms Associates, with support of Open Society Georgia Foundation, under the framework of the project Strengthening National Integration in Georgia, funded by the United States Agency for International Development (USAID), and implemented by the United Nations Association of Georgia.

The views and opinions in the policy brief are not the official positions of the Open Society Georgia Foundation, United States Agency for International Development (USAID), United Nations Association of Georgia, and Open Society Foundation.

1. Introduction

On September 1 2014, the new Law of Georgia on the Legal Status of Aliens and Stateless Persons came into force. The law decreased the length of visa-free stay for foreigners in Georgia, from 360 days to 90 days in any 180-day period. The law also cancelled the visa-free regime with twenty-four countries.

According to the new law, the Public Service Development Agency of the Ministry of Justice does not issue visas anymore. Instead, visas are issued in the diplomatic missions of Georgia abroad. If there is no diplomatic mission of Georgia in a person's home country, then that person should address the nearest embassy or consulate of Georgia. As well, the law abolished the issuing of visas at the state border of Georgia (though it is still possible in special cases).

The amendments resulted in visas being divided into categories, and with new regulations for receiving residency permits. Visas and residency permits became the main basis for foreigners to enter and carry out their activities in Georgia. Moreover, the new law requires foreigners to hold the same type of visa as the one indicated in their application for a residency permit. For instance, if an alien seeks to receive a study residence permit, he/she must hold the D3 immigration visa; the D1/D2 labour immigration visa is a prerequisite for receiving a labour residence permit, and so on.

Since the adoption of the law, a number of aliens in Georgia (up to 2,000 people) were deprived of a legal basis for being in the country, and were subject to a fine or expulsion for not meeting the necessary requirements for receiving a residency permit. Therefore, it was pertinent to set preferential conditions for aliens to obtain a residence permit in the transitional stage. Moreover, aliens already residing in Georgia were allowed to obtain an immigration visa from within Georgian territory. Otherwise, the new legislation obliged them to leave Georgia and obtain a Georgian visa at a diplomatic mission abroad, which requires adequate time and financial resources, and put legally residing foreigners in Georgia in unfavourable conditions.

As a result of this situation, on November 14, 2014 the Parliament of Georgia additionally amended the Law of Georgia on the Legal Status of Aliens and Stateless Persons. Namely:

- Aliens legally residing in Georgia are allowed to obtain an immigration visa on the territory of Georgia, from the Ministry of Foreign Affairs of Georgia. For this, the foreigner should address their application to the Ministry of Foreign Affairs at least 45 days before the expiration of their legal residence term. As such, they will not have to return to their home country to obtain the according visa. The fee is 100 GEL for issuing such a visa.



- A temporary preferential legal regime was created for a certain category of foreigners residing in Georgia, for them to obtain the residency permit. An alien who got a residency permit before the amendments came into force, or an alien who entered Georgia after the law was enacted, is exempted from presenting the document proving legal residency in Georgia until March 1, 2015.
- An alien who entered Georgia before March 17, 2014, and was residing in Georgia when the law came into force, can receive an immigration visa in Georgia until March 1, 2015, even after the legal basis for residency is expired, and under the condition that he/she was rejected for a residency permit.
- The basis for issuing special residency permits encompasses those people under status of Compatriot Residing Abroad as well. The November 14 amendment will create a legal basis for long-term residency in Georgia for the people with this status, and will facilitate maintaining the connection between Georgia and its compatriots who live abroad.
- The amendments set an exception for issuing visas to truck drivers working in international cargo transportation. The transitional visa is issued for those who transit through the territory of Georgia with the aim of entering a third country, who are on Georgian territory for 10 days instead of the previous five-day term.

2. Consequences of tightening the visa policy on the education sector

The amendments made in the Law of Georgia on the Legal Status of Aliens and Stateless Persons created significant difficulties in the education sector. Before the new regulation came into force, the majority of foreign students were entering Georgia with an ordinary visa¹ (the study visa², while existing in law, was hardly used in practice). The foreign student was allowed to stay in the country for 365 days. If he/she wanted to continue working or studying in Georgia, he/she was obliged, by law, to get the temporary residence permit after the expiration of the ordinary visa.³ The Public Service Development Agency of the Ministry of Internal Affairs of Georgia issued the residence permit.

The implemented amendments that went into force on September 1 changed this practice:

Change №1: Visas were divided into categories

Students now use the Category D Immigrant Visa - D3 (for people intending to study at authorised educational institutions in Georgia), Category C ordinary visa (including C1 Tourist Visa and C2 for people intending to visit relatives or friends in Georgia, with liberal profession) or C3 Visa (for people intending to hold business meetings or negotiations, for participants in scientific seminars, conferences, and other scientific, pedagogical, cultural, or sports events, and for those intending to carry out journalistic activity in Georgia).⁴

Change №2: Duration of stay

¹Law of Georgia on the Legal Status of Aliens and Stateless Persons. Article 9. <http://goo.gl/3uF07n> (retrieved on 4/11/2014)

²Ibid., Article 10

³Ibid., Article 10, Paragraph 2

⁴Ibid., Article 7, New Edition

The duration of time a foreigner can stay in Georgia has been changed from 360 days, to 90 days in any 180-day period. Under the new conditions requiring a respective type of visa, a student can be granted a temporary residence permit for study issued to foreigners for the maximum of a six-year period.⁵

Country	Number of Students in Georgia, 2011-2014
1. Azerbaijan	1,917
2. USA	30
3. Belarus	3
4. Germany	22
5. UK	2
6. Egypt	2
7. Iraq	64
8. Spain	1
9. Turkey	528
10. Turkmenistan	1
11. India	791
12. Iran	62
13. Israel	12
14. Canada	1
15. Latvia	1
16. Lithuania	4
17. Nepal	2
18. Nigeria	839
19. Pakistan	1
20. Palestine	1
21. Poland	9
22. Russia	305
23. Greece	15
24. France	3
25. Syria	28
26. Slovakia	1
27. Armenia	57
28. Tajikistan	5
29. Uzbekistan	10
30. Ukraine	21
31. Kazakhstan	17
32. Kyrgyzstan	10
33. China	12
34. Other	788
35. Total:	5,622

These amendments settled the issue of visa regulations, requiring students intending to study in Georgia to enter the country with a specific status (a study visa). On the other hand, the failure to adopt a transition period, the inefficiently conducted information campaign, and the lack involvement of the civil

⁵ *Ibid.*, Article 16, Paragraph 1

sector (which meant that various problems were overlooked) created both short-term and long-term problems that will negatively affect the number of people wishing to study in Georgia.

Short-term problems concern the failure to adopt a transition period and the inefficiently conducted information campaign. Universities with foreign students were not informed about the given amendments, and it mostly caused problems for the students that arrived in Georgia before September

1. The foreign students study in two state universities (Ivane Javakhishvili Tbilisi State University and Tbilisi State Medical University) and various private authorized universities (Caucasus University, University of Georgia, Georgian-American University, and American University for Humanities).

According to the data of the Ministry of Education and Science of Georgia, 5,622 students were enrolled in the aforementioned universities between the 2011-2012 to 2014-2015 academic terms.⁶

Stories of problems students faced:

- A student from Armenia: "My visa expires on December 23, but the study term ends on December 26. I will have to leave the country, even though it is very important to me to attend all lectures. However, I have no other choice, because I will have to go to Yerevan to apply for a new visa, and will have to wait at least 10 days until I get a new visa. Moreover, I must pay 50 USD for the visa. By contrast, I attended a conference in the Czech Republic last summer, and as a student and a journalist, I received the Schengen visa for free. If Georgia creates regulations in the framework of European legislation, then why doesn't it consider concessions for our category, as the European countries do."
- A student from Azerbaijan: "I enrolled in the Master's degree in GIPA in January 2014. In the middle of September, after the semester had already begun, we found out that we could not stay in Georgia for more than 90 days. Lectures end at the end of December, one week after my visa expires. I have to interrupt my studies before they end."
- A Nigerian student: "My ordinary visa has already expired, but I do not know what to do. Before I used to apply for a new visa. Today they tell me that I cannot get a visa here, but no one knows what I should do."
- "My friend returned to his home country a few days ago, and he is unable to come back to Georgia, as his appointment to get a visa was arranged for February; therefore, he will be unable to attend half of the academic year."

As the majority of the students that arrived prior to the amendments do not hold the **respective category visa** (study visa), they are restricted to getting or renewing the temporary residence permit, because according to Article 14 Paragraph 2 of

"Students that come to our university for only one academic semester, have to spend twice as much time and money, first to get visa in their respective countries and then to extend it that often becomes a reason for the students to abstain from coming to Georgia for studying" - a President of one of the private universities.

the Law of Georgia on the Legal Status of Aliens and Stateless Persons: "A foreigner is allowed to address the agency for issuing the residence permit according to the same basis he/she was initially granted the

⁶ Letter №388 (10/11/2014) received from the Ministry of Education and Science of Georgia. The yellow color indicates the countries in which Georgia does not have a consular representation; the grey color indicates the State of Palestine that is a partially recognized state.

right to enter Georgia.” Moreover, the visas are not being issued on arrival any more (excluding exceptional cases). The student is obliged to return to his/her home country after the expiration of their visa or residence permit, and apply for the respective type of visa (D3). In a survey conducted by Georgia’s Reforms Associates in the private and state universities where the foreign students are enrolled, the university representatives noted that the financial expenditures connected with the students’ obligation to return to their home countries, and the possibility of their nonattendance for the study semester, was a problem.⁷

The nonattendance problem was connected with the length of time it takes to apply for a visa at Georgia’s diplomatic missions abroad. It is possible to book the application date online on the web site of the Ministry of Foreign Affairs, but due to the large number of the applicants, bookings were not available for 2-3 months in the future, meaning students would not be able to apply in time to attend the study semester.

Additional, unforeseen expenditures on students to procure the required visa are another serious factor resulting from the changes to the law. Students that arrived before September 1 had to pay extra money to get back to their home countries and apply at the Georgian embassy or consulate there. In case that there is no Georgian diplomatic mission in their country, the student has even greater expenses, as he/she must travel to a third country that has a Georgian mission covering his/her country. Such additional travel further increases their expenditures, and lowers motivation to apply. For example, Georgia does not have diplomatic representation in Iraq, which is covered by the consulate located in Jordan – meaning an Iraqi student must travel to Jordan to apply with the Georgian mission there. However, Iraq and Jordan have a visa regime with each other, and even a single-entry visa requires a fee of 30 USD, together with all the necessary documentation.⁸

According to the old regulations, apart from the diplomatic representations, visas/three-month entry permits used to be issued at the state border checkpoints.⁹ The foreigners that were legally entering the state border of Georgia used to get the ordinary visa from the Public Service Development Agency.¹⁰ Therefore, students, professors, and persons connected with educational activities could enter the territory of Georgia very easily. Now the visa is not being issued at the border anymore, and the applicants can get it only in the diplomatic or consulate representations of Georgia in their respective countries (or those covering their countries).

One of the affected universities is the Tbilisi branch of the American University for Humanities, which has been operating in Georgia for five years. The majority of the university students are foreigners. More than 100 students of this university have been or will be affected by the new law.

⁷ Letter №342 (23/10/2014) received from the International Black Sea University, №340 (22/10/2014) and №382 (10/11/2014) from Tbilisi State Medical University, №369 (30/10/2014) from the American University for Humanities and №321 (16/10/2014) from Caucasus University.

⁸ <http://www.projectvisa.com/visainformation/Jordan>

⁹ Law of Georgia on the Legal Status of Aliens and Stateless Persons. Chapter 3. Article 5. Paragraph 2. Old Edition. ¹⁰ *Ibid.*, Article 5, Paragraph 2/1. Old Edition.

Statistics of foreign nationals at the American University for Humanities:

Country	2010	2011	2012	2013	2014	Total
1. Russia	1	1	0	0	2	4
2. Kazakhstan	1	0	1	1	0	2
3. Greece	1	1	2	0	0	4
4. Canada	0	1	0	0	0	1
5. Nigeria	0	2	69	23	36	130
6. Cameroon	0	0	1	0	0	1
7. USA	0	0	1	0	0	1
8. Guinea	0	0	0	1	0	1
9. Iraq	0	0	0	2	0	2
10. Azerbaijan	0	0	0	1	2	3
11. Syria	0	0	0	2	0	2
12. Ghana	0	0	1	0	0	1
13. Iran	0	0	3	1	0	4
Total	3	5	78	32	40	158

The visa amendments created multiple problems for Tbilisi State Medical University. Since 2009, students from 55 countries have been studying in Georgia; more than 6,000 foreign students were studying in Tbilisi State Medical University. It is noteworthy that Georgia does not have diplomatic representation in 18¹¹ of these 55 countries. We will likely see a decrease in the flow of students from these 18 countries coming to Georgia in the next year.

Number of students in Tbilisi State Medical University, by year:

Year	Number of Students
2009-2010	370
2010-2011	644
2011-2012	1414
2012-2013	1600
2013-2014	1694
2014-2015	1991

The table below shows the number of the students enrolled in Tbilisi State Medical University in the 2013-2014 academic year, by country. The countries with no consular representation of Georgia are underlined.¹²

¹¹ Bangladesh; Burundi; Guyana; The Gambia; Iraq; Cameroon; Kenya; Maldives; Malawi; Nepal; Nigeria; Pakistan; Syria; Suriname; Trinidad and Tobago; Fiji; Sri-Lanka; Chad.

¹² Letter №382 (10/11/2014) from Tbilisi State Medical University



Country	Number of Students
1. Azerbaijan	22
2. USA	5
3. Bangladesh	1
4. Burundi	3
5. Guyana	3
6. Gambia	3
7. Germany	6
8. Egypt	3
9. Iraq	142
10. Turkey	80
11. India	191
12. Iran	4
13. Israel	1
14. Russia	17
15. Greece	1
16. <u>Trinidad and Tobago</u>	2
17. Ukraine	1
18. Uzbekistan	1
19. Sweden	1
20. Sri-Lanka	32
Total	519

The issue of Nigerian, Sri-Lankan, and Iraqi students is a serious problem for the Medical University, as their number is significantly higher as compared to the students from other countries. However, Georgia does not have a consular representation in these countries.

Tbilisi State Medical University faced serious problems with the new law concerning the process of enrolling new students as well. The university uses a two-stage admission method due to high competition. The first stage includes testing, and the second is an in-person interview. It is therefore necessary for students to come to Georgia, and the new visa regulations make it significantly harder for them, if not impossible. According to the admission rules of Tbilisi State Medical University, after successfully completing both stages, the student's documentation is sent to the LEPL National Centre for Educational Quality Enhancement for recognition, and then to the Ministry of Education and Science of Georgia for enrolment. At this stage, the student does not hold proof of enrolment. After the LEPL National Centre for Educational Quality Enhancement recognizes their education received abroad, the Minister of Education and Science issues a legal act about the enrolment of the student, without taking the Unified Entry Examinations. Only after these procedures is the student enrolled in the university, and only at this stage can the student receive proof of enrolment. Students' enrolment is more complicated in the framework of the new visa regulations, as the visa law requires that students submit the documents confirming the purpose and conditions of travel¹³. It means that the student has to present the proof of enrolment, whilst he/she can only get it after arriving to Georgia, and as there is no option

¹³The Law of Georgia on the Legal Status of Aliens and Stateless Persons, Article 8, Paragraph a



of obtaining a visa from within Georgia, it is then necessary for them to go back to their home country and apply again for the study visa.

Apart from Tbilisi State Medical University and American University for Humanities, the students of Ivane Javakhishvili Tbilisi State University, Caucasus University, and International Black Sea University have experienced problems as well. The graph below points out that up to 300 students are subject to the new visa regulations.

Statistics on foreign students at Caucasus University, by year.

Country	2011-2012	2012-2013	2013-2014	2014-2015	Total
1. Iran	1	0	0	1	2
2. Russia	4	3	0	2	9
3. USA	0	1	0	0	1
4. Lebanon	0	1	1	0	2
5. Netherlands	0	1	1	0	2
6. Poland	0	0	2	0	2
7. Ukraine	0	0	2	0	2
8. Estonia	0	0	2	1	3
9. Austria	0	0	1	0	1
10. Latvia	0	0	1	1	2
11. Egypt	0	0	0	1	1
12. Turkey	0	0	0	1	1
13. Germany	0	0	0	1	1
14. Denmark	0	0	0	1	1
15. Switzerland	0	0	0	1	1
Total	5	7	9	11	32

Statistics on foreign students at International Black Sea University in the 2013-2014 academic year:¹⁴

Country	Number of Students
1. Turkey	88
2. Azerbaijan	3
3. Tajikistan	3
4. Kyrgyzstan	5
5. Russia	4
6. Ukraine	1
7. Nigeria	3
8. Egypt	3
9. Syria	1
10. Uzbekistan	3
11. Iraq	1

¹⁴Letter №342 (23/10/2014) from International Black Sea University

Statistics on the foreign students enrolled without the Unified Entry Examinations or Unified Postgraduate Examinations at Ivane Javakhishvili Tbilisi State University, by year and country¹⁵:

Country	2011-2012	2012-2013	2013-2014	2014-2015	Total
1. Georgia	6	54	43	0	103
2. Russia	3	44	32	24	103
3. Azerbaijan	8	26	10	2	46
4. Armenia	7	8	1	5	21
5. Latvia	1	1	0	0	2
6. USA	1	2	2	0	5
7. Iraq	0	37	125	90	252
8. Greece	0	2	1	1	4
9. Germany	0	2	6	0	8
10. UK	0	1	0	0	1
11. Syria	0	2	0	0	2
12. Lithuania	0	1	9	0	10
13. Belarus	0	1	1	0	2
14. Italy	0	0	1	0	1
15. Kazakhstan	0	0	1	0	1
16. Ukraine	0	0	1	2	3
17. Israel	0	0	1	0	1
18. Finland	0	0	2	0	2
19. Slovakia	0	0	2	0	2
20. Poland	0	0	3	0	3
21. Estonia	0	0	1	0	1
22. Austria	0	0	1	0	1
23. Iran	0	0	0	1	1
24. Turkey	0	0	0	2	2
Total	26	179	243	127	575

It can be concluded that the new visa regulations jeopardize the internationalization of Georgia's higher education sphere, which is one of the priorities of Georgia's education policy. Most likely, due to the new regulations, the number of students from Iraq, Nigeria, and Sri-Lanka will shrink, and likewise for the other countries which have a visa regime with Georgia, but with which Georgia does not have diplomatic representation. Concerning the other countries, the number of students will likely decrease as well due to the complicated visa procedures, which lowers the appeal of studying in Georgia and makes Georgia non-competitive compared to the rest of the countries in the region.

¹⁵ Letter №401 (19/11/2014) from Ivane Javakhishvili Tbilisi State University

3. Impact of the visa law changes on tourism in Georgia

According to the new law:

- Visas are not being issued at the state border of Georgia anymore. The visas are issued at Georgia's diplomatic representations abroad instead.
- If there is no diplomatic representation of Georgia in a certain country, the applicant should travel to the neighboring country, where there is diplomatic representation.

These legal amendments affected tourists coming from countries with which Georgia previously had a visa regime or with which a visa regime came into force after September 1. A visa-free regime was maintained with 94 out of 118 countries -- meaning Georgia cancelled the visa-free regime with 24 countries.

Georgia has a visa regime with 99 countries, and in 92 of them, Georgia does not have diplomatic representation.

Additionally, according to Article 8 of the Law of Georgia on the Legal Status of Aliens and Stateless Persons, an alien seeking to obtain a Georgian visa must undergo the following procedures: Apply to the visa-issuing body, stating the purpose of travel and the providing proof of health insurance and financial resources. An alien must obtain the visa for Georgia in his/her home country, in the diplomatic representation of Georgia. The alien should receive an answer about the visa within 10 calendar days, and in rare cases -- in 30 calendar days.

Therefore, it became significantly harder for the countries that have a visa regime with Georgia to enter the country. It is not known what criteria were used to create the list of countries with which Georgia uses a visa regime. One of the Georgian government's main arguments for the new visa regulations was converging Georgia's visa regime policy with EU visa policy.¹⁶ It is interesting whether the countries that are included on Georgia's visa regime list are also present on the list of countries defined by the EU Regulation no.539. Fifteen countries are present on both lists - Cuba, Dominica, Grenada, Haiti, Iraq, Marshall Islands, Micronesia, Mongolia, Namibia, Palau, Peru, Saint Kitts and Nevis, Saint Lucia, Suriname, and Trinidad and Tobago. In addition, five countries - Chile, Guatemala, Nicaragua, Paraguay, and Uruguay - have a three-month visa free regime with the EU, whilst they have a full visa regime with Georgia. Moreover, three countries - Bolivia, Niue, and Timor Leste - do not comply with the list of states mentioned in the EU visa regime policy.

List of 24 Countries, with which Georgia canceled the visa-free regime on September 1, and in which it does not have a diplomatic representation:

Country	Embassy/Consulate	Nearest Embassy/Consulate
Iraq	✗	Amman, Jordan
Bolivia	✗	Argentina
Chile	✗	Argentina

¹⁶<http://goo.gl/nSz1Jl>

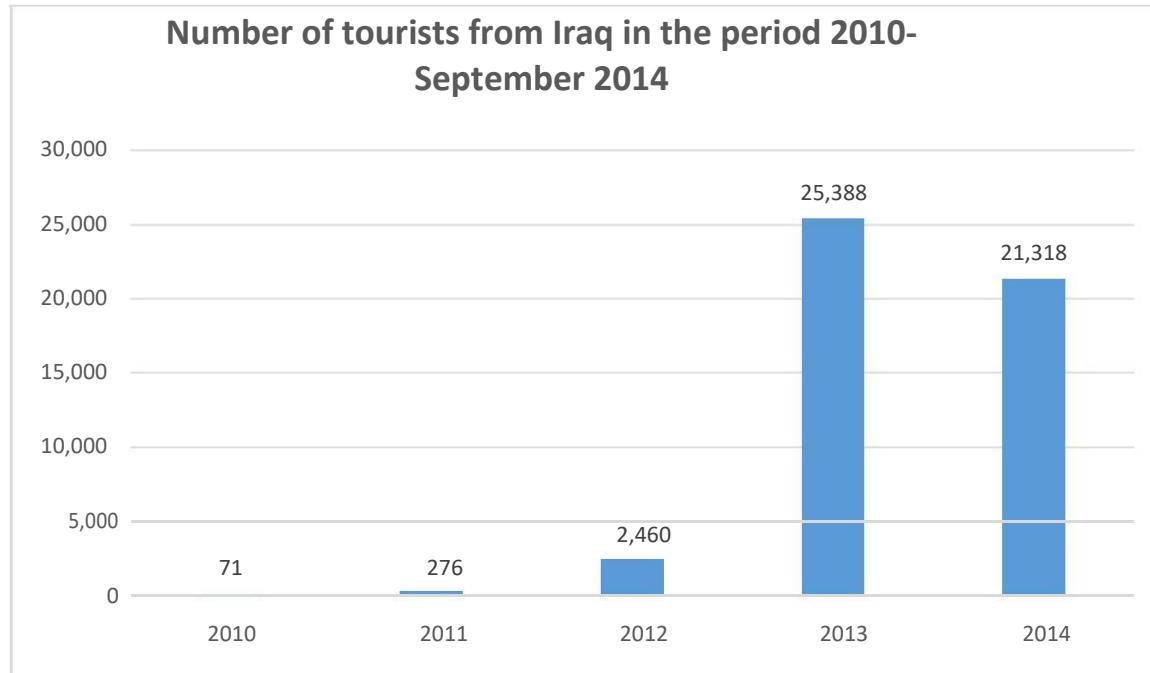
Republic of Cuba	✗	Mexico
Republic of India	✓	Republic of India
Guatemala	✗	Mexico
Paraguay	✗	Argentina
Peru	✗	Brazil
Uruguay	✗	Argentina
The Commonwealth of Dominica	✗	Mexico
Trinidad and Tobago	✗	Brazil
Saint Kitts and Nevis	✗	Mexico
Suriname	✗	Brazil
Saint Lucia	✗	Mexico
Mongolia	✗	China
Republic of Marshall Islands	✗	Japan
Republic of Nicaragua	✗	Mexico
Haiti	✗	United States of America
Grenada	✗	United States of America
Micronesia	✗	Republic of Indonesia
Namibia	✗	Federal Democratic Republic of Ethiopia
Niue	✗	
Timor Leste	✗	Indonesia
Palau	✗	Indonesia

The table above shows that of those 24 countries with which Georgia abolished the visa-free regime following the September 1 legal amendments, 23 do not have any diplomatic representation.

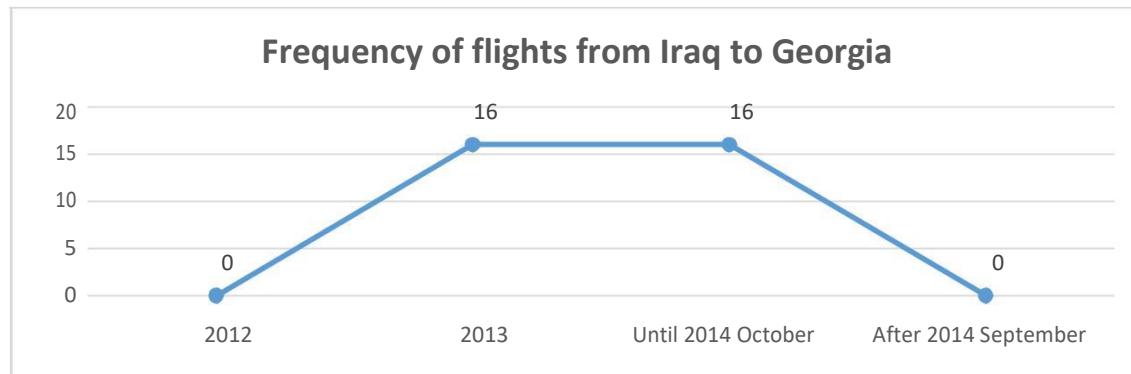
The criteria used for amending the list of visa regime countries are even more unclear. Iraq is an interesting case, as it was included in the visa regime countries list after September 1, whilst there is no diplomatic representation of Georgia in this country. According to the information provided by the



Ministry of Internal Affairs of Georgia, Iraq is among the top 20 countries by number of tourists. Iraq showed a significant growth in the number of tourists coming to Georgia in the period 2010-2013.



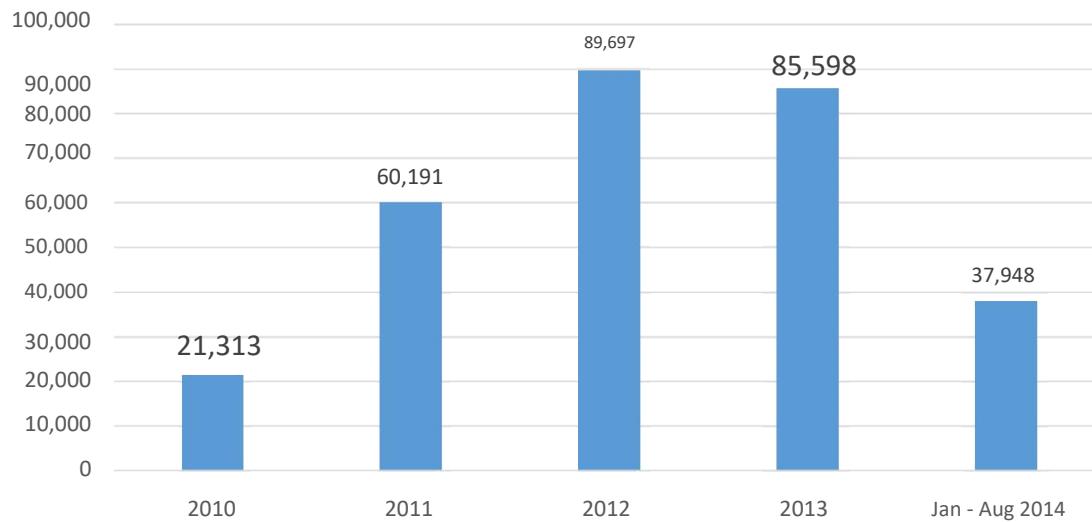
There were sixteen flights per month from Iraq to Georgia in 2013-2014. However, there have been no flights following the legal amendments (after September 13).



There is an analogous situation concerning Iran. Georgia abolished the visa-free regime with Iran on July 1 2013, even though, according to data by the Ministry of Internal Affairs of Georgia, Iran is among the top seven countries by the number of tourists, together with Russia, Armenia, Azerbaijan, Turkey, Ukraine, and EU countries. There was an increase in visitors from Iran in the period 2010-2012, whilst from 2013, the number of visitors has been decreasing, and this coincides with the abolition of the visa-free regime.

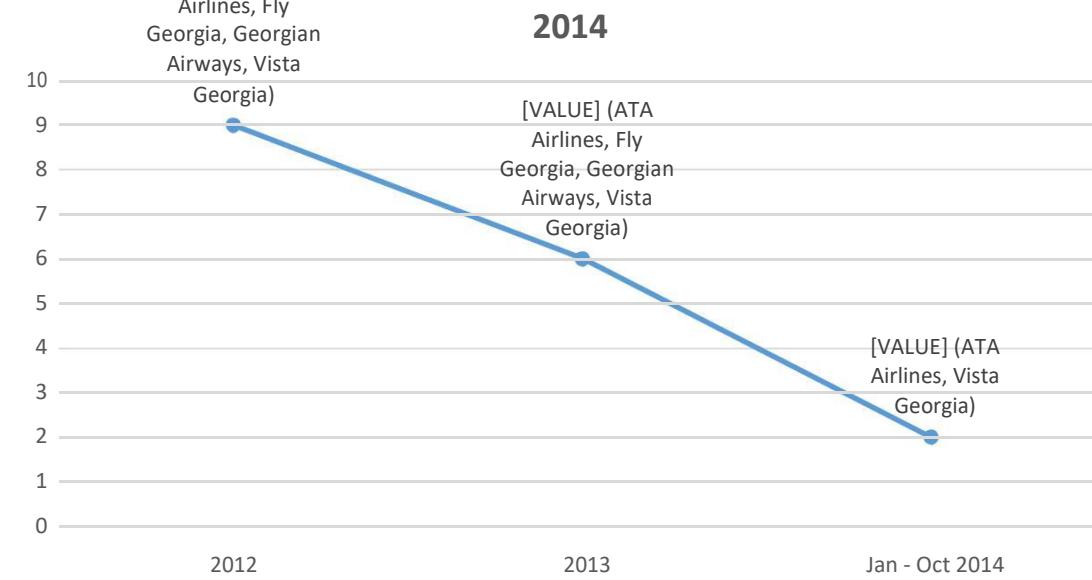


Number of visitors from Iran in the period 2010 - September 2014



It is noteworthy that there were nine flights from Iran to Georgia in 2012, whilst there is a decrease in flights in 2013-2014.

Frequency [VALUE] (ATA) of flights from Iran to Georgia in 2012 - October 2014



It is very easy to determine that the adoption of the visa regulations caused the decrease in the flow of tourists from Iraq and Iran. Nevertheless, we acknowledge that it is possible that the restrictions might be because of security issues. This argument was used by various officials to justify the tightening of visa regulations. For instance, according to the director of the consulate department of the Foreign Ministry of Georgia: "The change concerning the issuing of visas to Georgia in the diplomatic representations --



instead of at the state border -- was due to the fact that issuing the visa on the border created difficulties concerning the foreigners' data administration and implied security risks, as it is impossible to fully verify the data and the purpose of visit at the border."

Deeper investigation by GRASS showed that the security argument is not fully correct. First, it is noteworthy that in the process of issuing visas -- both on the state borders of Georgia and at the consulates of Georgia abroad -- is based on the databases of the Ministry of Internal Affairs of Georgia and Ministry of Justice of Georgia. Therefore, the decision that the patrol makes at the border concerning the issuing of visas is based on the same database that the consulates abroad will use after the adoption of the new visa regulations. Moreover, Georgia does not have any additional mechanisms to verify the identity of a Nigerian national, for instance; therefore it does not matter if the Nigerian citizen is issued a visa on the state border of Georgia, or via the embassy of Georgia in Cairo, Egypt.

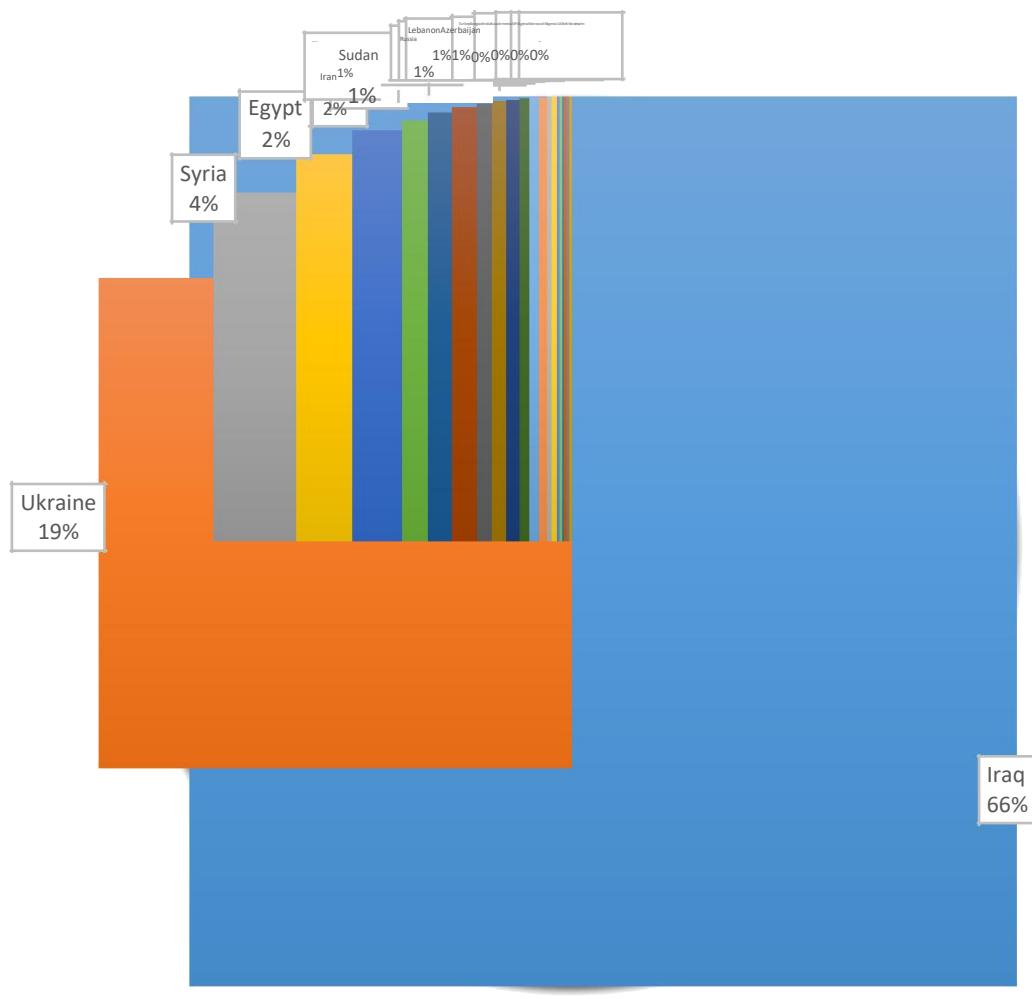
To explain the argument concerning security, GRASS addressed the Ministry of Internal Affairs of Georgia with a question on October 8, 2014. According to letter № 24-88012 received on December 8, 2014 from the Ministry of Internal Affairs of Georgia: "The risks and threats implied not the threats created to the country, but the condition that under the previous version of the law, it was impossible to control further the persons that entered the territory of Georgia with a visa, making the correct management of the migration processes impossible as well. The given risks and threats became one of the main reasons for the consequent legal amendments."

It is unclear what "to control further" implies or means, as Georgian legislation does not allow the Ministry of Internal Affairs to control persons that are entering or residing in Georgia. If it concerns criminal control (including the violation of visa terms), it is possible to implement both on the border and based on the visa issued in the consulate.

As for the possible crimes committed by aliens on the territory of Georgia, that might have been one of the reasons for tightening the visa regime, the response letter from the Ministry of Internal Affairs does not mention them at all. According to the information that we possess, there is no statistical data showing that the increase in number of migrants from Iraq and Iran contributed to an increase in the crimes committed by the nationals of these countries in Georgia.

The increase in number of visa regime countries might be due to the large number of asylum-seekers from the occupied territories. Nevertheless, based on the statistical data provided by the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia, among the 24 countries with which Georgia abolished the visa-free regime, only Iraq and Iran stood out by the number of asylum-seekers. In 2014, 21,318 Iraqi citizens visited Georgia and 736 of them were asylum-seekers.

Statistics of Asylum-Seekers in Georgia



Legend:

- Iraq ■ Ukraine ■ Syria ■ Egypt ■ Iran ■ Sudan ■ Afghanistan ■ Russia
- Lebanon ■ Azerbaijan ■ Turkey ■ India ■ Kuwait ■ Armenia ■ Stateless
- UAE ■ Algeria ■ Pakistan ■ Mali ■ Nigeria ■ Morocco

The data points out that in 2014, 3.5% of the visitors from Iraq requested asylum. Considering the increasing number of tourists from Iraq, the government should have closely assessed the positive and negative sides of the existence of the visa-free regime with Iraq. On the other hand, in the same year, only 0.06% of Iranian visitors were asylum-seekers. The data provided by the Ministry of Internal Affairs of Georgia also points out that of all the illegal border-crossing activities (or attempts) in January - June 2014, only one was committed from Iraq and none from Iran.

One of the problems that emerged after the legal amendments of September 1 is of communication. Neither state institutions, nor tourists intending to come to Georgia were adequately informed about the changes:

- A tourist purchased a ticket to visit Georgia, but then the visa law changed. The tourist addressed the Ministry of Foreign Affairs of Georgia for assistance, but the ministry responded that they were unable to help him/her and that the tourist would have to go to the consulate of Georgia and apply for a visa. There was no diplomatic representation of Georgia in his/her country, meaning the tourist would have to go to a third country to apply for the visa.
- A citizen of Spain but residing in Dubai intended to visit Georgia in March 2015, for touristic purposes. He found out that in order to obtain a Georgian visa, he had to go to the consulate of Georgia --in Spain. He decided to cancel his trip because of the additional time and funds. According to him, last year he could easily come to Georgia because he could get the visa on the border, and the visa fee was less.
- A citizen of Canada applied for a residence permit before September 1. He had all the necessary documentation to prove that he indeed obtained the residence permit, minus the residency ID card. He went abroad and returned to Georgia after September 1, and was asked at the border to present these documents. As he did not have the ID card, the border control staff became confused on how to proceed. Finally, he was allowed to enter the country as a tourist, since Canadian citizens do not need a visa.

One of the main problems that emerged following the legal amendments on September 1 informing foreign citizens about the given amendments. As it turned out, neither state facilities, nor the diplomatic corps and the tourists intending to visit Georgia were adequately informed about the visa changes.

Considering the economic development level of Georgia, the Government of Georgia should focus on increasing the number of tourists coming in, and should create an appealing environment for tourists. Abolishing the issuing of visas on the state border and canceling the visa-free regime with countries from which there is a high inflow of tourists, unambiguously results in the loss of lots of potential tourists and will slow down the trend of growing tourism,

4. The consequences of tightening the visa policy on the aliens living in Georgia

The amendments made in the Law of Georgia on the Legal Status of Aliens and Stateless Persons created serious problems for the foreigners that are permanent residents of Georgia (and for former citizens of Georgia whose citizenship was suspended because they were granted citizenship of another country). Foreign citizens who used to be allowed to enter Georgia without a visa, and stay in the country for 90 days or more (every new term used to be calculated from each border crossing), found themselves in new, uncomfortable conditions.

Article 10 Paragraph 2 of the Law of Georgia on the Legal Status of Aliens and Stateless Persons says: "An alien who does not need a short-term visa for entry into Georgia shall enter and stay in Georgia for a maximum of 90 calendar days in any 180-day period, starting from the date of his/her initial entry into Georgia." It means that those who intend to stay in Georgia for more than 90 days in any 180-day period should either apply for the respective visa, or obtain a residence permit. But an essential factor is that now, "a Georgian visa shall be granted at diplomatic missions and consular offices of Georgia abroad" (Chapter 3, Article 6, Paragraph 1), whereas the old regulations allowed for obtaining a Georgian visa within the country as well.



As for obtaining the residence permit, Article 8 of Resolution №520 of the Government of Georgia dated September 1, 2014, concerning the procedures for obtaining residency for former citizens of Georgia, says:

"To obtain the residence permit of Georgia, the foreigner who has had his/her citizenship suspended should present a document proving his legal stay in Georgia in the agency (in this case - visa)."

It means that a person who is a permanent resident of Georgia, has family here, and was deprived of their Georgian citizenship because they were granted the citizenship of another country, should undergo the following procedures to obtain a residence permit: Go to the country whose passport he/she holds, apply to the diplomatic representation for the respective type of visa, wait for the answer (that may last up to 30 days), return to Georgia in case of being issued the visa, and apply for the residence permit from within Georgia. Thousands of foreigners residing on the territory of Georgia experienced such problems after the enactment of the law. It should be pointed out that following the amendments adopted by the Parliament of Georgia on November 14, 2014, the problems for the people in this given category have been partially solved.

Proceeding from the fact that the majority of permanent residing aliens in Georgia are citizens of the Russian Federation, with which Georgia does not have diplomatic relations, it is easy to imagine what kind of problems these people faced after the adoption of the new law. The majority of them will not be able to undergo the compulsory procedure. The law, which intended to reduce the number of illegal immigrants in the country, will indirectly facilitate an increase in people residing illegally.

One person's story in this situation:

"I am an IDP from Abkhazia, and disabled. In 2014, the Russian section of the Embassy of Switzerland granted me a passport of the Russian Federation, so that I could undergo medical treatment in Moscow. Due to severe financial and physical conditions, I did not manage to go for treatment. As I live in Kobuleti municipality, I was crossing the Turkish border every three months with the help of my relatives and instantly coming back [in order to reside legally in Georgia]. I have been saving money to apply for the residence permit for four months already. Sadly, my application was rejected, as I didn't have the respective visa. They explained to me that I have to get a visa in the Russian Federation, whilst this is impossible for me. It turns out that I cannot live in my home country anymore."

The new law is not only a problem for citizens -- it does not in accordance with the Security Concept of Georgia either. According to an extract from the Security Concept of Georgia, the national interests of Georgia are: "**Providing demographic security**, supporting a healthy lifestyle, increasing life expectancy, encouraging the repatriation of Georgians living abroad and other compatriots, and facilitating their further reintegration."

Despite this key component of the Security Concept of Georgia – supporting the repatriation and reintegration of compatriots from abroad -- the new law creates an environment of bureaucratic hurdles that negatively affects this goal. It undermines the process of bringing back Georgian compatriots and hinders their will to repatriate and serve the interests of our country.

There is also a humanitarian problem. Several young people have repatriated from the Fereydan province of Iran. They have been baptised as Orthodox Christians and are currently trying to integrate with Georgian society. For them, going back to Iran to apply for Georgian visas could have disastrous



outcomes, given Iranian state policy on converting. Therefore the new law does not give them another choice but to be illegals in their historical homeland. It is noteworthy that following the amendments of November 14, 2014, problems for people in this category have been partially solved. Nevertheless, they may still experience such problems after March 2015.

The new law also created problems for the Ingilos living in Azerbaijan. A number of young people living in Saingilo are receiving higher education in Georgia. According to the new law, the problem is in the duration of stay of 90 days in any given 180-day period. The new law had negative financial and moral consequences for the inhabitants of Saingilo.

5. Consequences of tightening the visa regime on foreign investors

Following the enactment of the new law, foreigners wishing to invest in Georgia face significant problems. Now to stay in the country longer than 90 days within a 180 days period, foreigners and investors alike need a residence permit, but now there are significant bureaucratic barriers obstacles to obtain a residence permit. The new regulations create an uneasy environment for foreign investors, so that they are forced to reduce the number of visits to Georgia, hence reducing spending and investments.

In an interview with The Financial, Lui Bo, the Commercial and Economic Chancellor of the Embassy of China, said that the Georgian government's visa policy negatively affects Chinese investments. He says that up to 30 delegates from China visited the country and were eager to invest in the energy sector, and already had their meetings arranged. However, after 45 days they are still waiting for their visas. He also said that China Southern Airlines has flights between Georgia and China, and where before September 2014 the number of passengers exceeded 100, nowadays there are usually only 15-20 people on board, and the flights are likely to close down.

As our research shows, there are at least two cases of investors coming to Georgia from Asia and being denied a visa. There is a possibility that the Ministry of Internal Affairs denied the visas based on operative information. Nevertheless, it is more likely that the decision on issuing the visa is made without operative information and only according to a particular officer. For instance, there has been a case in which all members of a delegation travelling from an Asian country to Tbilisi received a visa except for one person, who was denied the visa unreasonably.

6. Unfounded denials for issuing visas to foreign nationals

From September 1, 2014, the new edition of the Law of Georgia on the Legal Status of Aliens and Stateless Persons included new entries concerning the denial of citizenship requests. According to Subparagraph e of Article 11, an alien may be refused a Georgian visa or entry into Georgia if his/her stay in Georgia poses a threat to 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. In addition, according to Subparagraph f, the application or entry may be rejected without substantiation, if his/her stay in Georgia is unacceptable because of foreign policy considerations.

According to our information, since September 1, 2014, no denial of visa or residence permit has been substantiated, meaning that in every case, the reason for denial was either under paragraph e or f.



There are a number of cases in which a foreigner applying for a visa has lived in Georgia for years, but is denied the visa or residence permit based on the national security or public order argument. In some cases the denials are comical and absurd. For example, a member of a higher education institution's academic staff was denied a residence permit based on national security interests. Considering that the person had been living in Georgia for five years, never had any problems with the law, and was allowed to stay on the territory of Georgia for several months despite being denied the residence permit, the denial on the grounds of national security is often due to the absence of any argument. The core of the problem is that the Counter-Intelligence Department of the Ministry of Internal Affairs of Georgia is not obliged to substantiate the refusal on a question submitted from the respective LEPL of the Ministry of Justice of Georgia. This often leads to inadequate and xenophobic decisions for denials.

7. Conclusion and recommendations

Even though the Association Agreement with the EU and the Visa Liberalisation Action Plan required Georgia to arrange its immigration policy, it is invalid to claim that the EU wanted Georgia to adopt such restrictions and create unjustified bureaucratic barriers. None of the commitments that Georgia has made to the EU requires restricting the terms of residence of EU citizens in Georgia, creating additional barriers for foreign students, defining the list of visa regime countries in the closed way the Georgian government did, and the determination not to issue visas on the state border.

Changing the immigration policy and amending the law was indeed necessary. However the law could have been changed considering the economic, investment, and education interests of the country. Throughout the last years, Georgia's priorities have been the attraction of investments and developing tourism. The amendments clearly showed that the foreign investments shrank and that tourism was negatively affected as well. Statistical data of October 2014 shows that 2.4% less visitors entered the country as compared to the same period of the last year.¹⁷ This is the first time that happened since 2006. The number of visitors in November 2014 also declined by 3.8%,¹⁸ as compared to the same period last year. In fact, the declining number of visitors -- together with other factors -- was a reason for the decrease in dollars in the country, which subsequently caused the national currency to devalue.

Moreover, the given amendments caused serious problems for many people and caused their justified resentment. Following the interference of the civil sector, the legislative government partially re-thought the new problems, which eventually resulted in further legislative amendments in November 2014. The law set certain concessions until March 1, 2015. Nevertheless, since September 1, 2014, many foreigners found themselves in unclear situation that negatively affected the image of the country. The new law brought no qualitative changes, except the reckless tightening of the visa regime. A new law is created to solve old problems and introduce innovations. However, the same problems persisted and new ones emerged. Shortly, the new law:

1. Negatively affected tourism;
2. Created problems in the education sector for foreign students;

¹⁷ <http://police.ge/ge/saqartvelos-sazghvarze-gadaadgilebul-vizitorta-statistikuri-monatsemebi-2014-tseli-oqtomberi/7294>

¹⁸ <http://police.ge/ge/saqartvelos-sazghvarze-gadaadgilebul-vizitorta-statistikuri-monatsemebi-2014-tseli-noemberi/7431>



3. Foreign nationals residing in Georgia found themselves in an unclear situation;
4. Created the threat that the foreigners who positively and favourably affect the country's image will leave the country, because of the unfavourable conditions;
5. Jeopardized the goal of facilitating the repatriation of compatriots who are working abroad to the homeland;
6. Created problems for foreign investors;
7. Did not change the faulty immigration practice, in which the absence of substantiation for the counter-intelligence department for denying visas allows inadequate and xenophobic decisions to be made.

Therefore, Georgia's Reforms Associates thinks that the following legal amendments can be made to eradicate the aforementioned negative effects. Mainly:

1. Repeal the article in the law that restricts the possibility of receiving visas on the state border;
2. Revise the list of countries which were subject to an abolition of a visa-free regime with Georgia;
3. Restore a visa-free regime with Iran and Iraq;
4. Make the law regulate the mechanisms for refusals for the various documents, and charge respective bodies to write a substantiated conclusion for denials;
5. Exempt the foreign citizens who had their Georgian citizenship suspended from the obligation to get a visa first to apply for a residence permit;
6. Exclude the denial of issuing residence permits on the same basis as the visa previously issued to a foreigner;
7. Give concessions to the Georgians living in Fereydan and Saingilo.

This document was brought to you by:

Elene Khoshtaria, Nini Jashi, Giorgi Jangiani, Tariel Kipshidze, and Sergi Kapanadze.