



GYLA urges the Public Service Development Agency to revise the practice of granting residence permits

Recently it has been reported that Georgia has been refusing to grant a residence permit to Azerbaijani political activists, journalists and human rights advocates.

For many years Georgian Young Lawyers' Association has been providing legal aid to individuals that have been refused a residence permit without a valid reason. Cases studied by GYLA suggest that the refusal of the Public Service Development Agency to grant a residence permit is mostly based on individual opinions of the Department of Counterintelligence of the State Security Service about inadvisability of residency of a person concerned in view of the cause of safeguarding the state and/or public security interests. Here we must also note that the opinion of the Department of Counterintelligence is a secret document, meaning that it cannot be accessed by the Public Service Development Agency and arguments provided in it cannot be verified

or challenged by the individual concerned.

In addition, the so-called “negative opinion” of the Department of Counterintelligence does not mean that the Public Service Development Agency no longer has the right to make a positive decision with regards to the residence permit request, because there may be other cumulative circumstances that allow granting of a residence permit despite the said negative opinion.^[1] **However, unfortunately in practice the “negative opinion” is sufficient grounds for the Agency to refuse a residence permit, meaning that the Department of Counterintelligence is the decision-making body when it comes to granting of residence permits.**

Even when the Public Service Development Agency refuses to grant a residence permit, it is important to study the issue in a comprehensive manner, even more so considering that court’s decisions have proven on numerous occasions that opinions of the Counterintelligence Department were unsubstantiated.

For instance, when evaluating a letter from the Department of Counterintelligence, Tbilisi Appellate Court^[2] stated: “arguments provided in the letter of the Department of Counterintelligence of the State Security Service were unsubstantiated and therefore, they didn’t provide grounds for a reasonable doubt that [the appellant’s] residency in Georgia is inadvisable in view of the cause of safeguarding the state or public interests.” In the very same case the court explained that the Public Service Development Agency had an obligation make a decision about a residence permit by examining all applicable criteria determined by the law, and evaluating and comparing all factual circumstances.

GYLA affirms that protection of state and public interests is an important priority but it is unacceptable to refuse a residence permit without a valid reason and based on hypothetical threats. In view of the existing practice, GYLA urges the Public Service Development Agency to grant residence permits in abidance by the law and even if the opinion of the Counterintelligence Department is negative, evaluate all other circumstances that may potentially outweigh the negative opinion.

GYLA stands ready to continue providing legal aid to individuals whose requests for a residence permit were refused without a valid reason.

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



[1] Under para.1 of Article 18 of the Law of Georgia on Legal Status of Aliens and Stateless Persons, 1. an alien may be denied a residence permit in Georgia if: a) 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.

[2] 15 December 2015 decision of Tbilisi Appellate Court, case #3b/157-15);