

Human Rights in the Occupied Territories of Georgia

Information Note

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Since the Russia-Georgia War of August 2008, two regions of Georgia – Tskhinvali region/South Ossetia and Abkhazia remain under Russian military occupation and control. Georgian government institutions and personnel, both civil and military have been completely excluded from these regions. As a result, all control is exercised by Russia and local proxy regimes appointed and supported by the Kremlin.

The situation with regard to the protection of human rights on the occupied territories of Georgia has exacerbated after the August 2008 War. The civil population residing in the occupied territories is deprived of the minimal safeguards for the protection of their rights provided by the international conventions. No effective mechanisms for ensuring security and order operate in the above areas. Following the grave and massive human rights violations, including the ethnic cleansing, that took place during the Russian aggression in August 2008, the serious human rights violations on the political and ethnic basis still persist.

Russian authorities directly and through supporting, sponsoring and defending proxy regimes have exercised discriminatory measures against the ethnic Georgians. These actions include but are not limited to ethnically targeted violence and looting, constant violation of security and property rights, hindering of freedom of movement and residence, destruction of property, forced passportization. These acts are, *inter alia*, aimed at excluding any possibility of voluntary, safe and dignified return of ethnic Georgians and at rendering their displacement permanent. In the circumstances of full isolation of the Tskhinvali region/South Ossetia and Abkhazia from the effective control of the Government of Georgia as well as from the orbit of the international community, the situation of human rights protection is critical in these regions.

Property Rights:

Property rights in the occupied regions are violated on a massive scale: deliberate and targeted destruction, illegal appropriation and purchase of property are of particular concern in the Tskhinvali region/South Ossetia and Abkhazia, Georgia.

The policy of mass destruction of villages is documented by different International and Non-Governmental Organizations. Amnesty International emphasizes that the destruction of houses and

property in some Georgian-majority settlements in the Tskhinvali region/South Ossetia took place in the aftermath of hostilities and not as a direct result of them. By the time that Amnesty International delegates were able to visit these villages at the end of August 2008, they were virtually deserted and only a very few buildings were still intact.¹The ODIHR/HCNM report of November 2008 documented the heavy bombing of Kurta.²

According to the assessment of the reporter from the Committee on Migration, Refugees and Population of the Parliamentary Assembly of the Council of Europe Corien Jonker, who visited the Tskhinvali region/South Ossetia in March 2009, “these villages no longer exist. There is only rubble and no sign of any belongings left in the remnants of the houses³... the systematic destruction of every single house is a clear indication that there has been an intention to ensure that no Georgians have a property to return to in these villages.”⁴

The Representative of the UN Secretary General on the human rights of internally displaced persons Walter Kalin during his visit on November 5-6, 2009, to the occupied Tskhinvali region/South Ossetia, Georgia, was particularly concerned about the “deliberate destruction and looting of ethnic Georgian villages in areas where tensions were high before the conflict”.⁵The Representative of the UN Secretary General noted that a number of ethnic Georgian villages and settlements were systematically destroyed and pillaged in the aftermath of the armed conflict. Relevant structures in control in the Tskhinvali region/South Ossetia were unrepentant about the destruction of ethnic Georgian villages and took no effective steps to protect civilians and hold perpetrators accountable.

It’s worth noting that on May 15, 2006, the self-recognized parliament of proxy regime adopted the “resolution” on “regulating the living conditions to protect the rights of citizens of Abkhazia, assist them with housing.” According to this “resolution”, Abkhazian courts stopped receiving suits on disputes regarding the property of those “citizens of Abkhazia”, who left the territory in 1992-1993, before, during and after the conflict.

The process of illegal appropriation of property in Abkhazia, Georgia started in the early 1990s and assumed frequent character after the recognition by Russia of “independence” of two occupied territories of Georgia - the Tskhinvali region/South Ossetia and Abkhazia, in contravention of

¹ Amnesty International. Civilians in the line of fire. The Georgian-Russian conflict. November 2008

² Office for Democratic Institutions and Human Rights. Human Rights in the war-affected areas following the conflict in Georgia. November 27, 2008.

³ The Reporter drove through the villages on the road from the north towards Tskhinvali in the Didi Liakhvi Valley, including Kekhvi, Kurta and Tamarasheni, villages west of Tskhinvali in the Prone Valley, including Avnevi, and villages east of Tskhinvali in the Patara Likhvi Valley, including Eredvi and Vanati.

⁴ Humanitarian consequences of the war between Georgia and Russia: follow-up given to Resolution 1648 (2009). Report. Committee on Migration, Refugees and Population. Rapporteur: Mrs Corien W. A. Jonker, Netherlands, Group of the European People’s Party

⁵ Report of the Representative of the Secretary General on the human rights of internally displaced persons Walter Kalin. Follow-up to the report on the mission to Georgia, 14 January 2009.

international norms and principles. Remaining ethnic Georgians, mainly elderly persons were driven out from places of their residence; their houses were transferred to the possession of Russian militias.

As documented above, the International Organizations actively report on number of facts of illegal appropriation of property of local residents by Russian forces and military forces of the proxy regimes, illegal acquisition of real estate of internally displaced persons as well as state property of Georgia.

Forced Passportization:

The proxy authorities in control in the Tskhinvali region/South Ossetia and Abkhazia, Georgia are compelling few Ethnic Georgians, who still reside on the occupied territories to give up Georgian passports and receive Russian or Ossetian and Abkhaz documents upon threat of expulsion. This is yet another demonstration of the ethnically targeted policies in the occupied Georgian regions.

With respect to Akhgori, the OSCE High Commissioner on National Minorities warned that the “situation” is “particularly worrying in view of recent statements by those exercising jurisdiction over population and territory that the inhabitants have to acquire South Ossetian/Russian passports or leave their homes. This could lead to further deterioration of the situation in the region and another wave of IDPs.”⁶

In this respect, the Gali district demands also special attention. The process of issuing local identity documents started in Abkhazia, Georgia in 2005 and was originally limited to areas other than the Gali district. Proxy regime started to issue the local IDs in Gali a year ago that can be linked, *inter alia*, to the “presidential elections” of December 2009. Residents of the Gali district wishing to obtain an “Abkhaz ID” were required to renounce their Georgian citizenship on their application form. The Abkhaz proxy regime has further intensified the policy of forcing ethnic Georgians to give up their Georgian citizenship and acquire Russian or “Abkhaz” passports, failing of which leads to unconditional exile of the ethnic Georgians; people are threatened to be deprived of their place of residence and work. Taking into account the fact that the proxy “legislation” of Abkhazia permits double citizenship only with Russian Federation, the citizens of Georgia residing in Gali district are forced to waive from the citizenship of Georgia. As a result, at present, nearly 1 500 persons residing in Gali region have the Abkhaz “citizenship”. Acquiring the “citizenship” of Abkhazia is obligatory for everyone. The proxy authorities of Abkhazia are carrying out relevant registration measures in this respect. The fine is foreseen for them who have not taken the “Abkhaz” passports. In the first case of breach, the fine amounts to 500 RUR and respectively 1 000 and 2 500 RUR after the second and third cases of violation.

The Parliamentary Assembly of the Council of Europe is “especially concerned about the increased pressure placed on them [ethnic Georgians from the Gali district in Abkhazia and the

⁶ Letter from Knut Vollebaek, OSCE High Commissioner on National Minorities, to H.E. Alexander Stubb, OSCE Chairman-in-Office, 27 November, 2008.

Akhgori district in South Ossetia] to accept Abkhazian or South Ossetian passports”.⁷ The above actions are in complete contradiction with the principles and norms of International Law, “no one should be coerced, either directly or indirectly, to renounce their current citizenship”.⁸

The OSCE has described the consequences that ethnic Georgians face if they refuse: “There are now growing pressures on residents of the Gali district to obtain “Abkhaz” passports, which may be significant enough to constitute coercion. ... Conditions are being created that will make it impossible for many of the residents of Gali to live normally without an “Abkhaz” passport. For example, according to two separate interlocutors, beginning next year an “Abkhaz” passport will be required for all employees of the local administration, including doctors and teachers; a passport will also be needed to transact business or for other legal activities. Another NGO told the HRAM that it feared that without “Abkhaz” passports, ethnic Georgians will not be able to send their children to school, effect a contract, or even draw up a will. Many members of the population already feel they will have no choice but to obtain Abkhaz citizenship or to leave Gali.”⁹ This situation motivated the OSCE High Commissioner on National Minorities to warn that if the *de facto* authorities “go forward with the so-called ‘passportization’ issue (imposing the Abkhazian/Russian citizenship to Georgians),” it could “lead to a situation when Georgian citizens will be forced to leave Abkhazia.”¹⁰

Process of passportization continued more rigorously following the Russia-Georgia War in August 2008, including the forced passportization of ethnic Georgians residing on the territory of the occupied Akhgori district. The statement in this regard has been made by the OSCE High Commissioner on Ethnic Minorities, Mr. Knut Vollebaek. The High Commissioner, in his letter of November 27, 2008, addressed to the OSCE Chairman in Office, expressed concern about the practice of illegal passportization, especially in the Akhgori and Gali districts. According to the High Commissioner, the situation in those districts is especially alarming, since ethnic Georgian residents face “imposing of Russian citizenship” since they are given no choice other than “to acquire South Ossetian/Russian passports, or to leave their homes.”¹¹ By now more than 90% of the population of occupied the Tskhinvali Region/South Ossetia have already received passports of the citizens of the Russian Federation.

⁷ Parliamentary Assembly of the Council of Europe. Resolution 1683: The war between Georgia and Russia: one year after. 29 September 2009.

⁸ Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe. Report on Human Rights issues following the August 2008 armed conflict. Strasbourg, 15 May 2009. p. 14.

⁹ *Human Rights in the War-Affected Areas Following the Conflict in Georgia*, OSCE, Office for Democratic Institutions and Human Rights, 27 November 2008, pp. 68-69.

¹⁰ Letter from Knut Vollebaek, OSCE High Commissioner on National Minorities, to H.E. Alexander Stubb, OSCE Chairman-in-Office, 27 November 2008. Par. 5.

¹¹ Letter of OSCE High Commissioner on Ethnic Minorities, Mr. Knut Vollebaek, addressed to the OSCE Chairman in Office. 27 November 2008

The process and dynamics of granting Russian citizenship to persons residing in the occupied territories of Georgia, the Tskhinvali region/South Ossetia and Abkhazia can properly be described as the process of illegal passportization of the remaining population of these two regions of Georgia, designed and implemented as a significant component of Russia's creeping annexation of these regions.

Education:

The lack of security, social and economic situation in the occupied territories of Georgia raises considerable concern over the protection of the civil rights of ethnic Georgians; Their essential rights and freedoms are absolutely ignored within the occupied territories. Special attention should be paid to the situation in which education sector finds itself in the occupied regions of Georgia – the Tskhinvali region/South Ossetia and Abkhazia.

Georgian citizens currently residing in the occupied territories of Georgia have been unable to exercise their right of education that they should enjoy under the protection of the Constitution of Georgia and the UN Convention on the Rights of a Child. The right of children to receive education in their native language is being persistently violated during a decade as it is reflected in numerous Reports of the UN Secretary-General and UN Security Council resolutions.

During the Russia-Georgia War educational infrastructure was heavily damaged by Russian direct military action in the Tskhinvali region of Georgia as well as outside the region. Schools have been shelled, burnt down, looted, school furniture and educational materials have been damaged including school laboratories, libraries, and computer equipment. All these facts of disruption of education are documented by the ODIHR/HCNM Report on 27 November 2008 "Human Rights in the War-Affected Areas Following the Conflict in Georgia." According to international reports, the schools are nearly empty and in some villages they have been closed down altogether. Prior to the Russian military aggression against Georgia in August 2008, there were 30 general education public schools registered with the Ministry of Education and Science of Georgia operating within the territory of the Tskhinvali region/South Ossetia, Georgia. These schools were located in 4 municipalities: Kurta, Eredvi, Tigva and Akhlagori.

Russian, through its military forces and the proxy regimes under their control, deprive Akhlagori population to get education in their native language. Russian curriculum is imposed in the schools; teachers are promised salary only in case they teach according to the curriculum approved by the Ministry of Education of the Russian Federation. The report of the Secretary General of the Council of Europe documents that the teachers and school administration were harassed and threatened for displaying, in close vicinity to the school, a slogan written in the Georgian language and welcoming children on the occasion of starting the new school year.¹² This is only one example describing the environment in which Georgian children in the occupied regions live. Educational reforms and innovations introduced to all schools in Georgia have been stalled and

¹² Secretary General of the Council of Europe. Report on the human rights situation in the areas affected by the conflict in Georgia. 4 November 2009.

discarded in Akhagori schools. Teachers and school staff are subject to persistent prosecution. In March 2009 school teachers and Akhagori school director were arrested and imprisoned by the separatist government.

Since 2003 Ethnic Georgians living in the Gali district had no or limited access to education in their native language. Numerous Reports of the UN Secretary-General have been noting that the children in the Gali district do not have access to education in their mother tongue. Regretfully, subsequent calls of the UN Security Council remain unimplemented. The ODIHR/HCNM notes, that “the issue of language in schools has become an issue of growing concern for the ethnic Georgian population of the Gali region. Hours of instruction in Russian have been increased, while the hours of instruction in Georgian have been reduced. A local human rights NGO also confirmed that some families are leaving Gali in order to ensure a Georgian-language education for their children”.¹³ It has also been noticed in the Human Rights Watch report that “teachers who did not speak Abkhaz instructed their students in Georgian. Those who did so were often subject to harassment and prosecution by proxy regime”. Moreover, Russian language has been introduced as a language of instruction in primary grades in schools located in the Upper Gali of Abkhazia, Georgia thus revealing the intention of the proxy government to make a gradual comprehensive shift to delivering education in Russian across all grades in public schools. Russian textbooks are being distributed to schools. The Russian and Abkhazian languages have been recognized as functional languages for official record-keeping. Georgian students are awarded graduation certificates in Abkhazian recognizing the status of the Russian language as native to the students.

Another serious impediment to the right to education is restriction on crossing administrative border in Gali region. Georgian children are deprived of the right to study in their native language and they do not have possibility to go to Georgian schools in the adjacent Zugdidi and Tsalendjikha districts. Russian occupiers did not let some of the students from Abkhazia travel to the villages where they have been studying in their native language. Since the August War in 2008, the Russian forces and separatists under their control have closed all the possible connections between Gali and the rest of Georgia and further intensified the oppressive measures against ethnic Georgians. These include, burning and destroying of bridges, mining of the administrative border, killings, kidnapping and arbitrary detention, robbery, frequent punitive raids under the pretext of security, burning of Georgian books and disrupting learning process in Georgian schools.

Restrictions on the Freedom of Movement:

“Among the most disruptive aspects of the conflict were the constraints it imposed on freedom of movement. Many people were forced to flee from their homes and many have not been able to return. Others felt pressured to return before they considered conditions safe or facilities adequate

¹³ Human Rights in the war-affected areas following the conflict in Georgia. 27 November 2008.

in their original places of residence.” This paragraph is from the ODIHR/HCNM report on “Human Rights in the War-Affected Areas following the conflict in Georgia” of November 2008, which sheds light on the unfortunate reality that citizens of Georgia face as a result of continuous occupation of the territories of Georgia by Russia.

Tens of thousands of ethnic Georgians who fled their villages in South Ossetia during the August 2008 War and its immediate aftermath have not been able to return to their homes. The ODIHR/HCNM Report underlines that in addition to impeding the return of displaced persons to their former places of residence, “the *de facto* authorities in South Ossetia, including Russian military authorities, have placed undue restrictions on movement across the administrative boundaries, in contravention of OSCE commitments and other international obligations.” Moreover, as documented by the same report, “the closure of the administrative boundary of the former Autonomous District of South Ossetia is now more strictly enforced than previously by Russian and Ossetian forces, impeding the movement of citizens and causing great hardships and disruptions, including the division of families and communities.”¹⁴

People, who nevertheless move across the administrative boundary line, to pursue essential livelihood activities, risk being arrested and detained on the northern side. Illegal detentions of Georgian citizens by the Russian occupying forces and its proxies in the regions occur on almost daily basis. Currently there are 10 Georgians who are illegally kept by the regime for crossing the administrative boundary. Among these detained there are persons who urgently need medical assistance. Case of Mr. Kobaladze is among such cases and require urgent attention of the international community.

The Russia-Georgia War and its aftermath negatively affected freedom of movement and residence in a number of ways also with respect to Abkhazia. This is contrary to international standards and obligations, as recognized also by the provisional measures ordered by the ICJ on 15 October 2008, which require the parties to “do all in their power, whenever and wherever possible, to ensure, without distinction as to national or ethnic origin...the right of persons to freedom of movement and residence.” Similar statement was made by the High Commissioner for National Minorities, Knut Vollebeak, who on April 14, 2009 stated that the closure of the ABL and restriction on the freedom of movement “makes it increasingly difficult for the population to maintain family contacts, access necessary healthcare or their products”.

In Gali Region, “the Administrative boundary is guarded by Russian troops who strictly enforce the closure”, describes the OSCE report. Residents are prohibited from crossing the occupation line without permission; severe sanctions are incurred on those, arrested during the crossing. In order to render the freedom of movement practically impossible from other routes, Russian military and local militia under proxy regime have destroyed all the bridges on Enguri River that

¹⁴ *Human Rights in the War-Affected Areas Following the Conflict in Georgia*, OSCE, Office for Democratic Institutions and Human Rights, 27 November 2008, p. 29.

used to connect Gali District with the rest of Georgia.¹⁵ The Russian forces have also resorted to large-scale mining of bordering territories. Mines are being planted along the whole administrative border, especially around the river fords that are used by local population to cross the river Enguri.

These practices unduly interfere with the rights of the displaced to freedom of movement, family life as well as various social and economic rights that are also reaffirmed by the Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kalin of January 2009. The closure of the administrative boundary line affects internally displaced persons, but even more so those elderly and vulnerable persons who could not flee and stayed behind. They face enormous difficulties in the absence of their displaced persons on whose support they had relied in the past. Russia's military presence and control over the territories has substantially increased since the Decision on Provisional Measures of October 15, 2008. According to the International Crisis Group, "Russia is open about its overwhelming control."¹⁶ The European Union's Independent International Fact-Finding Mission on the Conflict in Georgia in its 2009 Report concludes that the Russian control over South Ossetia has been "decisive," "systematic, and exercised on a permanent basis."¹⁷

The ODIHR/HCNM Report of November 2008 recognizes that this policy is having a profound negative effect on segments of the population, dividing families and creating severe economic and social dislocation. Population becomes a subject to internal exile, another form of persecution and a violation of the right to liberty. The Report emphasizes with a deep concern that contrary to OSCE commitments and other international obligations, the *de facto* authorities in South Ossetia, including Russian military authorities, are impeding international humanitarian organizations from crossing the administrative boundaries. For example, since early October, the ICRC, which is the only international humanitarian organization with a permanent presence in South Ossetia, has not been permitted to move international staff from the Russian Federation to South Ossetia, unless they are nationals of the Commonwealth of Independent States, which is having an increasingly negative impact on the effort to respond to the growing needs of people affected by the conflict in that district. The restrictions on movements across the administrative boundaries are also impeding the work of international organizations, including the OSCE and the European Union Monitoring Mission. The refusal to allow the HRAM to cross the administrative boundary into South Ossetia is just one example of this problem. A number of humanitarian needs of displaced and other vulnerable population remain to be addressed. The OSCE mission reported that an "international humanitarian agency expressed deep concern that if conditions are created under which the residents of Gali cannot make a living because of their legal status and if they are not granted freedom of movement, this combination of circumstances could create a humanitarian disaster."

¹⁵ *Georgian children from the Gali region are prevented from attending the school in the adjacent Zugdidi district, due to restrictions imposed on movement across the ABL.* Secretary General of the Council of Europe. Report on the human rights situation in the areas affected by the conflict in Georgia. 4 November 2009.

¹⁶ International Crisis Group, *Abkhazia: Deepening Dependence* (26 February 2010), p. 16. GWS, Vol. IV, Annex 194.

¹⁷ Independent International Fact-Finding Mission On the Conflict in Georgia, Report Vol. II (September 2009), p. 132. GWS, Vol. III, Annex 121. *Ibid.*, pp. 132-133

These and other violations of human rights have been extensively documented by the international organizations, including the ODIHR/HCNM report. Unfortunately, regardless of good will and preparedness of the OSCE participating States, the follow-up to the recommendations has not been conducted so far. The vast majority of the OSCE participating States share thoroughly our belief that the implementation of the recommendations incorporated in the report will be an important step towards normalizing and stabilizing the human rights situation in the occupied territories of Georgia.

On numerous occasions, the OSCE participating States expressed their commitment to removing all legal and other restrictions with respect to travel within their territories and with respect to residence for those entitled to permanent residence within their territories. The OSCE has recognized the UN Guiding Principles on Internal Displacement as the relevant framework. However, concrete actions are necessary to facilitate the voluntary return in safety and dignity of internally displaced persons, in accordance with international standards, recognizing also that the reintegration of people to their places of origin must be pursued without discrimination.

The OSCE High Commissioner on National Minorities, Knut Vollebaek's statement of April 14, 2009, where he calls to end the pressure put on the Georgian population in Abkhazia, once more sheds light on the existing violations of human rights in the occupied territories: "I am deeply concerned about recent developments in the Gali district of Abkhazia, which have led to a deteriorating security situation in the region. In line with my conflict prevention mandate, I urge the de facto authorities to put an end to the pressure being exercised on the Georgian population in the Gali district through the limitation of their education rights, compulsory "passportization", forced conscription into the Abkhaz military forces and restrictions on their freedom of movement. I also urge the de facto authorities to respect the education rights of Georgians residing there and to allow Georgian students in the region to study in the Georgian language." Russia and the proxy regimes under its control have been irresponsive to international calls.