

# Standard Operating Procedures for Vacation and Re-allocation of IDPs for Durable Housing Solutions

## 1. Scope and Purpose of the document

These SOPs aim to regulate the process of both the re-allocation and the vacation of IDPs from their present place of residence and the provision of durable/alternative housing solutions. These SOPs constitute an integral component of the comprehensive multi-effort to identify Durable Housing Solutions for all IDPs in need of housing, first and foremost for those residing in buildings with Collective Centre status, as outlined in the Georgian Law on Internally Displaced Persons – IDPs and the Action Plan for the State Strategy on IDPs<sup>1</sup>.

These SOPs are foreseen to guide all Government agencies involved in the re-allocation/vacation process (hereinafter referred to as the Government agencies) of re-allocation and vacation of IDPs from their present places of residence, particularly - the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia (hereinafter referred to as the MRA).and the Ministry of Internal Affairs of Georgia (hereinafter referred to as the Police),

These SOPs take into account the rights and interests of all effected stakeholders, including property owners, IDPs, State Actors and the general public by offering a bases for transparent and fair procedures, which strive to protect and to find equilibrium between competing rights and interests. Therefore, the document assigns clear roles and clarifies the responsibilities of all parties involved in the re-allocation/vacation process.

The SOPs are based on the following legislative acts and strategic documents: Law on Internally Displaced Persons – IDPs<sup>2</sup>, Decree<sup>3</sup> of the Prime Minister on Approving the State Strategy on IDPs, Decree<sup>4</sup> of the Prime Minister on Approving the Action Plan for Implementation of the State Strategy, Guiding Principles on Alternative Durable Solutions<sup>5</sup> and Decree of the Minister of Internal Affairs<sup>6</sup>.

This document intends to protect the rights and clarify the responsibilities of all parties involved in the vacation/re-allocation process, including those of the internally displaced persons in Georgia.

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<sup>1</sup> Decree #403 of the Prime Minister as of 28 May 2009 on Approval of the Action Plan for the State Strategy on IDPs last updated on 11 May 2010.

<sup>2</sup> Law on Internally Displaced Persons – Persecuted was adopted in 1996 and amended on 9 June 2006.

<sup>3</sup> Decree #47 of the Prime Minister as of 2 February 2007 on Approval of the State Strategy on IDPs”.

<sup>4</sup> Decree #403 of the Prime Minister as of 28 May 2009 on Approval of the Action Plan for the State Strategy on IDPs last updated on 11 May 2010.

<sup>5</sup> Guiding Principles on Durable Housing Solutions – document elaborated by the MRA Legal and Outreach TEG (Temporary Experts Group) and adopted by the MRA Steering Committee. *Note: MRA Steering Committee was created by the Government of Georgia to oversee the implementation of the IDP Action Plan.*

<sup>6</sup> Decree #747 of the Minister of Interior of 24 May 2007 “On Approving the Rules for Curbing the Encroachment on or other Interference in an Immovable Property Object”

## 2. Initiation of the Re-allocation/ Vacation Process

The re-allocation/vacation of IDPs from their place of residence can only be initiated by the legal owner of the building, whether a Government entity, private legal body or individual. The request to vacate the inhabitants hindering the use of the property must be made in the form of a written statement addressed to the police in the relevant district, where the building is located, and contain all information and supportive documentation as foreseen in the Decree #747 of the Minister of Internal Affairs.

The owner, before applying to the police, addresses the MRA to check, whether the premise which s/he requires to vacate, is resided by IDPs<sup>7</sup> and annexes the written reply by the MRA with the application to the police.

When and where the Government becomes aware that a building hosting IDPs may be at risk of collapsing, or otherwise poses a serious risk to individuals' health, re-allocation/vacation must be initiated without delay in line with health and safety regulations. In case of acute danger, time limits referred to in the SOPs maybe wavered, but procedure protection, as to the allocation of alternative housing, still applies.

## 3. Roles and mandate of the actors involved/Focal Points identified

### 3.1. The MRA is responsible:

3.1.1 to clarify (a) whether the building in question has the Collective Center (therein after CC) status or not and (b) whether any of the individuals residing in the building have been granted IDP status or have an application for such status currently pending at the MRA, with a view to secure the specific protections against eviction of IDPs are respected<sup>8</sup>;

3.1.2 to assess on the bases of individual data verification and profiling exercise, whether alternative housing solutions had been or can be offered, whether legal requirements for exceptional eviction under the Law on IDPs have been met and whether consensus to an eviction can be given to the owner or the Police;

3.1.3 to inform IDPs about alternative housing solutions, the relocation process and whether consensus to re-allocation/vacation has been granted to the owner or the Police, or whether a document certifying the inexpediency/inappropriateness of such measures has been issued;

3.1.4 to oversee the effective implementation of the re-allocation process with the view to prevent homelessness and coordinate the physical re-allocation of IDPs, including the transfer of the IDP's personal belongings to the new place of residence.

The Ministry takes responsibility to check the status of the CC subject to vacation and identification of IDPs residing in the building. The Ministry also undertakes verification of personal information, takes decision on case-by-case basis, provides IDPs with information and consultation, submits relevant letters to the police, and supervises the process of eviction/re-allocation of IDPs, transfer of personal belongings of the IDPs to a new residence place.

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<sup>7</sup> Decree #747 of the Minister of Interior of 24 May 2007 "On Approving the Rules for Curbing the Encroachment on or other Interference in an Immovable Property Object" Art 3 Para 3 (c)

<sup>8</sup> Law on IDPs Art 5

*3.2. The Police are responsible:*

3.2.1 to process requests under Decree #747;

3.2.2 To establish whether (a) the applicant has legal ownership status (b) the requirements outlined in Decree #747, including profession of mandatory documentation, are met;

3.2.3 To verify, in case no note of the MRA has been submitted according to Decree #747 Art 3 Para 3 (c), that no IDPs are residing within the building concerned or if IDPs are directly identified they promptly inform the MRA;

3.2.4 to inform the owner of the property if a document certifying the inexpediency/inappropriateness of implementing measures of curbing encroachment has been received from the MRA or other facts requiring suspension or termination of measures have come to light<sup>9</sup>;

3.2.5 to issue warning letters according to Decree #747 Appendix 1, if requirements to this Decree have been met;

3.2.6 To secure that executive measures will only be taken once the SOPs has been concluded and where necessary, ensuring the principle of proportionality is adhered.

**4. Definition of ‘adequate durable housing/temporary housing’ for the purpose of this document.**

**4.1. Adequate Durable Housing** – a living unit the property of which will be transferred to an IDP (to an IDP family) and which meets the technical, sanitary and living standards recognized and utilized for shelter rehabilitation and construction of CC in Georgia (see Annex #1). This living unit shall be equipped with gas (where it is feasible from the side of the providing company), electricity, and water and sewage systems (where it is feasible from the side of the providing company).

**4.2. Temporary Housing** – living unit which is given to an IDP (an IDP family) only for temporary use and meets necessary technical, sanitary and living standards (see annex #1) provided with gas (where it is feasible from the side of the providing company), electricity, water and sewage systems (where it is feasible from the side of the providing company). The aim of temporary housing allocation to an IDP (IDP family) is to create dignified living conditions before provision with adequate durable housing can be provided.

**5. Guiding Principles for the Process**

In addition to the Guiding Principles on Durable Housing Solutions adopted by the MRA Steering Committee, MRA and other Governmental agencies (members of steering committee) and donor organizations who are involved in the process, all agree to continue cooperation in the provision of durable housing solutions to IDPs and to uphold the following guiding principles:

1. To ensure physical safety and security of IDPs in a new place of residence. IDPs should not be relocated to places where their physical security could be in danger.

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<sup>9</sup> Decree #747 of the Minister of Interior of 24 May 2007 “On Approving the Rules for Curbing the Encroachment on or other Interference in an Immovable Property Object” Art 7 and 8

2. To prevent homelessness of IDPs as a consequence of the vacation from their current place of residence and shall take all necessary measures to ensure no IDP ends up homeless as stipulated in the IDP Action Plan.
3. Respect the confidentiality of the affected persons and their families at all times.
4. To ensure that living conditions of the durable housing offered in the place of relocation meet the standard requirements approved by the SC. In particular, the relocation of IDPs should take place only when the rehabilitation/reconstruction of the building in the new place of residence, is complete and handed over to the customer according to the legislation. The MRA should also ensure that the accommodations provided to the IDPs after relocation meet at least minimum standard requirements, and that relocation is not an obstacle to local integration.
5. Right to family unity shall be respected. MRA should strive to keep the family together unless otherwise requested by the actual family members to avoid artificial separation of the family.
6. To ensure that all IDPs have equal access to aid programs and services rendered by the state and humanitarian and development actors.
7. To ensure that IDPs are not discriminated in the provision of durable housing solutions and treated equally despite their age, gender or other grounds.
8. To ensure that IDPs have access to clearly determined appeal mechanisms in cases they deem the durable housing offered as not adequate. IDPs should be properly informed on their right to appeal to the higher lever of the MRA in case of disagreement on the durable housing offered. However, this will not suspend the measures necessary for vacation of the living unit and re-allocation of IDPs according to the SOP.
9. Vulnerable (for the purpose of this document, an IDP or his/her family member is considered to be vulnerable if re-allocation to a new administrative unit will threaten his/her life or health) IDPs should receive special consideration and tailor made solutions. All actors involved shall identify and respectively refer the cases of the most vulnerable IDPs to MRA for further assistance and follow up.
10. To ensure that IDPs have unimpeded and immediate access to effective monitoring mechanisms. International organizations and NGOs shall have access to the vacation and reallocation process and be given the possibility, if they so wish, to conduct monitoring.

## **6. Procedures for Vacation and Re-allocation of IDP housing**

### **6.1. Police Notification to MRA**

MRA receives a request from the Police seeking consent to vacate a building where IDPs are residing. Upon receiving the request, the MRA clarifies whether the building has CC status or not.

### **6.2 Buildings with Collective Centre Status**

Once MRA receives the letter of request from the owner of the property or the Police, it has one month to send official consensus to the Police. If the building is a CC, in the sense intended by the Law on IDPs (Article 1(i)), MRA will in principle refuse to grant permission to vacate the building and inform the police accordingly. However, as stipulated in the State Strategy on IDPS and Action Plan, MRA may grant this permission in the following exceptional circumstances:

- a) CC is at risk of collapsing, or otherwise poses a serious risk to individuals' health
- b) If the building is needed for the interests of the state
- c) If it is not possible to convert the building into durable housing due to the type of the building (former factories, etc)
- d) If a private investor has purchased the building and reached a written agreement with IDPs inhabitants offering indemnification payments/alternative housing as foreseen under the Law on IDPs Art 5 Para 4 (a).

If due to exceptional circumstances MRA consents to vacation of a building with CC status, then implementation provisions governing relocation under these SOPs are applicable.

### **6.3. Buildings without CC Status**

In case the building does not have CC status (falling outside Article 1(i) of the Law on IDPs), once MRA receives the letter of request from the owner/ Police, it has one month (Administrative Procedure Code of Georgia<sup>10</sup>) to send official consensus to the owner/ Police. Immediately upon receipt of the request, MRA allocate up-to 15 calendar days to the profiling and data processing exercise from the notification day by the police<sup>11</sup>, with a view to identifying alternative solutions, in particular vulnerabilities, **before** submitting the 10 day re-allocation/ vacation notification to IDPs. Moreover, on the bases of the profiling report, the MRA assesses whether the building concerned constitutes a place of temporary residence which were allocated by the GoG for the IDPs from 2008 in the *force majeure* situation.

6.3.1 If this is not the case, the MRA in principle gives its official consent to the respective IDP vacating the building. The MRA may, however, issue a document certifying the inexpediency/ inappropriateness of implementing measures, thus deny it's consent should other particular circumstances lead to a violation of IDP rights, for example in case of unavailability of alternative housing. With respect to the owner's right, the MRA shall seek with priority, within the available resources, to overcome remaining obstacles for an alternative housing solution and indicate to the owner and the Police anticipated time lines when consent may be issued.

6.3.2 If the building constitutes a place of temporary residence for the IDPs displaced after the 2008 conflict, if the IDP concerned has been assigned to reside in the building by the MRA (even if the building does not have CC status), then the granting of consent is dependent on the fact whether the IDP was provided with the DHS or monetary compensation.

### **6.4. IDP Profiling and data processing**

The profiling aims to identify all IDP families residing in the building in order to understand their individual background. The information collated is used as the bases for MRA DHS allocation, where relevant. The most relevant solutions available are correctly offered to those identified during profiling.

Profiling is the responsibility of the MRA and is an ongoing exercise, based on building prioritization according to the State Strategy on IDPs, Action Plan and the Guiding Principles.

<sup>10</sup> General Administrative Code of Georgia

<sup>11</sup> Note: Notification day by the Police is considered the day of official registration a letter in the MRA reception office.

MRA is responsible for conducting household profiling of individual IDPs and persons pending IDP status within the identified building; at the profiling stage the MRA personnel will verbally notify IDPs about the relocation (*please see Annex 2: Profiling Report Format*).

6.4.1 MRA visits the building over a period of 2 days in order to collate the following data on all residing individuals; full name, Date of Birth and Passport Number, and other personal information including the special circumstances that requires special treatment.

6.4.2 A report is compiled from the MRA IDP database using the above data, defining the situation of the IDP families according to 8 particular categories.

6.4.3 The profiling report (excluding all personal data) for each building is made available upon request for the public domain.

6.4.4 MRA is responsible for meeting the needs of IDP families according to their situation, in other words depending on which category they fall, as defined by the profiling report. (See **Section 6.5 - Solutions for Categories**)

6.4.5 Applications of all individuals pending status are processed and finalized, within a maximum of 7 calendar days post- profiling.

6.4.6 MRA visit all offered potential housing solutions prior to re-allocation to ensure minimum standards are present, as specified by the UNHCR Shelter Standards. (See Annex #1).

6.4.7. In case an IDP (or an IDP family) refuses to provide the MRA with the data needed for profiling, or refuse to accept notification (defined in 6.7) or in case the IDP (IDP family) could not be found and contacted, the vacation process still will be executed in accordance with the SOP standards.

## **6.5 Solutions for Categories**

The following solutions are offered to IDPs residing in the building subject to vacation:

1. IDP families that are registered and have been living in another CC in Tbilisi, however for the time being live without permission in the building to be vacated;
2. IDP families that are registered and have been living in another CC in the regions, however for the time being live without permission in the building to be vacated.

**Solution:** IDP families are obliged to leave the occupied building in the given period of time and return to their place of registration, in the corresponding CCs.

3. IDPs that in accordance to their IDP status have been provided with the compensation or accommodation space.

**Solution:** IDP families are obliged to leave the occupied building in the given period of time and return to the accommodations provided for them by the Government or the accommodations purchased with the financial assistance provided.

4. IDP families that have not received assistance from the Government (either compensation or accommodation) and/or are registered in the private sector in Tbilisi;

5. IDP families that have not received assistance from the Government (either compensation or accommodation) and/or are registered in the private sector in the regions.

**Solution:** IDP families are obliged to leave the occupied building in the given period of time. In the framework of the “Action Plan for the Implementation of the State

Strategy on IDPs during 2009 – 2012” approved by Order # 403 of Georgian Government dated on 28 May 2009 these category of families may be offered by the Government housing solutions foreseen by the “Action plan for the implementation of the State Strategy on IDPs during 2009 – 2012” based on the needs;

6. Families which are awaiting the financial assistance or a decision on their IDP status.

**Solution:** The MRA provides the financial assistance and/or finalizes the status granting application before vacation of the building. In case the person is not granted an IDP status, the case is processed in the same way as for those who are not IDPs (*please see the paragraph 8*).

7. Families which are officially registered in the building subject to vacation, despite the building does not have a CC status.

**Solution:** IDP families are obliged to leave the occupied building in the given period of time and within the framework of Action Plan approved by the Decree #403, May 28, 2009 the GoG will offer those DHS as defined in the State IDP Strategy and Action Plan for 2009-2012. MRA will take all possible steps to offer alternative housing, at least temporary, within the same municipality of the current registration.

8. Families, which are not IDPs:

**Solution:** Families are obliged to leave the occupied building in the given period of time. Information about these families is provided to the local authorities.

IDP family categories defined in points: 1, 2, 3 and 8 will not be offered any kind of alternative solution in an individual notification.

## **6.6 Dissemination of information to inhabitants**

### **6.6.1. Individual notification**

After profiling is complete the MRA officials personally deliver a written notification to each individual IDP household that possibly the building will be vacated by the police not earlier than in 10 days. (*Annex 3, Letter of Notification*)

In the cases where this is not possible (i.e. due to absence or refusing to accept the notification), the MRA representatives and, if available, monitoring body, leave a copy of the letter under the door or in the letter box of the IDP HH. The MRA representative makes note in his/her list of IDP HHs who has been delivered the notification, who refused and who was absent. After this procedure the letter will be considered as delivered. The individual written notification informs the IDP households residing in the building, where the owner has requested eviction measures, that the MRA intends to grant consensus to re-allocation/ vacation of the building to Police, (following the 10 day notification period) which could then lead to the issuing of a warning letter and executive measures by the Police, according to Decree #747. It indicates as of which date the Police may in consequence start eviction measures and encourages recipients to avail themselves to the alternative housing solutions, counseling measures and practical relocation services offered by the MRA. Moreover, individual written notification must contain a brief legal reasoning, why consensus shall be granted, which includes information on:

- The buildings' status; whether the building has or does not have CC status, if it is state-owned/privately owned
- Established IDP Household status: who has IDP status,
- Whether an alternative housing solution has previously been offered (if relevant).
- Which type of alternative temporary or durable housing solution is now concretely being offered
- Period, date and time of MRA counseling/consultation for all IDP residents.
- Dates and times of visits to potential relocation sites

[The notification indicates that it does not constitute a legal decision, but serves the preparation thereof, that IDPs shall promptly approach the MRA if any of the established facts are deemed to be incorrect, but that the formal legal remedy against any eviction is only available with regards to a subsequent warning letter sent by the Police.]

### **6.6.2. Communal notification**

Two communal notifications are posted by the MRA in a clear and visible location within the building to be re-allocated/ vacated:

Notification No.1:

- The buildings' status; whether the building has or does not have CC status, if it is state-owned/privately owned
- Period, date and time of MRA counseling/consultation for all IDP residents.
- Information on the offered durable housing solution

Notification No.2:

- General information on temporary or DHS being offered.
- Dates and times of visits to potential relocation sites.
- Photos and clear information on relocation sites, including exact location (address), access to services, shelter conditions
- Date and time of organized re-allocation/ vacation

### **6.6.3 Counseling/consultation**

MRA visits the building on the date and time communicated through the communal notification to allow individuals to clarify all information on any offers made and general information regarding the relocation site.

### **6.7. Visits to potential relocation sites**

An organized visit to the potential relocation site is coordinated by the MRA. Where possible the transportation is provided by MRA, or by other interested parties upon MRA's request.

### **6.8 Consent to police**

In case the IDPs do not vacate the building voluntarily by the last day of the notification period COB (Day 10 official notification, day 25 from the letter of request) the MRA submit their consent to the police.



Police will issue warning letters to each effected individual as stipulated in Decree 747, indicating how obstacles to eviction which may lead to suspension or termination of the process can be presented.<sup>12</sup>

### **6.9 Day of Vacation of the building/Re-allocation of IDPs**

MRA is responsible for monitoring the eviction process and drafting a report, which includes segregated data regarding all individuals' relocation details. The information is categorized and made available upon request, omitting personal details.

#### **6.9.1. Exceptional circumstances for postponement of vacation**

The MRA delays sending the letter of consent to the police if by the planned date of vacation:

- all persons pending status have not been provided with their application result prior to Day 10 of the vacation period;
- all persons pending financial assistance have not physically received it by Day 10 of the vacation period.

### **7. Monitoring of the post-re-allocation**

MRA conducts monitoring visits to assess the level of achievement of a durable and adequate housing solution for the IDPs in the re-allocation area. The MRA ensures that vulnerable IDPs receive special consideration and, in case of need, assistance. The monitoring is carried out in accordance with the annexed standard checklist of the post-re-allocation process. (*See Annex #4*).

### **8. Database amendments**

MRA makes all necessary IDP database amendments according to the new places of residence of IDPs. All re-allocation/ vacation information is categorized and made available upon request, omitting personal details, within the format of the Post Vacation Report (*see Annex #5*), stating the number of both households and individuals within each category, along with the relevant solution and, if relevant, location of re-allocation.

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<sup>12</sup> I.e. obstacles other than deriving from IDP status of the individual or CC status of the building, such as medical condition, or other facts referred to under Decree 747, Articles 7 or 8.