**ORDER #631**

**of the Minister of Internal Affairs of Georgia**

**August 19, 2014**

Tbilisi

**On approval of the rule of detention and placement of aliens in the Temporary Accommodation Center**

According to the paragraph 9 of the Article 64 and the paragraph 3 of the Article 71 of the Law of Georgia #2045 “on the Legal Status of Aliens and Stateless Persons” of March 5, 2014 I

**HEREBY ORDER:**

**Article 1.**

Approve the attached rule on detention and placement of aliens in the Temporary Accommodation Center.

**Article 2.**

The Order shall be effective from September 1, 2014.

**Aleksandre Chikaidze**

 **Minister of Internal Affairs**

*Attachment*

**Rule on Detention and Placement of Aliens in the Temporary Accommodation Center**

Article 1.Grounds for detention of aliens and their placement in Temporary Accommodation Center with the purpose of removal from Georgia

1. With the purpose of expulsion from Georgia, due to the place of detention and existing capacities aliens may be placed in Temporary Detention Isolator (hereinafter referred to as “Isolator”) or in Temporary Accommodation Center (hereinafter referred to as “Center”). Aliens placed in an isolator shall be transferred to a center according to Georgian legislation as soon as the court makes the decision on his/her detention.
2. An alien may be detained and/or accommodated to a center:

a) if the alien unlawfully staying in Georgia cannot be identified;

b) if there is a risk that the alien unlawfully staying in Georgia may abscond;

c) if the alien failed to fulfil the obligations prescribed by alternative means of detention determined by the judge;

d) if the alien unlawfully staying in Georgia threatens to state security of Georgia and public order;

e) if the alien unlawfully staying in Georgia threatens to his/her own life and health;

f) to ensure the enforcement of a decision on expulsion of the alien from Georgia;

g) to ensure bringing the alien before the court.

3. If there is one of the grounds prescribed by the second paragraph of this article, a detained alien may be placed in the center either before or after the decision on his/her expulsion from Georgia is made.

**Article 2. Rules for Detention**1. The term of detention shall not exceed 72 hours.

2. Within not later than 48 hours after detention, an alien shall be brought before the court for making a decision on his/her accommodation to a center. If the court does not issue a decision on his/her accommodation to a center within the next 24 hours, the alien shall be released immediately.

3. Upon detention, an alien shall be informed in the language and in the manner he/she understands of the following:

a) grounds for detention;

b) right to hire a lawyer;

c) right to notify any desired person/close relative of his/her detention;

d) right to apply to a diplomatic mission/consular office;

e) right to request medical examination;

f) right to appeal the detention.

4. In compliance with the rule envisaged by the legislation an individual authorized for detention has the right to conduct casual inspection and superficial examination of objects.

5. The detained alien shall be immediately transferred to the center or isolator.

6. The detained alien shall be allowed to notify immediately any desired person/close relative of his/her detention, in case of necessity the notification shall be done by the application of the resources of an authorized body. In case the detained alien is a juvenile or is in helpless condition (person temporary deprived of the right to realize his/her own rights independently) the notification of his/her detention shall be done by the authorized body of the Ministry of Internal Affairs of Georgia (hereinafter referred to as the “Ministry”). The fact of detention of a juvenile shall be notified to his/her legal representative or/and relevant authorized body.

7. With the purpose of relevant response of the body authorized for expulsion, an individual authorized to accomplish detention shall immediately inform the relevant on-duty unit about the fact of detention of an alien.

8. As a rule juvenile without supervision (a juvenile without a guardian, caring person or/and any legal representative) or the family of a juvenile shall not be transferred to the isolator.

9. A juvenile without supervision or a family shall be allowed to the Center only in extreme case and for a very short period, considering their best interests.

10. Separation of a juvenile from his/her parents against their will shall be impermissible except the cases when an authorized agency applying acting legislation and procedures decides that separation is necessary for protection of the best interests of a child.

**Article 3. Detention protocol**

1. An individual authorized for detention shall draft a detention protocol (annex #1) immediately. In case when drafting of the detention protocol for objective reason/reasons is impossible, it shall be drafted immediately upon bring of the detainee to the place determined by the first paragraph, the article 1 of the present rule. The detention protocol of an alien is not a document of strict registration.
2. In the detention protocol of an alien shall be indicated: date and time of its filling; working place of a person completing the report, his/her precise position, name, surname; certificates on detained alien; working place, position, name, surname and telephone number of an individual performing factual detention; place, time, circumstances of detention and other additional information (including information on physical condition in case of visible signs, place of accommodation of an alien and etc.); relevant reason in case the protocol is not drafted in the place of detention; ground/grounds for detention; explanatory note on the right of an alien; protocol shall be signed by an individual in charge for its completion, detained alien, alien`s lawyer (if any), representative interpreter. In case the detained person refuses to sign a protocol the mentioned shall be indicated in the protocol.
3. One copy of a protocol shall be handed over to the detainee.

**Article 4. Mediation on accommodation of an alien in the center**

1. In cases envisaged by the Article 64 of the Law of Georgia “on the Legal Status of Aliens and Stateless Persons” the authorized body of the Ministry shall present a mediation to the court for review the issue of accommodation of an alien in the center.
2. The mediation shall indicate:
3. name and surname of an alien, date, month and year of birth, citizenship, place of registration and etc.;
4. grounds for accommodation in the center;
5. attached materials;
6. name and surname of an authorized person, position and signature.

**Article 5. Accommodation in the center**

1. The detained alien shall be allowed to the center at any time during day and night. The ground of his/her acceptance shall be the detention protocol or court decision.
2. The detained alien shall be accepted to the center by an authorized person/persons, the mentioned is registered in the relevant electronic registry and relevant electronic program.
3. An alien placed in the center shall be subject to personal inspection and primary medical examination.

**Article 6. Personal inspection of a detained alien**

1. Personal inspection of a detained alien may be conducted only by a person of the same gender in presence of an individual of the same gender. Personal inspection of an alien and his object/objects is conducted in order to prevent any threat, in case there is a threat that an alien shall use an object/objects with the purpose of causing injury to his or others life or/and health or damage other`s property. Upon completion of the inspection a relevant protocol shall be drafted (Annex #2). The protocol shall be signed by an individual completing it and an alien himself/herself; in case of personal inspection of a juvenile, disabled or helpless person – his/her legal representative; in case of absence of the latter (legal representative) the relevant note shall be made in the protocol. The personal inspection of a detained alien is not a document of strict registration.
2. While accommodation in the center:
3. an alien shall be deprived of all those objects, which are not allowed to be kept in the territory of the center;
4. the clothes of an alien shall be examined and inspected carefully by an authorized employee of the center;
5. the weight, height and other data shall be stated and finger prints taken (finger prints of a juvenile under 14 shall not be taken);
6. an alien shall be allowed to keep the objects, items and food determined and permitted by the internal regulations;
7. money, valuables, jewelry, securities, the same type objects and items as well as personal belongings which were deprived during the examination shall be sealed and handed over to an authorized person to store them in a special place;
8. expired items as well as objects prohibited to be kept in the center (alcoholic beverage and etc.) shall be immediately destroyed and relevant report shall be completed.
9. Personal belongings of an alien deprived during the personal inspection shall be kept in the center to the moment he/she leaves the center.
10. In case of detection of firearm, ammunition, explosive substances or explosives, cold weapon, drugs, its analogs, new psychoactive substances, psychotropic substances or its analogs, forged documents and bank-notes the notification shall be immediately forwarded to the relevant unit.

**Article 7. Medical examination/inspection of detained aliens**

1. Before accommodation in the center the detained alien shall be questioned by an authorized person (medical personnel of the center) concerning his/her health condition; examination shall be performed carefully in a separate room without presence of other persons (in case of request the issue of gender shall be taken into consideration).
2. Upon bringing to the center the relevant medical certificate shall be drafted on primary examination of the health condition of an alien.
3. In case if the health condition of a detained alien requires additional medical examination, the responsible on-duty officer of the center shall immediately call relevant medical personnel, medical emergency team or a doctor of a nearest medical institution of a healthcare bodies in order to draft a report on possibility of accepting of such person to the center.
4. In case if according to the report of a medical person the accommodation of a detained alien in the center is not advisable, the transportation of the detained alien to the relevant medical institution shall be ensured. Protection and escorting of persons placed in the medical institutions shall be done in the manner envisaged by the legislation.
5. Upon personal inspection and medical examination of an alien an authorized person of the center shall familiarize him/her with the rules of the center, his/her rights and obligations and ask him/her if he/she has any complaints and consequently accommodate him/her in the center in full observation of the rules determined by the legislation.

**Article 8.**  Rights of a detained alien and guarantees

The center shall ensure:

1. impermissibility of discriminating, degrading and humiliating treatment towards an alien;
2. treatment corresponding to his/her gender, age, cultural, religious and other characteristics;
3. protection of the principle of integrity while accommodation of a family in a Temporary Accommodation Center;
4. protection of juvenile rights;
5. separate accommodation of women and men.

**Article 9. Right of use of force**

The right of use of force is allowed against the detained alien if he/she physically resisting to the officers of the center or performs other forcible acts in the center as well as during the escorting, in case of attempted escape and causing physical injury to himself/herself or people around. In case of use of force the handcuffs and other binding means shall be allowed. Under the Law of Georgia on Police the other means of security may be used in case of extreme necessity, as well as in case of causing danger to the life and health by an alien the use of firearm as an extreme measure shall be allowed. In case of use of any special means an authorized person shall draft a protocol indicating the place and grounds for application of a relevant security measure and duration of being of the detained alien bound with handcuffs or other binding means.