



**PROVISIONAL VERSION**

## **Georgia and Russia: the humanitarian situation in the conflict and war-affected areas**

### **Report<sup>1</sup>**

Committee on Migration, Refugees and Displaced Persons

Rapporteur: Ms Tina Acketoft, Sweden, ALDE

### *Summary*

The urgent humanitarian needs following the conflict between Georgia and Russia in 2008 have largely been dealt with, but there exist important long term humanitarian challenges which cannot be solved if the conflict remains frozen and politics is given priority over the people.

With the exception of limited returns of internally displaced persons (IDP) to the Gali and Akhalkgori areas, the prospects for return of displaced persons are dim. As a result, durable housing solutions and provision of livelihoods for displaced persons will be a continuing challenge for the Georgian authorities.

The security situation continues to be tense but not at the level which led to the 2008 war. Without a strong non-partisan international peace-keeping or monitoring presence across both sides of the administrative boundary line (ABL), it is difficult to see security concerns abating.

Even with this gloomy outlook, with small changes, the lives of the persons affected by the conflict could be improved. Allowing freer access across the ABL, increasing dialogue at all levels (students, civil society, political level) to tackle ingrained distrust, are just two examples of steps that could be taken.

Four practical recommendations are made to the Committee of Ministers of the Council of Europe. The first is to use the Council of Europe's educational expertise to guarantee mother tongue education, in particular for those with Georgian mother tongue in the area of Gali. The second is to provide assistance for the successful integration of resettled IDPs. Thirdly, the Committee of Ministers should offer assistance in combating domestic violence which has been aggravated as a consequence of the war. Fourthly and finally, the Committee of Ministers should use its political weight to encourage greater freedom of movement across the ABL.

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<sup>1</sup> Reference to committee : Doc. 12979, Reference 3884 of 29 June 2012.

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## A. Draft resolution<sup>2</sup>

1. Over four years after the war between Georgia and Russia in 2008, the humanitarian consequences of the conflict remain a major concern.
2. While the emergency needs of Internally Displaced Persons (IDPs) and refugees have been largely taken care of, there is a slow but sure freezing of the conflict where persons and their lives become trumped by politics. This makes progress on the humanitarian front difficult.
3. The preoccupation on all sides, about status issues, access across the administrative boundary line (ABL) and terminology issues, poisons the possibility of progress on the humanitarian front. These issues are political in nature and should be secondary and not primary in any humanitarian discussion. Recent political changes in Georgia following the elections on 1 October, provide an opportunity for a change of dialogue on all sides.
4. One of the most important humanitarian issues is the right to voluntary return in safety and dignity for internally displaced persons and refugees. In reality this right is largely ignored for most IDPs. There are exceptions, to a certain extent, for IDPs in the areas of Gali and Akhgori. It is important that avenues for return of all IDPs remain open, even if this needs to be on a step-by-step basis.
5. In terms of security, the situation remains tense, particularly for those close to the ABL, but not at the level which led to the 2008 war. A large Russian military presence, both in Abkhazia, Georgia and South Ossetia, Georgia, is seen in contradictory ways. On the one side it is seen as an occupation of the part of the country by the troops of a neighbor, and on the other, it is seen as a guarantee against renewal of the conflict. What is needed to restore security and long term trust is not armies facing each other along the ABL, but a strong non-partisan international peace-keeping and monitoring presence both sides of the ABL.
6. The greatest humanitarian challenge facing the Georgian Government is the provision of durable housing solutions and livelihoods for IDPs. While the Government is to be congratulated for many of its efforts in this area, there remain many challenges, in particular in relation to the housing of IDPs in collective centres, private housing and even those rehoused, after 2008, in temporary settlements across the country.
7. The Assembly is concerned by the situation of ethnic Georgians in the areas of Gali and Akhgori. While each of these areas is different, the issues affecting the local population are similar. Access across the ABL for family, health, economic, education or other purposes remains problematic and uncertain. There are some positive indications that access across the ABL could be improved through more flexible arrangements and additional crossing points, but for the moment there are no guarantees that this will happen. The Assembly is also concerned by issues concerning identity and registration documents, which govern not only travel but access to a whole range of rights, including property rights and other entitlements. Furthermore it is concerned by approaches which hinder, rather than favour, mother tongue education. The Assembly, while focusing in this resolution on humanitarian issues, recalls the political stance it has taken in its Resolutions 1633 (2008) on the consequences of the war between Georgia and Russia and its follow up Resolution 1683 (2009).
8. In order to improve the humanitarian situation, the Assembly calls on Georgia, Russia and the *de facto* authorities in Sukhumi and Tskhinvali to:
  - 8.1 take fully into account and implement the recommendations of the Assembly on the Humanitarian consequences of the war between Georgia and Russia contained in Resolutions 1648 (2009) and 1664 (2009);
  - 8.2. work intensively on solving security issues under the first working group of the Geneva discussions, and open up a real dialogue on the issue of monitoring both sides of the ABL, involving in this the European Union Monitoring Mission (EUMM). Furthermore, work in good faith on an international peace keeping arrangement to avoid the volatile situation of armies facing each other in the conflict areas;
  - 8.3 support fully the Incident Prevention and Response Mechanism (IPRM) in the format agreed at the Geneva discussions, and ensure that the mechanism covering the region of Abkhazia renews its work in the previously agreed format, as a matter of urgency;

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<sup>2</sup> Draft resolution adopted by the Committee on 27 November 2012.

8.4. keep the issue of return of IDPs and refugees on the agenda of the second working group of the Geneva discussions, including for the areas of Gali and Akhalgori where, to a certain extent, voluntary returns continue to take place;

8.5. ensure the safety and security of all persons in the region, and in particular IDP returnees, taking firm action against criminality, including racketeering, bribery and forced labour;

8.6. tackle the issue of violence against women linked to the consequences of the war, increasing the profile of the problem and drawing on the expertise and assistance available from the Council of Europe to deal with the problem;

8.7. ensure freedom of movement across the ABL to improve the livelihoods and economic recovery of the local population, including by opening additional crossing points and removing administrative restrictions;

8.8. uphold the right to mother tongue education, in particular, but not limited to, Georgian speakers in the areas of Gali and Akhalgori, and guarantee freedom of movement across the ABL for education purposes;

8.9. co-operate fully in the work on missing persons, including the collection of ante-mortem data and information on the possible whereabouts of the missing, and also the exhumation and return of the missing and the provision of psychological assistance to their families;

8.10. set up an international investigation to examine allegations of damage to cultural heritage monuments in the conflict regions.

8.11. facilitate a visit by the Assembly rapporteur to the Tskhinvali and Akhalgori areas.

9. The Assembly encourages the Georgian authorities to continue their efforts to tackle the humanitarian needs of IDPs, and in particular to:

9.1. provide durable housing solutions, *inter alia* covering the needs of persons in private accommodation, rehabilitating or closing some of the collective centres, privatising new settlements once construction defects have been sorted out and providing monetary compensation, in lieu of housing, where appropriate;

9.2. in so far as further evictions of IDPs are necessary, ensure that they take place in accordance with the agreed standard operating procedures, and that persons are fully informed and notified of these in advance and that, if appropriate, suitable alternative accommodation is provided;

9.3. focus more on ensuring an adequate livelihood for IDPs, in particular for those in new settlements, in order to break the cycle of dependency and prevent these settlements becoming IDP ghettos;

9.4. review the "Action Plan for Engagement" under the "State Strategy on Occupied Territories" in order to ensure that it achieves its goal of encouraging reintegration;

10. The Assembly invites the Russian authorities to:

10.1. Make every effort to resolve the critical housing situation of many ethnic Ossetian refugees, primarily from the conflicts in Georgia in the early 1990s, but also from the 2008 conflict, making full use of federal, regional or international funding, as proposed in Resolution 1879 (2012) of the Assembly on the situation of IDPs and returnees in the North Caucasus region.

10.2. Regularise the situation of those who fled to Russia after the earlier conflicts in Georgia and who are living in an irregular situation, and in some instances stateless.

11. The Assembly calls on the European Court of Human Rights to expedite the hearing of the inter-state case of Georgia v. Russia (no. 38263/08) which is before the Grand Chamber.

## **B. Draft recommendation<sup>3</sup>**

1. The Parliamentary Assembly refers to its Resolution .... on Georgia and Russia: the humanitarian situation in the conflict and war-affected areas.

2. It notes in particular that the emergency needs of internally displaced persons (IDPs) and refugees have been taken care of but there remain major humanitarian challenges concerning the return of internally displaced persons (IDPs) and the provision of durable housing and livelihood for all IDPs. Security continues to be an important issue and access across the administrative boundary line (ABL) is one of the most important factors affecting the lives of those living both sides of the ABL.

3. The Assembly believes that the Council of Europe has a role to play in improving the humanitarian situation in the conflict affected areas and welcomes the activities already being carried out by the Council of Europe which contribute to keeping a dialogue open and building confidence in the region.

4. In addition to encouraging the Committee of Ministers to continue to support its onward going confidence building measures, the Assembly recommends that the Committee of Ministers:

4.1. provides education expertise to strengthen mother tongue education, in particular in the region of Abkhazia, Georgia, taking into account the needs of all linguistic groups, Georgian or other;

4.2. provides assistance to the Georgian authorities to help ensure the successful integration of resettled IDPs in their new communities, bearing in mind that integration is always a two-way process;

4.3. provides support for tackling domestic violence and assisting its victims, taking into account the effect that the conflict has had on this phenomena and the problems and needs noted throughout Georgia, including the conflict areas;

4.4. uses its political standing to bring about improved access across the ABL. This, perhaps more than any other measure, has the prospect of improving the daily lives of all those affected by the conflict.

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<sup>3</sup> Draft recommendation adopted by the Committee on 27 November 2012.

## C. Explanatory Memorandum by Ms Acketoft, rapporteur

### 1. Introduction

1. This report is a follow-up to two previous reports prepared by Ms Corien Jonker (Netherlands, EPP/CD) for the Committee on Migration, Refugees and Population leading to Resolution 1648 (2009) on the humanitarian consequences of the war between Georgia and Russia, and a follow-up Resolution 1664 (2009).

2. At the time of preparing this report, over four years had elapsed since the hostilities in August 2008 which brought about the displacement of approximately 192,000 ethnic Georgians and 36,000 ethnic Ossetians. While the large majority of these persons have been able to return to their homes, 18,789 remain displaced in undisputed areas of Georgia and 3,914 have been displaced twice. The total number of internally displaced persons, according to the Georgian authorities now stands at 265,295.<sup>4</sup> It is also estimated that there are, in South Ossetia, Georgia,<sup>5</sup> up to 15,000 internally displaced persons (IDPs) from the conflict in 2008 and 5,000 from the conflict in the 1990s.<sup>6</sup> It is unknown the number of IDPs in Abkhazia, Georgia<sup>7</sup>.

3. The aim of this report is to look at the humanitarian situation of the persons most affected by the conflict, and in particular the IDPs from the recent and the earlier conflicts and the families of the missing. The approach to the report is humanitarian, focussing on the people and not the politics. That said, in preparing this report it has not always been possible to separate the two, in particular when looking for realistic solutions for solving problems and to understand the history and background to the problems. Furthermore the attitude of all those involved in the conflict has, unfortunately, all too often put long term politics in front of the immediate problems faced by people affected by the conflict.

4. In preparing the Report I visited Tbilisi from 19 to 23 September 2011, and returned to Georgia between 12 and 15 December 2011 in order to visit the region of Abkhazia and have meetings in Gali and Sukhumi. I also visited Moscow from 9 to 11 October 2012. It was not possible for me to visit the region of South Ossetia due to political disagreement over how I should enter and exit the region.

5. I would like to thank all the different persons and organisations that facilitated my visits and provided me with information. I would particularly like to thank Ms Rosaria Puglisi who assisted me as a consultant in the latter stages of the preparation of this report.

6. It should be underlined that nothing in this report should be interpreted as being contrary to the full respect of the sovereignty and territorial integrity of Georgia within its internationally recognised borders in line with the Parliamentary Assembly's position on this issue and in particular its stance taken in Resolution 1633 (2008) and Recommendation 1846 (2008) on the consequences of the war between Georgia and Russia and following resolutions and recommendations on this issue.

### 2. Part I: The general situation in Georgia

#### 2.1. Recent political developments to take into account

7. The Geneva Discussions is the main political forum dealing with security and humanitarian needs, including those of IDPs and refugees. Discussions continue at regular intervals with the 21<sup>st</sup> round of talks taking place in October 2012. In the first working group covering security issues, the sides have begun to work on the agreement of non-use of force, a central element for security and stability in the area. It can be noted in this respect that Georgia has already made a unilateral declaration on the non-use of force as have the *de facto* authorities in Tskhinvali and Sukhumi. In the second working group, primarily dealing with IDPs and refugees, there continues to be almost no progress. The most notable success of the Geneva Discussions remains the setting up and functioning of the Incident Prevention and Response Mechanism (IPRM) which examines security incidents and develops practical solutions to problems experienced. For example, apart from dealing with security incidents, there has been progress reported on water projects, including irrigation and drinking water, which have cross ABL implications. That said problems were

<sup>4</sup> Statistics from the Ministry for Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia, as at the end of March 2012, cited in the UN Report of the Secretary-General, 22 May 2012, Status of internally displaced persons and refugees from Abkhazia, Georgia and the Tskhinvali region/ South Ossetia, Georgia.

<sup>5</sup> Hereafter in the report, I will refer to South Ossetia, Georgia as the region of South Ossetia.

<sup>6</sup> UNHCR statistics 31 July 2009 and UN RSG, 14 January 2010, repeated in IDMC's report on Georgia (supra).

<sup>7</sup> Hereafter in the report, I will refer to Abkhazia, Georgia as the region of Abkhazia.

experienced at the 36<sup>th</sup> meeting of the IPRM on 24 April 2012 when the established and agreed procedures of participation were challenged by the *de facto* Abkhaz authorities who did not want the Head of the European Union Monitoring Mission in Georgia (EUMM) to participate. It is important that these problems are solved so that the IPRM can meet and continue its valuable work as soon as possible.

8. At the UN level the General Assembly adopted a Resolution on 3 July 2012 on the “Status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia”. This was the fifth year in succession that it adopted such a text. The Resolution raised concern about the “forced demographic changes resulting from the conflicts in Georgia” and called for the creation of “favourable security conditions conducive to the voluntary, safe, dignified and unhindered return of all internally displaced persons and refugees to their places of origin”.

9. On 8 November 2012, the Secretary General of the Council of Europe presented his “Consolidated report on the conflict in Georgia (April 2012-September 2012)”.<sup>8</sup>

10. Probably the most significant political development has been the recent change of Government in Georgia following the 1 October 2012 general elections. While it is unlikely there will be any seismic shift in policies towards the conflict, there are indications of a more flexible approach being adopted. This is encouraging.

## *2.2. Recent legal developments – cases before the ECHR*

11. Two types of cases are pending before the European Court of Human Rights. The first is an inter-state case brought by Georgia against Russia (No. 38263/08) concerning “the armed conflict that erupted between Georgia and the Russian Federation”. The case was declared admissible by a Chamber of the Court and on 3 April 2012 jurisdiction was relinquished to the Grand Chamber.

12. The second type of cases concern individual complaints. 3,300 individual applications were lodged against Georgia after the August 2008 hostilities. A large number of these cases were struck off the list when the Court concluded that applicants no longer wished to follow these up. 1,712 cases remain and 9 of these have been communicated and their further examination is likely to be co-ordinated with the progress of the inter-state case.

13. A further 20 cases have been lodged against both Georgia and Russia, and 208 applications, involving more than 900 applicants have been lodged against the Russian Federation. These have been communicated to the Russian Federation for information.

14. The Rapporteur awaits with interest the Court’s findings and considers they will be an important and essential step in dealing with the aftermath of the conflict and the humanitarian consequences of the war.

## *2.3. Government Policy*

### *2.3.1. Strategy on displaced persons and the Action Plan*

15. The State Strategy on Internally Displaced Persons has been supplemented by the adoption of the Action Plan for the Implementation of the State Strategy on IDPs during 2009 -2012. This has more recently been supplemented by the IDP Action Plan for 2012-2014 adopted by the Government Decree #1162 of 13 June 2012.

16. The general feedback on the Strategy and the Action Plan is positive and international actors report that the Government’s approach is constructive and shows commitment. The issue of IDPs however remains politicised and there are areas of particular concern, which will be taken up later in this report.

17. In terms of updating the Action Plan for 2012 – 2014, a further shift towards a needs-based social assistance model rather than a model focussed on the status of the individual is being advocated by international organisations. This will be a major challenge for the authorities to implement, in political, economic and legal terms, and will require careful preparation, including on the implications of such a change. In this context a new needs assessment programme for IDPs was launched in July 2012 under which health, agriculture and employment have been highlighted as priorities.

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<sup>8</sup> See SG/Inf (2012) 28 rev.

### 2.3.2. Strategy on occupied territories and the Action Plan

18. The Georgian Government adopted the **State Strategy on Occupied Territories: Engagement Through Cooperation** in January 2010. It is the mechanism through which joint projects and activities can be carried out across the ABL. It covers areas such as economic relations, infrastructure, transport, education, people to people contact, legal and administrative measures and human rights.

19. The **Action Plan for Engagement** was adopted on 3 July 2010 and provides the mechanism for implementing the goals outlined in the Strategy. Amongst the mechanisms established under the Plan is a **Liaison Mechanism**, which acts as a channel of communication between the divided communities and facilitates the running of international projects as well as the delivery of medicines. It was the mechanism I used to cross the ABL and set up meetings during the visit to Gali and Sukhumi. The system was efficient and functioned smoothly.

20. Another instrument is the development of **status-neutral identification cards and travel documents**. These should in principle allow all persons habitually residing in the regions of Abkhazia and South Ossetia (excluding Russian military) to obtain medical, education and social benefits on the same basis as all citizens from other regions of Georgia. Furthermore the aim is that these travel documents will ultimately enable the holders to travel abroad for medical, educational or confidence building purposes. However as it stands few countries have agreed to accept these documents and interlocutors in Sukhumi and in Moscow have spoken out strongly against their use indicating that they are not neutral (Georgia is mentioned in the country's code and the Georgian Ministry of Interior is mentioned as the issuing authority). Few persons appear to have applied for these documents and they may not have the success hoped for by the Georgian authorities<sup>9</sup>. They nonetheless represent one of a number of options for persons wishing to obtain the benefits of these documents, including travelling abroad.

21. The Government has also adopted, in October 2010, modalities for conducting activities in these regions<sup>10</sup> which define procedures and allow, for example, emergency humanitarian action to be conducted without prior notice. I understand that all projects submitted have so far been allowed, and 125 so called Non-Objection Orders have been given.

22. In practice the Georgian authorities are open to humanitarian projects, but other forms of co-operation stumble on the issue of status and the fear that any such co-operation could promote state building and recognition.

23. The Rapporteur understands from international organisations working in the region of Abkhazia, that it is possible to work peacefully and solve problems as long as they do not try to deal with controversial issues, which otherwise quickly become politicised and status related. That said, at the end of October 2012, international NGOs were invited to close their offices in Sukhumi, and move their operations exclusively to the Gali area. If this happens it will hinder dialogue and co-operation and represents a step backwards in terms of strengthening civil society in Sukhumi. The situation is different in the region of South Ossetia, where the only international NGO active is the ICRC.

24. The Council of Europe has been running a range of confidence-building activities which have been positive and constructive. These activities have had a bilateral format and have included training of journalists on balanced coverage of politically sensitive events, a training seminar on new technologies to enhance intercultural communication skills, a project to bring artists together for dialogue and a project to make human rights documents available to civil society groups and education establishments. A number of other projects are also under consideration including a project on patient's rights, a seminar for teachers and teacher trainers on children in psychological distress and an activity concerning conservation of cultural heritage. These different activities are to be welcomed. While I understand that there are some problems in organising the activities (issues of whether activities should move beyond the bilateral to a wider European context, and problems associated with travel documents), I hope that all sides will be flexible so as to allow the activities to continue. Furthermore I would like to encourage the Committee of Ministers of the Council of

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<sup>9</sup> Ten countries have recognised the status neutral travel documents – Bulgaria, Czech Republic, Estonia, Israel, Japan, Latvia, Lithuania, Poland, the Slovak Republic, and the United States of America, The Georgian Government has issued 200 of these documents according to the "Consolidated report on the conflict in Georgia (April 2012 – September 2012)" presented by the Secretary General of the Council of Europe (SG/Inf (2012) 28 rev).

<sup>10</sup> See Government of Georgia document entitled, "Modalities for Engagement of Organizations Conducting Activities in the Occupied Territories of Georgia".

Europe to expand further its confidence-building activities. The build-up of trust will not happen without contacts and activities of this and other nature.

25. During my visit to Tbilisi some concerns were raised about the creation of a **Trust Fund** by the Georgian authorities. This was seen as a way of centralising all action and funding in order to control activities in the regions. The Georgian authorities have responded to these concerns saying that they consider this as an additional mechanism without prejudice to established mechanisms or international funding exercises by the international community.

26. In my opinion the Strategy, while opening the way for limited co-operation and humanitarian access does little to open the doors for reintegration. All my interlocutors during my visit to Sukhumi, including civil society actors, made it clear to me that they distrust the Strategy and the motivation behind it. They also made it clear that they had little wish for reintegration. A more compromising attitude by all is needed if this or any strategy is to have an impact and success. The Georgian authorities' need for control is understandable; however, this should not become counterproductive in terms of the goal sought, namely reintegration. There are however indication that the recent Parliamentary elections in Georgia and the subsequent appointment of a new government will bring about a shift in approach on the strategy and action plan, leading to more, rather than less, engagement, negotiation and co-operation. It is hoped that any compromise on the Georgian side will be reciprocated by the *de facto* authorities in Sukhumi and Tskhinvali.

### 2.3.3. Law on IDPs

27. The Law on IDPs was amended in December 2011 narrowing the definition of a "forcibly displaced person" to only include "residents from occupied territories". This amendment has been criticised for not being in line with the Guiding Principles on Internal Displacement and would, if applied retroactively, deny legal protection to a number of displaced persons whose unsafe homes are in villages on the Georgian-controlled side of the ABL. The Georgian Government is under an international obligation to provide assistance to its internally displaced population in a non-discriminatory manner, and should therefore rectify this potential lack of protection.

### 2.4. Security

28. The security along and around the ABL has in general improved since the last report of the Committee in 2009. There have been no major incidents comparable to those that generated the previous conflict and tensions have been reduced. There nevertheless remain security incidents of concern. These can take many forms<sup>11</sup>: gun fire, movement of troops, low flying helicopters and planes, explosions of mines and unexploded ordnance, movements of the ABL, detentions, kidnappings and crime, problems of access to pastures, fields and water, etc. Poor information or disinformation on both sides of the ABL, as well as a lack of interaction and restrictions on freedom of movement across the ABL, all contribute to a heightened sense of insecurity. Furthermore in 2010-2011 there were a dozen bombings or attempted bombings reported in Georgia. In these the Georgian authorities accused Russia of not only supporting a spy network but also playing a role in the bombings.<sup>12</sup>

29. The large Russian military presence across the ABL is seen by Georgia as a constant threat and an occupation of Georgian territory. On the other side of the ABL the *de facto* authorities see it as a guarantee against renewal of the conflict. What is needed to restore security and long term trust is not armies facing each other along the ABL, but a strong non-partisan international peace-keeping and monitoring presence both sides of the ABL. In this connection it is to be regretted that the EUMM is unable to carry out its work both sides of the ABL. This would at least allow for a non-partisan monitoring of the security situation and security incidents. Unfortunately there appears to be, at the moment, no political will to find alternative solutions for peace keeping and monitoring, whether this be a multinational peace keeping force (led by the Russians or others), or any other option.

30. While de-mining has been completed in the region of Abkhazia one can never be 100% sure of safety from mines or unexploded ordnance. Along the ABL in the region of South Ossetia, there are still areas that are mined. To give an example, in June earlier this year a vehicle carrying 8 Georgian forest rangers blew up on a mine close to the ABL. It is therefore important that all persons, children in particular, remain aware of these risks in the conflict affected areas. A first step could be to limit, as the Georgians have largely done,

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<sup>11</sup> Understanding and responding to security needs, Lessons learnt from working with communities in Shida Kartli. Emily Speers Mears and David Wood, The Caucasus Institute for Peace, Democracy and Development and Saferworld, February 2011.

<sup>12</sup> Georgia-Russia: Learn to Live like Neighbours. Crisis Group Europe Briefing No. 65, 8 August 2011.

the military presence within a 15 kilometer zone of the ABL, ensuring that the different sides only have a defensive rather than offensive capacity in these areas.

## 2.5. Situation of IDPs (old and new caseloads)

### 2.5.1. Housing

31. The Georgian Government, with the injection of substantial funding from the international community, has since 2008 made great efforts to solve the urgent housing needs of the new IDPs and tackle the problems of IDPs from the earlier conflicts. According to the Minister of Refugees, 28,861 households have now received durable housing. This is equivalent to 100,000 persons.

32. Notwithstanding the steps taken, the housing conditions of the majority of IDPs remain a major concern, even if the situation differs from region to region, with IDPs in the capital in general being better off<sup>13</sup>. The Public Defender of Georgia has been particularly active and critical in this respect.<sup>14</sup> There have been shortcomings in terms of information provided to IDPs about alternatives, transparency, delays in transferring ownership and problems relating to the quality of building work. Furthermore many persons continue to live in unsatisfactory housing, both private and public housing.

33. It is important to note that a range of alternative housing measures have been put in place to deal with IDPs from the 2008 and earlier displacements. The so-called “**new settlements**” that house IDPs from 2008 are partly cottage-type (13), partly block-type settlements (25). The majority of these settlements were built in the space of several months after the conflict in 2008 when the needs were great and winter was approaching. I have visited some of the cottage-type homes in Tserovani and the quality of their construction and durability is an issue. Rising damp due to insufficient foundations, flooding, lack of proper insulation, bad wiring and poor sanitation are all common problems. I understand that a mechanism is being set up to deal with the repair of these and other properties. It is essential that these repairs and upgrades are carried out prior to the privatisation of these properties as they are increasingly having to become *de facto* durable housing options whilst returns remain impossible.

34. According to the Ministry of Internally Displaced Persons,<sup>15</sup> there are currently 101,323 IDPs living in **collective centres** and 157,276 IDPs living in the **private sector**.<sup>16</sup> Notwithstanding the great deal of work carried out, rehabilitation of collective centres and their transfer of ownership to IDPs have fallen behind that foreseen in the Action Plan with more than 10,000 IDP families still waiting for privatisation of their homes. The Ministry of Internally Displaced Persons is not entirely to blame and a lack of co-ordination between Ministries would appear to be part of the cause of this delay. This problem needs to be tackled.

35. One of the most common problems is the poor quality of works followed by a frustration at the lack of information on the process of privatisation of collective centres and evictions.

36. Some **evictions** were particularly problematic in 2010, affecting more than 1,100 IDPs. These properties were primarily buildings that were not officially registered as IDP collective centres and inhabited by a mixed caseload of IDPs with different needs, problems and status. Criticisms included the short time frames in which evictions took place, the lack of information on suitable alternative accommodation and allegations of inappropriate and insulting treatment during the eviction process. As a result of these criticisms a moratorium was declared on evictions until a housing solution programme was developed in autumn 2010. In addition, standard operating procedures for eviction were developed with UNHCR and other international organisations. These have improved the way in which evictions have taken place.

37. **New accommodation**, which would appear to be a model of good practice, is being made available in Batumi, Poti and Tsqaltubo. This is being partly financed by the EU. The Poti settlement, for example consists of 18 five-story and 14 four-storey buildings providing durable solutions for 1,168 families. According

<sup>13</sup> It should be underlined that run-down collective centres exist both in Tbilisi and elsewhere and IDPs living in private accommodation can face inadequate housing situations irrespective of their geographic location.

<sup>14</sup> See for example Public Defender of Georgia Report on the human rights situation of internally displaced persons and conflict-affected individuals in Georgia.

<sup>15</sup> See Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia <http://mra.gov.ge/main/ENG#section/50>

<sup>16</sup> At the conference “Looking forward: Updating the IDP Action Plan 2010” held in February 2010, statistics were provided on the 467 collective centres under State ownership. 243 of these were renovated, 45 were categorised as suitable for durable solutions and 179 were being returned to their previous functions. State ownership however only accounted for 58% of ownership and 28 % of these were under private ownership and 14% under mixed ownership. From these statistics the scale of the problem can be better gauged.

to UNHCR in a recent report the quality of the apartments is good and occupants are satisfied.<sup>17</sup> Access to services, including education and health, is also good, as is the choice of location, although it would appear that livelihood issues still need to be addressed and care has to be taken to ensure that these and other housing solutions do not contribute to a form of “residential segregation”. One area in which the Council of Europe could provide assistance, is in helping to ensure the successful integration of resettled IDPs in their new communities, bearing in mind that integration is always a two-way process.

38. **Persons in private accommodation** is probably the issue requiring the most priority, primarily because the needs of these persons have, in large, not been catered for. There are said to be 135,455 persons in this situation, i.e. well over 50% of all IDPs. Only recently has more research been conducted on their diverse needs and the Public Defender has called for greater focus on IDPs living in the private sector. To give an idea of the extent of the problem, a 2011 report by the Danish Refugee Council<sup>18</sup> revealed that 25 % of IDPs in private accommodation in the North-West region of Samegrelo and 22% in Tbilisi were in urgent need of durable housing solutions, regardless of whether they owned the housing themselves or not. Furthermore there was an additional problem of “housing insecurity” for many in rented or borrowed accommodation.

39. In view of the different needs and situations of those in private accommodation it is important that further research is undertaken to ensure that there is reliable data on the socio-economic conditions of this group of persons. Support should be given to those most in need, whether they own their housing or not.

40. Alternative **monetary compensation** is also an option with the equivalent of US\$ 10,000 being on offer. In statistics published in 2010 1,684 families had received this compensation but some families continued to wait for compensation<sup>19</sup>. These people clearly have to be assisted in their accommodation needs pending payment of the sums earmarked.

41. The Rapporteur notes in conclusion that a great deal of work is still required and that the Georgian authorities have themselves recognised that \$800 million dollars is needed to deal with the IDPs housing needs. So far however donors have only pledged between \$350 million and \$400 million dollars<sup>20</sup>. It is incumbent on the Georgian authorities to ensure that all sums obtained are used effectively and that they are properly accounted for.

42. One issue which still has to be examined is that of creating a mechanism for IDPs to recover their housing, land and property wherever it is located, or to receive compensation. In this there have been calls for the authorities to have a study carried out on the different property rights and how to put in place a mechanism to allow for claims to be submitted.<sup>21</sup>

### 2.5.2. Livelihood

43. The lack of livelihood is a particular problem for those living in the cottage-type houses, but is not confined to them. Even persons who have moved to Poti or Batumi, where there are greater opportunities for earning a living or finding work (one will be a free enterprise zone and the other a centre for tourism), will not find it easy.

44. The international community is focussing increasingly on improving the livelihood of IDPs by supporting vocational training programmes, providing small loans for business start-ups, involving IDPs in rehabilitation of collective centres, etc. Much more however needs to be done, including by the Government. Many of the IDPs are from farming backgrounds and the greater availability of farming land and equipment would undoubtedly help. In general however, much more needs to be done to break the cycle of dependency which a large number of IDPs have got caught in. This is in part because many of the new housing or apartment developments are still far from being viable communities. To give an indication of the extent of the problem, it has been estimated that two thirds of internally displaced families settled in the new villages rely on government benefits as their only source of income.<sup>22</sup> One step which could be taken to improve the

<sup>17</sup> UNHCR Observations on process of relocation of IDPs to the new settlement in Maltakva, Poti. September 2011.

<sup>18</sup> Danish Refugee Council Survey reports on privately accommodated IDPs in the Samegrelo Region and Tbilisi, January 2011.

<sup>19</sup> This compensation constitutes a one-off assistance payment only to IDPs from 2008. According to the Georgian Government, this scheme has come to an end due to budgetary constraints. The Action Plan foresees monetary assistance to IDPs at a later stage of implementation, but there is currently no funding available and therefore no planning on how to deal with this type of measure.

<sup>20</sup> See IDMC report on Georgia, page 10 (supra) citing Georgian government figures.

<sup>21</sup> See IDMC report on Georgia, page 19 (supra).

<sup>22</sup> See IDMC report on Georgia, page 9 (supra), citing CARE, 31 December 2009, Baseline Survey of the IDP

situation is to provide structured assistance to help IDPs find work, taking into account and reviewing their skills and livelihood wishes.

### 2.5.3. Health, schooling and vulnerable groups

45. **Health** provisions for IDPs have, on the whole, been well catered for. That said, the Public Defender has noted that while the State has implemented measure in order to provide IDPs with essential medical care, information on entitlement remains a problem as does the cost of medication.

46. In terms of **schooling**, the authorities have taken the necessary steps to guarantee the right to education of IDP children. I welcome that there has also been a move towards integrated education for IDP children. Interestingly in a recent study<sup>23</sup> it was stated that these children do not like the label of IDP, making it all the more important that they become better integrated. The Rapporteur urges the authorities to continue in this manner and to consider how best to avoid the problems of segregated schooling when deciding on building further settlements for IDPs.

47. Since the conflict in 2008 a number of NGOs have noted an increase in **domestic violence** in Georgia (Anti-Violence Network of Georgia, Georgian Young Lawyers' Association – Gori Office, NGO, "Sakhli"). While it is difficult to make a link to this being a direct consequence of the war, it is clear that the displacement, the uncertainty, the unemployment and lack of opportunity linked to the consequences of the conflict had had an indirect effect on the level of domestic violence. The issue needs more of a public airing and I urge the authorities to take further measures, with the assistance of the Council of Europe if necessary.

48. The Public Defender has stated that persons with **disabilities and other disadvantaged groups with special needs** and their families have not been catered for in the collective centres, the new housing or in relocation. This is a matter which will require urgent attention by the authorities who will have to prioritise the needs of these vulnerable groups in the revised action plan for 2012-2014.

## 3. Part II: The humanitarian situation in Abkhazia, Georgia

49. The region of Abkhazia is largely isolated, notwithstanding its coastal access and a good road to Russia. It is dependent on Russia for, *inter alia* its economy and military capacity. Many of the people in the region have limited possibilities of contact with, or travel to, countries other than Russia unless they obtain Russian passports (which most people have although this does not guarantee them international travel) , cross the ABL, or apply for status neutral travel documents.

50. There are particular difficulties facing ethnic Georgians living in the Gali area, many of whom fled before returning. The rest of the population also face problems linked to the economic, political and social isolation in which they live, but these problems are of a different nature and dimension. These problems may be different, but they should not be minimised.

51. Many IDPs are unable to return, in particular outside of the Gali area. This is primarily because they are not permitted to, reportedly because of a collective mistrust and fear that they could create a "fourth column" for the Georgian authorities. It is however clear to me that even if these persons were allowed to return at this moment, , there would be serious concerns about the durability and safety of their return without some form of international monitoring mechanism being put in place.

52. From any view point the humanitarian situation in the Gali area is far from good. Poor living conditions are a particular problem highlighted in a 2011 assessment of returned IDPs by UNHCR in 2011<sup>24</sup>. When I visited the area I could witness this situation myself.

53. The recent report of Human Rights Watch "Living in Limbo"<sup>25</sup> examines the rights of ethnic Georgian returnees and portrays much the same picture. However if the analysis was left at this point it would not show the whole picture and would not be helpful to the people in the region, whether they are of Georgian, Abkhaz, Armenian or of other ethnic origin.

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settlements and their neighbouring communities in Kvemo Kartli and Shida Kartli.

<sup>23</sup> Norwegian Refugee Council "Not displaced, but out-of-place", (March 2010). The study also noted that IDP children were disadvantaged, but this was more due to economic status than discrimination.

<sup>24</sup> Summary Participatory Assessment Results for returned IDPs Gali, Abkhazia, Georgia 2011.

<sup>25</sup> See Living in Limbo, Human Rights Watch, July 2011 <http://www.hrw.org/sites/default/files/reports/georgia0711LR.pdf>

54. On the humanitarian front, some things have improved. The improvements may be inadequate, but they are improvements affecting the tough day-to-day lives of persons in the region.

55. The elections for the *de facto* president that took place in August 2011 saw Aleksander Ankvab elected. Mr Ankvab has taken a number of steps, which are promising, and although these steps are not in themselves enough, they are in the right humanitarian direction. The measures he took to improve security and stop racketeering and corruption during the 2011 harvest in the Gali area, is one example of a step in the right direction.

### 3.1. Security situation (Gali in particular)

56. At the time of my visit in 2011 the security situation was not as tense as it had been. Since my visit however there have been quite a number of incidents which show that one should not underestimate the security situation in the area and the stress of living in an environment with a large military presence.

57. Some examples of recent security incidents include: an attack on Mr Ankvab's convoy in which two of his body guards were killed, (put down to reprisals by criminal elements for his crackdown on criminality); a number of killings in the Gali area; an attack on a Georgian police post; allegations that the Georgian security services were behind the killing of two *de facto* police officers and a civilian in a Gali café and allegations that the Georgian authorities had established paramilitary formations and were behind acts of sabotage and terrorism. In the absence of independent monitoring, such as through EUMM, it is impossible to verify these different security incidents, but it is clear there is a high level of violence and killing in the region.

58. There are also many persons arrested for so called "illegally crossing the ABL" and also allegations of kidnapping. Many people in the Gali area have split lives with split families across the ABL. Crossing the ABL is thus essential for them and the difficulties in crossing (whether at 'legal' or other crossing points) heightens the sense of physical insecurity and also uncertainty in never knowing if crossings will be possible and at what cost.

59. One of the major concerns for young men is conscription, and in particular the treatment of ethnic Georgian conscripts. Many avoid conscription by making themselves scarce during the call-ups, others have not applied for the so called "passports" in order to keep themselves off the records and avoid conscription, although this does not always work.

60. Personal security, in different forms, is one of the most fundamental rights. As rapporteur I have noticed that while some steps have been taken to improve the situation, much more has to be done.

### 3.2. Right to return

61. According to the Georgian authorities more than 400,000 persons fled the conflict zones since the 1990's, and out of this number around 256,000 remain in Georgia with the rest dispersed in other countries. This figure however does not take into account that there have been spontaneous and unorganised returns and in this respect the Secretary General of the United Nations, in his recent report on IDPs in the region estimated that 45,000 persons may have returned spontaneously or be in the process of returning to the Gali area<sup>26</sup>.

62. The right to return is a fundamental right. It is reiterated in all Parliamentary Assembly Resolutions relevant to the conflicts and it was also repeated in the July 2012 UN General Assembly resolution on the status of internally displaced persons and refugees from the region.

63. It is to be regretted that there is virtually no discussion possible on the issue of return, either within the working group specifically set up under the Geneva process dealing with humanitarian issues, or otherwise. It should be highlighted that return of refugees and IDPs is a right and all parties must work towards a safe and dignified return of all refugees and displaced persons. I am aware that in practice, at the moment, conditions are not favourable for the return of IDPs outside of the Gali area.<sup>27</sup> The *de facto* authorities state

<sup>26</sup> The recent census published in Sukhumi in December 2011, indicated that there were 43,166 ethnic Georgians living in the whole region (not just the Gali area) making up 17.93% of the population. It should be noted that these figures are disputed.

<sup>27</sup> In a study on displacement in Georgia it was estimated that 64 % of IDPs from the Gali area have been back to visit friends and family, to look after property or look after graves, thus keeping contacts which may be essential in the future if more wide scale returns become possible. However the overall figure for the whole of the Abkhaz region is 25% meaning that very few persons outside the Gali area have gone back. In the same study it was cited that 9% of persons

openly that they will not allow the return of persons of Georgian ethnic origin who they hold responsible for atrocities during the conflicts. I consider that any individual responsible for an atrocity should be brought to account, but attaching a collective guilt to almost all ethnic Georgians is not acceptable. Applying this collective guilt and maintaining a policy of non-return effectively leads to ethnic cleansing of a large part of the region of Abkhazia, unless returns are allowed to take place in safety and dignity.

64. The position is different in the Gali area, where notwithstanding a large number of departures across the ABL, there have been a significant number of returns to the Gali area. This is to be welcomed. It is a positive sign and the *de facto* authorities need to be encouraged to continue in this light. It is not however enough and there remain concerns about the future. Gali was almost 100 per cent ethnic Georgian before the conflicts. Without ethnic Georgians the area would be empty. The area needs a population to farm the land, contribute to the economy and keep the infrastructure going.

65. In relation to this area, my primary concern is that limits will be placed on returns, in particular as there are now enough persons to have a functioning district, but not too many so that ethnic Abkhaz feel their majority is under threat. A number of statements have been made suggesting that the upper limit of returns has been reached. As rapporteur I have to state clearly that the right to return is not an option - it is a right.

### 3.3. Access

66. Access to activities in the region have been regulated not only through the framework of the "Modalities for Engagement" but also through the so called "Liaison Mechanism" which I used successfully when visiting the region. The willingness of all parties to support the "Liaison Mechanism" is to be welcomed.

67. When I travelled to the region, the only "official" **crossing point** was the Enguri bridge with an average of 1,000 crossings a day, according to EUMM. In practice there are many unofficial crossing points along the ABL. Being caught "illegally" crossing can however lead to a fine, imprisonment, arbitrary detention, or payment of a bribe, depending on who the interception is by.

68. The situation is likely to become increasingly difficult for local residents, both sides of the ABL, as the so called process of "borderisation" takes place, with fences and other obstacles constructed, and the Russian military presence along the ABL. The increasing insistence and dependence on the so called "Abkhaz passports" will further restrict the possibilities of crossing the ABL for those unable or unwilling to obtain this document.

69. It is essential that opportunities for crossing the ABL are not restricted to a single crossing point because of the impact this will have on family and other contacts, children's education, economic possibilities, health and other matters. I welcome news that there are plans to open additional crossing points including in Otobaya, Nabakevi, Tagiloni, Saberio and Lekukhona, although these plans are dragging on without becoming reality. It is important that these crossing points are opened as soon as possible and they are opened to the movement of pedestrians and vehicals. Furthermore solutions need to be found for children crossing the ABL for schooling. At the moment I welcome the flexibility of all sides, which allows 50 children<sup>28</sup> to cross daily to carry out their schooling.

### 3.4. Children and schooling

70. Schooling is one of the issues I am most concerned about. The children are the future and mistakes today will take a generation to mend. As a starting point it is important to highlight the right of parents to have their children educated in accordance with their own religious and philosophical convictions and also the importance of mother tongue education for the development of children. This applies whether the mother tongue is Georgian, Armenian, Russian or Abkhaz.

71. There are legitimate concerns for each of the four languages, but these concerns should not put the languages in conflict. Consideration has to be given to both teaching in and teaching of the languages concerned. Consideration also needs to be given to continuity so as to ensure that education in one or other of the languages leads to further opportunities and not an academic dead end.

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would only consider return if it remained outside of the control of Georgia, whereas 87% would return if Georgia once again took control. (Displacement in Georgia: IDP attitudes to conflict, return and Justice. April 2011, Conciliation Resources, page 5).

<sup>28</sup> Different figures were given to me for the number of children crossing, but this is probably the most accurate figure.

72. Concerning teaching of Georgian and teaching in Georgian. The Gali area is almost entirely made up of ethnic Georgians. Further east the situation changes with a range of different mother tongues being used.

73. The Gali area has effectively been divided into two parts, upper Gali (eastern) and lower Gali (western). Traditionally almost all education was in Georgian. Now, in Upper Gali education is supposed to be in Russian with Georgian taught only as a language for a limited number of hours, depending on the year of the class.

74. There are 31 schools (11 in lower Gali) and 733 teachers in this area. The vast majority of teachers are ethnic Georgians, many of whom do not have the necessary language skills to teach in Russian (only 57 have completed higher education in Russian) so, *de facto*, some of the classes are taught in Georgian, with Georgian teaching materials. This is not officially sanctioned, but there are too few teachers and many of them are old. Teachers of other ethnic origin, in general, are not interested in teaching in the Gali area. In order to ensure that Russian is the language of education in Upper Gali, teachers with insufficient Russian language skills now have to follow a course and take exams in Russian including an element on Russian history. Without passing these exams these teachers will not be able to continue teaching. This will not however tackle the problem of the lack of teachers and the need to replace some of the older teachers.

75. In lower Gali the situation is different. The language of education is Georgian, although history and geography are taught in Russian.

76. Abkhaz is a compulsory subject in all schools with reportedly 1 to 2 hours lessons per week, depending on the year of the class. Education for persons of Abkhaz ethnic origin is primarily in Russian, with higher education also available in Sukhumi in Russian.

77. There are schools outside of Gali in which Armenian is the language of education, although history and geography is taught in Russian. There are no opportunities for higher education in Armenian in the region.

78. There is a general lack of kindergartens throughout the region and although I visited one such kindergarten under construction, it was clear that there was a need for further kindergartens.

79. With the expected arrival of families of Russian troops, this will bring new challenges. These children will need to be educated either in local schools or have their own separate schools. This is unsettling for some of the local inhabitants. When I was in Moscow I sought clarification on this issues and was informed that the children were most likely to be educated in local schools.

80. There is little doubt that the quality of education in the region is low due to a lack of appropriate teaching materials, problems with the curricula, and a lack of adequately trained teachers with the appropriate language skills and the lack of opportunities to follow-up education at higher levels. A review of the teaching and education system is required and the Council of Europe could assist in this review.

### 3.5. Medical

81. There are problems in terms of the provision of healthcare even if there have been improvements in medical facilities in Sukhumi, where a new hospital and maternity clinic have been refurbished with financial assistance from Russia. While primary health care is largely catered for, some villages are without health clinics, posing a real problem for persons in these villages. Those with serious health care issues often need to go across the ABL to Zugdidi or Tbilisi, or go to Russia. Drug addiction was highlighted to me as a particular problem during my visit to Sukhumi, and UNDP has a programme to help tackle this, as well HIV/AIDS.

82. The system is reliant on funding and medicines from Russia and also treatment of patients in Russia. Similar assistance is also provided by the Georgian authorities, which is free of charge<sup>29</sup>. This combined assistance is not however sufficient. All too often people in no fit state to travel have to go long distances to obtain medical treatment.

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<sup>29</sup> To give an idea of the support provided by the Georgian authorities, in 2010 and 2011 (up to August) approximately 1,626 persons from the region of Abkhazia received medical treatment. In addition the Ministry of Health provided medicines, vaccines and gave support to the rehabilitation of healthcare facilities in the region. The total budget of this Programme in 2010 was 1,590,274 GEL.

83. In the Gali region, I met with the *de facto* Chief of the Hospital of Gali who confirmed the difficulties faced in obtaining medical treatment in the Gali area. Recruiting qualified medical staff was a major problem, lack of medicines was another, with people effectively having to supply their own. A heavy reliance was placed on ambulance services, which included taking people to Sukhumi, across the ABL or even to Russia. The costs of medicines is particularly high as they are mostly imported from Russia as there are restrictions on bringing them across the ABL. These restrictions should be lifted, as a priority.

84. I was pleased to hear that crossing the ABL did not generally<sup>30</sup> cause problems when humanitarian medical issues were at stake. This was confirmed by the ICRC, and this flexibility from all parties is to be welcomed.

### 3.6. Livelihood

85. The economy of the region of Abkhazia relies on assistance from Russia and tourism, primarily in Sukhumi and along the Black Sea. Tourism has declined as the infrastructure has failed to keep pace with what is available elsewhere. Large swathes of land in the east were devoted to tea, but these have become deserted because of the conflict and because tea is no longer a viable commodity. The primary agricultural products are hazel nuts, maize and to a lesser extent citrus fruits. Many in the Gali area supplement this income by claiming IDP allowances and State pensions from the Georgian authorities.

86. Persons with skills, such as carpenters, builders and plumbers are attracted to the possibilities that exist outside of the region, either towards Tbilisi, or towards Moscow and more pertinently towards Sochi, where there is a labour demand for preparations for the 2014 Winter Olympics.

87. In the Gali area the livelihood is primarily subsistence farming, with small garden or farming plots providing staples, and an excess of hazel nuts or citrus fruit, providing a small income following the harvest. The crack-down on racketeering and corruption during the 2011 harvest season was beneficial for persons in the Gali area. Not only did it contribute to their sense of security but it also affected, in a positive way, their livelihood and their ability to fend for themselves economically through the winter. There are however practically no jobs available in the area.

88. Overall the economic situation of the region of Abkhazia is regrettable. Taking into account the geographical position, the potential for tourism, agriculture and even small businesses, it is not only underdeveloped but under developing. The isolation imposed on it and the self-imposed isolation by the *de facto* authorities, primarily as a result of politics and fear of compromising status issues, greatly affects the standard of living of the population and their ability to interact with those outside of the region.

### 3.7. Domestic violence

89. Domestic violence is a problem exacerbated by the conflict, even if it is not a highly visible problem. In my discussions in Sukhumi and Gali, I was concerned by the denial of the problem by some, but impressed by the commitment of NGOs working on the matter with support from the international community. In the Gali region a mobile medical team had been dealing with 72 cases of domestic violence over an 8 month period. Projects such as this require support, and the Council of Europe should look into offering support in this matter in the future.

### 3.8. Identity documents and travel

90. The process of issuing “Abkhaz passports” continues. Approximately 12,000 of these have been issued to persons in the Gali area and there are about 3,000 applications still pending. In addition, notwithstanding the condemnation by the international community, including the Assembly<sup>31</sup>, of the practice of giving out passports and conferring citizenship to residents of foreign states *en masse*, the Russian Federation has continued issuing its passports to residents of the region.

91. While the Rapporteur underscores that while these “Abkhaz passports” have no validity under international law, she recognises that this document is a practical necessity for local residents. Without this

<sup>30</sup> I say generally because I was also informed that problems nonetheless sometimes exist in obtaining so called “exit permissions”, with urgent calls for these being left unanswered.

<sup>31</sup> In its Resolution 1455 (2005) on the honouring of obligations and commitments by the Russian Federation, the Assembly called on the Russian Federation to cease activities such as the issuing of Russian passports to inhabitants of the Georgian regions of Abkhazia and South Ossetia, which may – directly or indirectly – undermine Georgia’s sovereignty and territorial integrity.

document residents run into problems over property ownership, crossing the ABL, schooling, health and all other administrative contacts. If a family wishes to remain in Gali, at least one member of the household requires such a document.

92. The process of obtaining this document is costly and time consuming because of the number and nature of supporting documents required. The Human Rights Watch report referred to earlier notes that the application process for ethnic Georgians is discriminatory,<sup>32</sup> and some persons have experienced lengthy delays in obtaining these documents.

93. At the beginning applicants were required to hand in their Georgian passports. This is no longer necessary as it is clear that new passports can be easily obtained crossing the ABL.

94. These "Abkhaz passports" are not recognised by the international community, apart from by Russia and the few countries that have recognised this region.

95. International travel is not a problem for those who use a Georgian passport. However, for those persons who have obtained Russian passports international travel is not always possible. These persons are subjected to the same visa requirements as all Russian citizens, but when it comes to issuing a visa, this is sometimes turned down if it is clear the passport was issued in the region of Abkhazia (as opposed to in Russia). In meetings in Sukhumi, there was great frustration voiced on the restrictions on travel. The persons concerned claimed that these restrictions not only isolate them, but also move them closer into the arms of Russia.

96. Whether the proposed neutral travel documents of the Georgian authorities will provide a solution is, as mentioned earlier, far from certain in the light of reticence by the international community and the negative reaction in and outside of Sukhumi. That said, these documents represent one of a number of options and a pragmatic approach should be adopted for other travel documents, on a case-by-case basis.

### *3.9. Missing Persons*

97. From the 1992-1993 conflict there are estimated to be 1 763 Georgians and 197 Abkhaz missing. Since the Assembly's last work on the issue<sup>33</sup> a new coordination mechanism has been established under the aegis of the ICRC, and a joint forensic working group between the two sides has been set up at the beginning of 2011. This group has started its work and meets regularly. In total, four exhumations have taken place. Two in 2010, outside the Coordination Mechanism but with ICRC involvement, and two took place in May within the Coordination Mechanism. It is positive to hear that at the most recent Geneva Discussions there were indications that all parties were looking to achieve progress and workable solutions. It is every family's right to know the fate of their missing relatives. Work has restarted on collecting ante-mortem data and it is important that this work be supported fully by all parties who must do everything in their power to throw light on the fate of the missing. Without progress, the issue will fester and make solutions to the conflict even harder to reach. Alongside this work it is also essential to give support to the families of the missing and it is to be welcomed that ICRC is organising this through networks set up with NGOs.

### *3.10. Kodori Valley*

98. Of the population of 2,000 in the Kodori Valley in 2008, only 200 remain following the 2008 conflict. For the ICRC they are a group at particular risk, living in the highest and inaccessible inhabited area of the Caucasus. It can be welcomed that they continue to receive food and non-food items from the ICRC and that the ICRC has also been providing them with agricultural support, for example in the form of Potato Seed Production Programmes. The issue of return of persons displaced from the Kodori valley should not be forgotten. This is particularly important for such a small and vulnerable community living in a remote and cut off region.

### *3.11. Historical monuments*

99. There have been allegations of historical monuments, mainly churches, being altered to erase evidence of cohabitation of Georgians and Abkhaz over time in the region. The Rapporteur is not in a position to comment on these allegations, but considers that the matter should be examined by an

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<sup>32</sup> See Living in Limbo, Human Rights Watch, July 2011.

<sup>33</sup> See Resolution (2007) 1553 on Missing persons in Armenia, Azerbaijan and Georgia from the conflicts over the Nagorno-Karabakh, Abkhazia and South Ossetia regions.

international group of experts, using, as appropriate, the expertise of the Council of Europe to avoid this becoming another issue capable of furthering tension in the region.

### 3.12. Russian military bases

100. It is important to examine the impact of Russian military bases in the region. On the one hand their presence has ensured fewer security incidents along the ABL. Representatives of civil society in Sukhumi informed me that they welcomed the presence of the Russian troops and that after many years they now felt safe and protected from what they termed “possible Georgian aggression”. They had little “trust” in Georgia, they said.

101. At the same time as welcoming this protection, local NGO representatives saw a number of problems linked to the military presence. These included increased isolation from the international community, the likely duration of the bases, the impact of having families of the military living in the region, rights of residence of retiring military officers and liability for accidents caused by members of the Russian military.

102. For those in the Gali area a number of other concerns were raised. They centred round a fear of the gradual extension of the large bases to land and homes around the bases. They were concerned about the impact of having a large number of Russian children in the schools and the gradual “colonisation” of the area by Russian military and their families, including after the military officers retire.

103. For the Georgian authorities the Russian military bases are a pure and simple “occupation”.

104. As I have mentioned earlier, I consider that long term security should be offered by the international community as a whole, and not by any single nation. On a humanitarian basis, this should be what is in the best interest of all, both sides of the ABL, The creation of these large Russian military bases cement further the divide across the ABL and give additional grounds to the argument by the Georgian authorities that the territory is occupied by Russian troops.

## 4. Part III: The humanitarian situation in South Ossetia, Georgia

105. It is difficult for me to develop in detail the humanitarian situation in the region without having had the possibility of visiting and seeing with my own eyes. Notwithstanding this, I am still able to provide a short overview based on contacts I have had and material available.

106. The region is even more isolated than that of the region of Abkhazia. It has an estimated population of around 30,000 although the *de facto* authorities put the figure as high as 72,000 and Georgian officials put it as low as 8 – 15,000 persons<sup>34</sup>. The region is entirely dependent on Russia for its economy and military security. There are very few persons of Georgian ethnic origin remaining in the region. In the area of Akhagori, however, the population is almost all ethnic Georgian and it is estimated at between 700 and 4,000 persons (depending on the source). The area previously had a population of around 8,000.

107. **Living conditions** are extremely difficult, in particular because of shortages of electricity and gas which have been cut off by the Georgian authorities. Some housing has been repaired but many houses remain uninhabitable. A lot of the money earmarked by Russia for housing appears to have gone missing leading to far fewer houses constructed or repaired than budgeted for.

108. **Security** continues to be an issue even if the tension is not the same as it was immediately following the war. As with the region of Abkhazia, large numbers of Russian troops are stationed in the area. Along the ABL there are regular disputes of one sort or another. For example in September this year the *de facto* authorities complained about overflying drones from the Georgian military and also the repositioning of a Georgian police point close to the ABL in the village of Zardiantkari. Furthermore persons continued to be detained for crossing the ABL “illegally” although these persons were generally released shortly afterwards.

109. **Returns** to the area around Tskhinvali, apart from family reunion facilitated by ICRC, do not take place. The villages previously inhabited primarily by ethnic Georgians remain in ruins and there are reports that there are plans to pull down 8 of these villages. I am pleased to learn that these reports have now been denied, but it is not the first time that reports of this nature have been given. These were persons’ homes and communities and notwithstanding the frozen conflict and the lack of prospects for early return, these areas should not be removed from the map. In this context it is important to emphasise that return of

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<sup>34</sup> See South Ossetia: the burden of recognition, International Crisis Group, Europe Report No 205 – 7 June 2010, page 2.

displaced persons and refugees should be the long term goal even if it is clear that currently the conditions for voluntary return in safety and dignity do not exist.

110. Returns to the Akhagori area however remain possible, but are linked to a range of different issues, including security, schooling, economic possibilities, harvest, season, health-care, pensions, salaries and other matters. I am unable to give an accurate figure for the number of returns to the area.

111. There have also been talks about the “return” of refugees from North Ossetia. These are primarily persons who would have been displaced from other parts of Georgia during the earlier conflicts. There are said to be approximately 4,000 families in this situation. It is difficult to see what sort of livelihood these families could enjoy and where they would be housed, taking into account they were not, for the most part, originally from the region.

112. Linked to the issue of returns is the matter of **family reunion**. The ICRC facilitates this both sides of the ABL. In the period from August 2008 to August 2012, reunification of 412 people took place, with almost even numbers each side of the ABL.

113. **Livelihood** in and around Tskhinvali is limited to wood cutting and subsistence farming, where access to water can be a problem for some farmers. The economy is almost entirely dependent on aid from Russia. In the last two years over EUR 230 million was allocated to the region for reconstruction. There are allegations that much of this assistance has gone missing, As a result of this steps have been taken to strengthen accountability and an audit is currently being undertaken by the Russian authorities. While there is talk of promoting the area as a spa region, together with its mineral water, and as a winter sports station, these ideas still have to be developed further. The ICRC, which is the only international NGO in the region, provides small start-up assistance to those most in need. Because there is little demand in the area, this support largely relates to assistance in setting up small scale subsistence farming (including purchasing cattle and mini tractors).

114. Those who have returned to the Akhagori area rely primarily on salaries and pensions from the Georgian Government and from small trade across the ABL. Livelihoods are affected by the remoteness of the region. The building of a road, financed by the Russian authorities, connecting Tskhinvali to Akhagori will help, once it is completed.

115. **Access across the ABL** is restricted to four crossings, Akhagori, Karzmani, Sinaguri and Artsevi. Those entitled to cross are the holders of the so called “Form 9” issued locally. It is estimated that 4,000 of these documents have been issued. There are said to be plans to simplify crossings of the ABL, primarily in the Akhagori area, by allowing not only local residents but also those owning land or housing in the area the possibility of crossing. Problems continue to occur in terms of detention of those “illegally crossing” the ABL. Many of these detentions occur when persons follow cattle or collect firewood or try to access fields to farm them. Lack of clarity over where the ABL runs, remains a problem.

116. In terms of **schooling**, plans were announced in August 2012 to introduce bilingual (Russian and Ossetian) teaching in the Tskhinvali district, starting with first-grade classes. Some of the schools have been refurbished with assistance from Russia and Russian text books have been made available, but there remains much to be done.

117. In the area of Akhagori there are said to be 11 schools and 6 of these are Georgian. The status of these Georgian schools is allegedly changing and they will cease to exist as legal entities. This has reportedly led to many families making the decision to move permanently to the Georgian side of the ABL. There are also choices to be made by teachers along with other public officials who are working both sides of the ABL who are being asked to choose which side they wish to live and work.

118. Standards of **accommodation** are a problem, even if there has been some refurbishment of buildings and the construction of some new houses with Russian assistance. In Tskhinvali, many persons are still housed in collective centres, in difficult conditions. Some homes in the countryside have no access to fresh water. While in certain cases this is due to the conflict, it is also due to lack of maintenance over the years of the infrastructure. The ICRC has provided assistance in this area, and for example currently has a project to carry water in an 8 km pipe to villagers in Satigar.

119. In relation to the **missing persons** file, I was pleased to learn that there is some progress on this issue. A coordination mechanism on **missing people** exists which is run under the aegis of the ICRC. It began as a mechanism to discuss, in a humanitarian forum, the issue of missing people from the 2008 conflict. In 2011 it was agreed that it should also include missing people from the 90's conflict. Currently the

list of missing from the recent conflict contains 44 people, 2 Russians, 8 ethnic Ossetians and 34 ethnic Georgians. The list from the conflict in the 90's includes 141 people although more information is needed to complete this list. Through the work of the mechanism, 3 people have been found alive and 11 exhumations have been carried out leading to 7 positive identifications and handover of the remains to the families. This is important work, which I hope will continue to be supported by all sides.

120. Through this short overview I hope to have given at least an indication of the humanitarian situation in this region which is small and unsustainable without large scale aid from outside. It is remote because it is cut off from the south and divided by mountains in the north leading to North Ossetia. It is a hard life on all fronts for those living in the region with little prospect of major improvements. The large Russian military presence will not prevent continuing tensions along the ABL and a range of on-going security incidents. Access across the ABL is key for improving the humanitarian situation of all those in the area and around the ABL, as well as those who have been displaced. This access is important not just for all the obvious economic and humanitarian reasons, but it is also important for beginning to break down the communications barriers and total lack of trust between the sides and also allowing those who have lost their homes the prospects of one day returning.

121. Without visiting the region I cannot go further in my analysis. I hope that it will be possible for me, in the near future, to visit the region and report more accurately on the humanitarian situation, hearing and seeing first hand from the people most affected.

## **5. Part IV: Refugees and displaced persons in Russia**

122. There are a substantial number of persons who have, as a result of the different conflicts in Georgia, ended up in Russia after having been displaced. Some of these persons are refugees, others have moved because their homes have been destroyed and they have sought a new life where they see the best possibility of earning a living.

123. The first group comprises of ethnic Ossetians who fled Georgia during the conflicts in the early 1990's to North Ossetia-Alania. Approximately 24,000 persons fled the area and many of those received refugee status and were then granted Russian citizenship. Their greatest problem is housing, with many reportedly living in poor conditions in around 30 run down dormitories / collective centres with some having no running water and inadequate sanitation. There are reportedly 3,329 families on a waiting list to get houses and while there was an increase last year in homes provided through granting of housing certificates, this only amounted to providing housing solutions for 81 families<sup>35</sup>.

124. The second group comprises of those who fled the conflict in the region of Abkhazia. These persons, mostly ethnic Georgians, many of whom were war veterans, never got anything from the Russian authorities. They were mostly economically active and never asked for assistance. About 50,000 went to Russia and out of these 30,000 settled in the Moscow region. Their problem is that they have no status and are treated as irregular migrants. Whenever relations sour between Moscow and Tbilisi they face what one NGO referred to as a "witch-hunt". This hunt can allegedly go so far as instructions being given to schools to remove these Georgian children from their establishments.

125. Many of these persons are in fact stateless using only their old Soviet passports which are invalid. Some have children born in Russia, and whilst education is in general not a problem, health care for the whole family is. Because they have no passport they cannot leave the country or re-enter.

126. According to statistics provided by the Federal Migration Service of the Russian Federation<sup>36</sup> 4,269 families (5,346 persons) from Georgia (citizens and stateless persons) applied for asylum in the Russian Federation during the period 2005 to 2011. In the same period 152 families (199 persons) were granted asylum. It is not surprising that the highest numbers were in 2008 (1,805 families (2,278 persons), and the numbers have fallen to 280 families (314 persons) in 2011.

127. The Russian authorities need to take certain steps to solve the problems of these persons, including resolving the critical housing situation of many ethnic Ossetian refugees from Georgia living in North Ossetia-Alania and also regularising the situation of the many Georgians who fled the conflict and who have been living for many years in Russia, some of whom are now stateless.

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<sup>35</sup> Information provided by the Russian NGO Memorial.

<sup>36</sup> Supra: United Nations Report of the Secretary-General, 22 May 2012, para 21.

## **6. Conclusions**

128. While there have been improvements in the humanitarian situation since the dark days immediately following the war, there is still a long way to go. Much still needs to be done, in particular in terms of finding durable housing solutions for IDPs and Refugees from both the recent conflict and earlier conflicts. All the different parties and also the international community therefore need to continue their efforts.

129. The issue of return of IDPs remains more or less dormant, apart from to the areas of Gali and Akhagori. Security issues throw a constant shadow over the conflict region and without a genuine independent peace keeping presence both sides of the ABL, and without EUMM being able to monitor both sides of the ABL, it is difficult to see how people can begin to feel secure in the long term.

130. In the region of Abkhazia, I noted some positive developments. Some steps have been taken to improve the security of persons living in the Gali area (cutting down on corruption and racketeering). These are to be welcomed. There are also some indications that crossing over the ABL may be made easier. In the region of South Ossetia there have also been some indications that access across the ABL could be improved. This region however remains remote and cut off, including from assistance which could be offered by international actors.

131. With a few small measures the lives of persons living in the conflict affected areas can be improved noticeably, whether this is in improving security, ensuring access across the ABL, or improving appropriate education in the schools. It is for this reason that I have placed emphasis on these issues in the draft Resolution and Recommendation contained in this report.

132. As Rapporteur I have been unable to visit the region of South Ossetia, but I hope that this gap can be filled in the future in order to give a more comprehensive picture of the humanitarian situation there.