

Information documents



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Report on the human rights situation in the areas affected by the conflict in Georgia

Third report (July – September 2009)

Document presented by the Secretary General

I. Introduction

1. This is the third report prepared by the Secretariat. It covers the main trends and developments in the conflict-affected areas between 1 July and the end of September 2009.
2. To collect information for the preparation of the third quarterly report, the Secretariat visited Tbilisi, Gori, Mtskheta, Sukhumi, Gali, as well as the villages of Knolevi and Avlevi which are located close to the administrative boundary line (ABL) with the South Ossetia/Tskhinvali region. The Secretariat also visited a settlement for “new” IDPs in Skra.
3. The sources of information used for the preparation of this report include information collected during the fact-finding mission¹, information provided by international organisations (mainly UN and EU) as well as international and local non-governmental organisations, and relevant media reports.
4. The unresolved issue of physical access to the two breakaway regions - Abkhazia and South Ossetia - continues to be an obstacle for the Council of Europe’s capacity to monitor and report effectively on the human rights situation in the areas affected by the conflict. While it was still possible to organise a visit to Sukhumi and Gali, the Council of Europe had to address an additional range of access and security issues in the region, following the closure of the United Nations Observation Mission in Georgia (UNOMIG) which was instrumental in facilitating such missions in the past². The Secretariat was not in a position to visit South Ossetia (Georgia), as crossing the ABL with this region would imply contacting the *de facto* South Ossetia authorities.
5. Nothing in this report should be interpreted as contrary to the full respect of the territorial integrity and sovereignty of Georgia within its internationally recognised borders, nor the cease-fire agreements of 12 August and 8 September 2008.
6. This report does not contain an exhaustive list of all the human rights issues and alleged violations during the reporting period.

II. Developments in the areas affected by the conflict

a. International presence on the ground and progress of the Geneva talks

7. As of 16 June 2009, the United Nations Observer Mission in Georgia (UNOMIG) ceased its functions and started withdrawal, to be completed tentatively by November 2009. The UN remains active in the region through the Special Representative of the Secretary General, who represents the United Nations at the Geneva talks and chairs the Incident Prevention and Response Mechanism (IPRM) meetings with Abkhazia under UN auspices³.

¹ The Secretariat thanks all interlocutors for their valuable contribution to this report.

² The Secretariat should like to express its gratitude to UNHCR staff for their assistance in organising a mission to Abkhazia (Georgia).

³ <http://www.un.org/apps/news/story.asp?NewsID=31478&Cr=georgia&Cr1>

8. The 6th and the 7th rounds of Geneva discussions were held on 1 July and 17 September respectively. Discussions in the working group on security have been centred around a possible agreement on the non-use of force in the region with more concrete proposals expected to be discussed during the next round scheduled on 11 November. No particular progress has been achieved in the working group dealing with humanitarian issues.

9. An important step forward during the 6th round was the initiation of IPRM meetings with respect to Abkhazia, including the setting-up of a 24 hr emergency hotline. These meetings take place on a regular bi-weekly basis and five meetings have been held so far in Gali.

10. Following the increase in tension in the area close to the ABL with South Ossetia ahead of the first anniversary of the August military conflict, meetings with respect to South Ossetia in the framework of the IPRM resumed on 14 August, after being blocked by South Ossetia *de facto* authorities for nearly two months⁴. Three such meetings took place within the time period under review.

11. The European Union Monitoring Mission (EUMM) remains the only international monitoring mission present in Georgia, albeit with no access to South Ossetia and Abkhazia. On 27 July, the Council of the EU extended the EUMM's mandate until 14 September 2010⁵.

b. Other developments

12. On 3 July 2009, the Investigation Committee of the General Prosecution Service of the Russian Federation made public the findings of its investigation into the events in August 2008⁶.

13. On 31 July, the *de facto* South Ossetia President announced that the breakaway region might advance territorial claims with respect to Georgia, particularly concerning the Truso gorge, situated close to the state border between Georgia and the Russian Federation. The area is today part of the administrative district of Mtskheta-Mtianeti⁷. A similar claim in respect to the demarcation of the ABL in the Gali district has been voiced by the *de facto* Abkhaz President⁸.

14. On 17 August, the Georgian coast guard detained a Turkish cargo vessel "Buket" transporting fuel and gasoline to Abkhazia. Based on the provisions of the law on occupied territories, its captain was initially sentenced to 24 years of imprisonment, but following a visit by the Turkish Foreign Minister to Tbilisi, he was released and his sentence replaced with a three-year conditional imprisonment and a fine.

15. This event led to increased tensions on the Black Sea. The *de facto* Abkhaz President issued an order to the Abkhaz navy to destroy any Georgian ship entering Abkhazia's "territorial

⁴ The fate of several ethnic Ossetians who went missing after the August 2008 military conflict and who were allegedly detained by the Georgian side has been the most often-quoted reason for South Ossetia's refusal to participate in these meetings. Another point of the disagreement is the issue of chairmanship of the meetings.

⁵ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/gena/109392.pdf

⁶ http://www.sledcomproc.ru/interaction-with-the-smi/press-conference/6025?phrase_id=41852

⁷ <http://osinform.ru/15265-juzhnaja-osecija-budet-trebovat-ot-gruzii.html>

⁸ Interview of *de facto* Abkhaz President Sergey Bagapsh to Gazeta.ru and Kavkaz Uzel available at <http://abkhasia.kavkaz-uzel.ru/articles/158871>

waters". Commenting on Georgia's actions, the Russian Ministry of Foreign Affairs warned that they might lead to serious armed incidents in the region⁹. The Russian Border Guard Service stated that it was prepared to provide protection to vessels en route to and from Abkhazia, based on the agreement on joint efforts for border protection. On 20 September, a Russian patrol ship was deployed to this end in the vicinity of Ochamchire¹⁰.

16. On 15 September, Abkhazia and South Ossetia signed agreements on military co-operation with the Russian Federation¹¹.

17. The report of the Independent International Fact-Finding Mission on the Conflict in Georgia (IIFFMCG) was released on 30 September 2009¹².

18. During the period under review Venezuelan President Hugo Chavez announced that his country was going to recognise the two breakaway regions as independent states.

19. Russian President Dmitry Medvedev paid a visit to South Ossetia on 13 July 2009, while Russian Prime Minister Vladimir Putin visited Abkhazia on 12 August 2009.

c. Council of Europe activities

20. At the meeting of the Committee of Ministers' Deputies on 9 September, there was an exchange of views with Mrs Corien Jonker, the Chairperson of the Committee on Migration, Refugees and Population of the Parliamentary Assembly of the Council of Europe and a Rapporteur on the humanitarian consequences of the war between Georgia and Russia.

21. On 29 September, the Parliamentary Assembly of the Council of Europe debated a [report](#) on the war between Russia and Georgia one year after and adopted [Resolution 1683 \(2009\)](#). On 1 October, the Assembly decided to confirm the credentials of the Russian delegation which had been challenged on substantive grounds, *inter alia*, in view of its non-compliance with obligations and commitments imposed upon it by Assembly [Resolutions 1633 \(2008\)](#) and [1647 \(2009\)](#)¹³.

22. The Georgian authorities have sent draft amendments to the Law on the occupied territories to the Venice Commission for opinion, due to be adopted at the Commission's plenary session in Venice on 9-10 October 2009¹⁴.

⁹ Briefing by Russian MFA Spokesman Andrei Nesterenko, 3 September 2009, available at http://www.mid.ru/brp_4.nsf/0/4FF6731BD78AE22BC325762A001E86DF

¹⁰ <http://interfax.ru/politics/txt.asp?id=101274>

¹¹ <http://www.mil.ru/eng/1866/12078/details/index.shtml?id=66780>

¹² <http://www.ceiig.ch/Report.html>

¹³ In a resolution adopted by 88 votes to 35, the parliamentarians said: "Notwithstanding the lack of compliance by Russia with most of its demands, the Assembly decides to confirm the ratification of the credentials of the Russian delegation, on the understanding that this will enable the Russian authorities to engage in a meaningful and constructive dialogue with a view to addressing all the issues mentioned in the Assembly resolution on the consequences of the war between Georgia and Russia".

¹⁴ On a number of occasions, the Georgian authorities have shown flexibility in the implementation of the Law on the occupied territories, allowing the humanitarian delegations, including those from the Council of Europe, to enter the country from the north.

III. The human rights situation in the areas affected by the conflict

23. The main issues of concern for the population residing in the areas affected by the conflict were identified in the previous report ([SG/Inf\(2009\)9](#)) and continued to be valid during the period under review. The overall security situation in the conflict-affected areas has improved, with a number of incidents such as explosions, large-scale looting and grave assaults diminishing. There has been nearly no progress with regard to freedom of movement. The situation in the Gali district, however, is believed to have slightly deteriorated with local residents feeling less secure and starting to reconsider their options for the future.

1. Security concerns and the right to life

24. According to various interlocutors, the overall security situation in the conflict-affected areas has significantly improved in the reporting period. Although armed criminals making a living through smuggling and other criminal activities are still operating in the region, cases of large-scale looting, assaults on civilians and kidnapping have diminished. However, the local population residing in areas adjacent to the ABL with South Ossetia continues to be vulnerable to incidents such as cattle theft, robbery and sporadic shooting¹⁵. The level of crime in the Gali district has been affected by an increase in the activities of the so-called “hazelnuts mafia”, active particularly in the nut-collecting season.

25. In mid-August, the South Ossetia *de facto* Ministry of the Interior launched a programme aiming at the voluntary disarmament of the local population, in exchange for monetary compensation. Reportedly 50 criminal prosecutions for illegal weapons have already been filed by the police¹⁶.

26. An additional persistent threat to the physical security of the local population remains the presence of the explosive remnants of war (ERW), particularly in the areas adjacent to South Ossetia. Amid ongoing clearance and de-mining, ERW-related incidents still occur. On 4 August, a child from Gori was severely injured in his head as he stepped on a mine, while pasturing his cattle. Humanitarian organisations on the ground are conducting continuous awareness-raising activities among the local population on the danger of ERW and ways to avoid contact with them.

- *Incidents in the vicinity of the ABL with South Ossetia and inside the region*

27. Tensions in the ABL with South Ossetia escalated at the beginning of August, ahead of the first anniversary of the conflict. Several incidents, involving shooting, grenade launcher and mortar shelling as well as mine explosions were reported in several villages adjacent to the ABL with South Ossetia (Zemo Nikozi, Zemo Khviti, Eredi, Dvani), followed by mutual accusations

¹⁵ On 11 July, the whole cattle herd of the Georgian village of Akhalkubari was stolen by two armed South Ossetia militiamen who came from the nearby SO village of Didi Ghromi; one of the Georgian farmers was assaulted and sustained minor injuries. Following the intervention of the Georgian police and Russian military the cattle was returned.

¹⁶ <http://www.nytimes.com/2009/08/15/world/europe/15ossetia.html>

between the sides. Due to restricted access, the EUMM patrols on the ground were unable to carry out a full and effective investigation of the alleged incidents.

28. On 30 July, the Georgian Ministry of the Interior reported that a police post in the village of Zemo Nikozi and the village of Zemo Khviti at the South Ossetia ABL had come under intense mortar and machine gun fire from Tskhinvali¹⁷. The South Ossetia side, on its part, reported that fire was opened by the Georgian side from the village of Nikozi and that two explosions occurred in the southern outskirts of Tskhinvali, as a result of grenade launcher fire¹⁸. No casualties were reported. An attempt to contact the Russian side through the established “hotline” proved unsuccessful. Following the incident, the EUMM facilitated a meeting between the Georgian, South Ossetia and Russian sides to discuss the incident, which was not attended by the Russian side¹⁹.

29. On 20 August, the Georgian Ministry of the Interior reported that abandoned houses belonging to the ethnic Georgian population in the village of Disevi close to the ABL (controlled by *de facto* South Ossetia authorities) were destroyed by South Ossetians backed by Russian military personnel and the construction materials carried away²⁰.

30. On 26 August, a blast occurred in a musical school in the centre of Tskhinvali. No casualties were reported.

31. On 24 September, a remote-controlled roadside bomb exploded in Dvani when two Georgian police vehicles were passing by, with one of them being slightly damaged.

- *Incidents in the vicinity of the ABL with Abkhazia and inside the region*

32. On 28 August, the Georgian police checkpoints in Zugdidi reportedly came under machine gun and mortar fire from the village of Meore Otobaia (Gali district); two Georgian servicemen were injured²¹.

33. On 12 August, an explosion in the resort town of Gagra killed two people and injured three others. Another explosion occurred in Sukhumi on the same day, without casualties. Both explosions took place on the day of the Russian Prime Minister’s visit to the region. The Abkhaz *de facto* law enforcement agencies and later the Abkhaz *de facto* President Sergey Bagapsh accused Georgia of standing behind the explosions and trying to destabilise the situation in the region.

¹⁷ <http://police.ge/en/curview.aspx?newsid=33337&categoryid=1>

¹⁸ Information released by the South Ossetia *de facto* Ministry of the Interior available at <http://cominf.org/node/1166480585>

¹⁹ http://www.eumm.eu/en/press_and_public_information/press_releases/1629/?year=2009&month=7

²⁰ <http://www.police.ge/en/curview.aspx?newsid=33431&categoryid=1>

²¹ <http://www.police.ge/en/curview.aspx?newsid=33461&categoryid=1>

2. Freedom of movement

34. In its previous report, the Secretariat indicated that the ABL with both South Ossetia and Abkhazia was increasingly becoming a *de facto* border. Since mid-July, the Border Guard Service of the Russian Federation has been guarding the ABL in both regions jointly with the local *de facto* border guards, based on the agreements on co-operation on border protection signed by the Russian Federation and the *de facto* Governments of Abkhazia and South Ossetia.

- *Across the ABL with Abkhazia*

35. The situation on the ABL with Abkhazia remains largely the same as described in the previous report. Officially, the ABL is closed for crossing, there is one authorised crossing point on the main bridge over the Enguri river. Other “traditional” crossing points across the river are considered illegal and guarded by the Abkhaz forces and/or Russian border guards. Only those in possession of a special pass issued by the *de facto* local authorities in Gali are officially allowed to cross. Nevertheless, there are indications that the local population continues to cross the ABL, either after bribing the *de facto* border guards or bypassing the checkpoints.

36. Several incidents related to the ABL crossing have been reported in the period under review. On 22 July, a bus and a minibus heading towards Zugdidi via one of the “traditional” crossing points were stopped by the Russian border guards near the village of Meore Otobaia in Abkhazia (next to the ABL). Twenty-seven people were detained, but later released. The Georgian authorities later alleged that they were released only after pledging to obtain Abkhaz passports²².

37. The Secretariat learned that, with few exceptions, ambulances are no longer allowed to cross the ABL, unless there is a special permit issued by the local *de facto* authorities (this issue will be discussed in detail later in the report).

38. While the ABL crossing regime is becoming increasingly restrictive, at least in terms of its application, ambiguities with regard to exact rules and procedure for crossing the ABL continue. Moreover, this increasingly restrictive regime of crossing has so far failed to produce any major disruption to the hazelnuts’ business run by the criminals.

- *Across the ABL with South Ossetia*

39. Freedom of movement is even more limited and the crossing regime is more restrictive on the ABL with South Ossetia. There are no official ABL crossing points and movement across the ABL is officially prohibited on the South Ossetia side. However, crossing the ABL is allowed for residents of the Akhgori district on the part of the ABL adjacent to this region, via specific crossing points.

40. Crossing of the ABL on sections other than the above-mentioned is associated with considerable risks. Locals who continue to cross the ABL for reasons such as medical care, to

²² http://mfa.gov.ge/index.php?lang_id=ENG&sec_id=59&info_id=10664

visit graveyards or to see their families and relatives do so at their own risk and often at the discretion of the *de facto* border guards and/or the police at the ABL²³.

41. The ABL is not clearly demarcated, and in many places its location is undefined²⁴. This ambiguity is the primary cause of the accidental ABL crossings not only by the local population but also by international monitors and/or journalists.

42. Cases of farmers and shepherds detained upon incidentally crossing the ABL in the course of their everyday livelihood activities have been frequently reported during the period under review. In the past, such people were detained, their identification documents (IDs) checked, and were later released. At the IPRM meeting on 24 August both the Georgian and the South Ossetia sides agreed upon an EUMM proposal not to detain people who incidentally cross the ABL but to turn them back immediately²⁵.

43. The Georgian police, however, have been reluctant to apply the same practice to the bearers of Russian passports who do not have proof of residency in the South Ossetia/Tskhinvali region. These people are still detained and released after being fined for the illegal crossing of the state border between Georgia and the Russian Federation²⁶. The situation is complicated by the fact that 90% of South Ossetians hold Russian passports, but only 40% hold a South Ossetia ID.

44. Furthermore, ethnic Ossetians residing in the Russian Federation on the territories adjacent to South Ossetia (Georgia) often travel to the region to visit their relatives. On 15 July, for example, the Russian media reported on a Russian citizen who was detained by the Georgian police on charges of violating the law “On the occupied territories” while attempting to cross the ABL in the Akhalgori district²⁷.

45. Cases of local residents not being allowed or being prevented by the Georgian police from travelling across the ABL to South Ossetia on security-related grounds have also been reported²⁸. While it is the duty of the police officers to warn people of the possible security risks associated with the ABL crossing, it should be up to the people concerned, after being fully informed of the situation, to decide whether they would like to proceed with their travel or not. Exemptions to this rule could be allowed only in exceptional circumstances.

46. The Secretariat learned about cases where Georgian citizens in possession of valid ID cards were stopped after crossing the ABL by the Georgian police for questioning, and in some cases even taken to regional police offices for further questioning. The Secretariat witnessed a group of three persons at the Georgian police checkpoint in the village of Knolevi who were

²³ See Amnesty International report “Civilians in the aftermath of the war: the Georgia-Russia conflict one year on”, August 2009

²⁴ The use of different maps by the sides is also indicative in this respect.

²⁵ http://www.eumm.eu/en/press_and_public_information/features/1642/?year=2009&month=8

²⁶ This is based on the assumption that these people have entered the South Ossetia/Tskhinvali region from the north, in violation of the Georgian law on the occupied territories.

²⁷ http://www.newsgeorgia.ru/official_statement/20090715/151198091.html

²⁸ <http://www.humanrights.ge/index.php?a=news&id=6782&lang=en>

presumably stopped by the police for questioning on their way back from Tskhinvali where they reportedly attended the funeral of a relative.

47. Legitimate security concerns may justify such questioning. However, a decision on this should not be left to the discretion of the local police, as it seems to be the case at present. Questioning should be carried out only in exceptional cases specified in the law. The general rule, however, should be that all residents in possession of valid IDs should be able to cross the ABL in both directions, without being neither stopped nor questioned. Any rules and/or practices to the contrary contribute to strengthening the perception of the ABL being a *de facto* closed border.

3. The situation of Internally Displaced Persons and returnees

48. On 9 September, the UN General Assembly adopted a resolution that recognised the right of return of all internally displaced persons and refugees and their descendants to their homes throughout Georgia, and that underlined the urgent need for unimpeded access for humanitarian activities to peoples residing in all conflict-affected areas in that country²⁹. The Russian Federation called the resolution politically-motivated and warned that it would considerably undermine the confidence-building measures ongoing at the Geneva talks³⁰. The *de facto* Abkhaz authorities also criticised the adoption of this document.

49. This chapter represents an overview of the new developments in the situation of “old” and “new” IDPs in Georgia and should be seen in conjunction with the issues raised in the previous report ([SG/Inf\(2009\)9](#)).

50. Naturally, the long-term sustainable solution of the problem of IDPs is to ensure safe, voluntary and dignified return of all IDPs to their original places of residence. As was reported in the previous reports, the Georgian authorities, with international assistance, made commendable efforts in the face of a new wave of IDPs and offered them acceptable living conditions. However, pending a return to their houses, a number of difficulties and problems should be resolved.

a. The situation of IDPs residing in collective centres and the privatisation process

51. Following the adoption of the revised Action Plan on IDPs, the Georgian Ministry of Refugees and Accommodation, in partnership with other relevant ministries and institutions, started the rehabilitation of collective centres and the transfer of their ownership to the IDPs (often referred to as the privatisation process). The process has sparked a degree of criticism from IDPs and international and local organisations.

52. Below is a non-exhaustive list of issues related to the ongoing privatisation process:

²⁹ “Status of internally displaced persons and refugees from Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia” (A/63/L.79)

³⁰ <http://www.un.org/News/Press/docs/2009/ga10853.doc.htm>

- i. The criteria for the selection of the collective centres for rehabilitation and subsequent privatisation seem to be ambiguous. The decision by the Government either to privatise or not to privatise a collective centre often rests on an assessment of its potential attractiveness to a private investor. If a collective centre is excluded from the privatisation list, IDPs residing there are entitled to choose from several alternative solutions to be offered to them.
- ii. Illegal evictions constitute one of the most sensitive issues that some IDPs have to face. Some collective centres have already been sold to a private investor who subsequently is trying through different means to resettle the IDPs residing there. The affected IDPs should be provided with a choice of alternative solutions without any delay, and by all available means exclude any possibility of these people being neglected and left on their own with this problem.
- iii. There is a lack of information among IDPs on the privatisation process. To date, the process itself has not been sufficiently transparent. Consequently, there are some IDPs who are either not aware of the exact procedure to follow, and/or of housing options available to them, and/or of their entitlement for alternative housing solutions.
- iv. IDP resettlement criteria should be elaborated in order to guarantee a fair and transparent privatisation process.
- v. Some IDPs have already signed privatisation agreements but have not yet received a property certificate. Any prolonged delays once again raise their concerns over the process.
- vi. The IDPs are not properly informed and consulted about the rehabilitation process of the collective centres where they live. The IDPs should be more actively involved in this process.
- vii. The IDPs are not provided with an opportunity to relocate to a temporary shelter for the duration of the rehabilitation work at the collective centres. Consequently, they are exposed to certain health risks.
- viii. The Action Plan does not specifically provide for social protection mechanisms, and most IDPs fear that it will be hard for them to cover public utility bills after the privatisation/resettlement process is over.

b. The situation of IDPs residing in private accommodation and new settlements

- *Granting of IDP status/monetary compensation and other benefits*

53. There are still an estimated 5 000-6 000 people displaced by last year's conflict who have not yet been granted IDP status (most of them stay in private accommodation) and who, subsequently, do not receive assistance and benefits to which IDPs are entitled. In addition, not all IDPs who opted for monetary compensation instead of a cottage in a settlement have received

it. The authorities should ensure that IDP status be granted to all IDPs and that they receive compensation according to their choice.

- *Accuracy of the IDP database*

54. Another important issue raised by local NGOs is that in 65% of cases there is a discrepancy between the actual addresses of IDPs and those registered with the MRA. This discrepancy is explained by the fact that many of those IDPs who choose to stay in private accommodation have changed their place of residence at least once since their arrival. Nevertheless, there is a clear gap in addressing this issue at present. Efforts should be made to tackle this problem as soon as possible, since its urgency and importance will increase with the approach of local elections due to take place in spring 2010. These people are entitled to take part in these elections and it is indispensable that their places of residence are established and correctly reflected in the lists, not least in order to avoid any perceived or actual manipulation with their addresses.

- *Sustainable livelihoods/integration*

55. The IDPs' immediate needs in the aftermath of the conflict such as housing and food provision have been swiftly and effectively addressed. Now it is time to address their longer-term needs such as income-generating opportunities.

56. IDPs increasingly cite a lack of employment opportunities as their main concern. Without any job prospects, they will have no other choice but to rely on humanitarian assistance.

57. Organisations dealing with IDPs warn that if conditions do not improve and people lose income-generating perspectives, there is a risk they may be forced to move elsewhere, most likely to Tbilisi, which could potentially aggravate the situation there.

58. According to a pilot study by World Vision Georgia, less than 6% of the IDPs have a job and nearly 80% of the IDP families are living on less than three dollars per day, well below the subsistence minimum set for an average family. This amount includes the monetary value of the food and non-food assistance these people receive from the international community and the Government³¹.

59. The Government is allocating half a hectare of land to each IDP family. Most residents in the settlements have received small plots of land on which to farm; however, sometimes these are situated kilometres away.

60. Around 30 000 people affected by the conflict will depend on food assistance for at least one more year, until the summer harvest of 2010. These include IDPs from South Ossetia who will not be able to return in the foreseeable future as well as about 12 000 returnees in the

³¹ http://meero.worldvision.org/news_article.php?newsID=1897

conflict-affected Shida Kartli region, adjacent to South Ossetia, who are not yet able to regain their livelihoods: agriculture and livestock³².

61. Another emerging issue is the integration of the settlement residents into the local communities.

- *Living conditions*

62. IDPs in the settlement in Skra (Gori region) visited by the Secretariat complain about the low quality of the constructions and the lack of employment opportunities. There have been reports about constructions in the Tserovani settlement being damaged by continuous rain. IDPs in other settlements express concerns over the drinking water supply system; many lack hygiene items. In some new settlements, water and sanitation facilities are shared by many families³³. In the settlement in Skra a washing facility is only now being constructed and will be shared by all the residents in a settlement. Many IDPs in the collective centres are struggling to cope with the situation both financially and psychologically.

63. The Secretariat was informed by a representative of the MRA in Gori that the agreements on the construction of the cottages for IDPs signed last year included a requirement for the construction company to carry out an inspection of the premises one year later and to make all the necessary corrections. Some contractors are reportedly already in the process of fulfilling this obligation, but not all of them. There are also positive examples of contractors hiring the IDPs residing in the settlements to carry out some of the construction work.

- *Access to health care*

64. The Secretariat was informed by NGOs that the state-sponsored targeted health assistance programme was stopped by 1 September 2009. It has been replaced by a) social vulnerability pension that includes medical insurance and b) IDP pension.

- *Repayment of bank loans*

65. The financial institutions in Georgia claim they usually offer favourable terms to IDPs for the repayment of loans. For example, the Bank of Georgia has reportedly established an assistance fund for IDPs, adjusted debt fines to every individual case and amended the payment schedule. Other banks and microfinance institutions make similar claims. However, human rights bodies have reported cases of IDPs who feel that they are being intimidated into repaying loans and fines.

c. The situation of returnees

66. There are still families that are not able to definitively return to their places of residence in the former “buffer zone”. While in some areas the security situation is calm, in the villages

³² [http://www.reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/LSGZ-7TJDR5-full_report.pdf/\\$File/full_report.pdf](http://www.reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/LSGZ-7TJDR5-full_report.pdf/$File/full_report.pdf)

³³ While this could be acceptable as an interim solution, other options should be sought in the long term.

adjacent to South Ossetia (e.g. in Knolevi, Avlevi) sporadic shooting still occurs. It is mainly a lack of security guarantees that prevents displaced people from returning and, in some cases, it has forced returnees to leave for a second time. There are cases where people were reluctant to return to their houses in the areas adjacent to South Ossetia even after they were rebuilt.

67. Returnees in the villages adjacent to the ABL face different livelihood issues compared to IDPs in the new settlements. The most widely spread concern is the inability to regain access to the traditional income generation sources, agriculture and livestock, mainly due to insecurity and restrictions on movement across the ABL³⁴.

68. Extensive areas of arable land continue to be lost for cultivation during this season due to the presence of explosive remnants of war (ERWs) in deeper soil layers, preventing land ploughing. The resumption of agricultural activities in some areas (Shida Kartli region) is seriously hampered by the disruption of irrigation canals coming from the mountainous areas on the other side of the ABL that are either being blocked or cannot be repaired due to restrictions on access and security-related concerns³⁵.

69. Access to pasture lands is still a problem for people in certain villages (Karzmani and Perevi in particular). As a result many people have had to sell their cattle, being unable to feed them.

70. Security concerns and restrictions imposed on movement across the ABL had a negative impact on trade across the ABL which was one of the main sources of income for residents on both sides of the ABL before the conflict.

71. Access to information and legal assistance is limited. Interviews of more than 500 residents in several villages of the Gori and Kareli districts during the period mid-June – mid-July 2009, by a group of observers deployed jointly by the Office of the Council of Europe Commissioner for Human Rights and UNIFEM, reveal that not all local residents have information about state assistance programmes, including compensation for destroyed houses³⁶.

72. Quite often entire neighbourhoods do not have access to adequate healthcare and experience shortages of medicines. Psychological and psychiatric treatment of the conflict-affected population has not been provided in any of the locations where interviews were conducted³⁷.

³⁴ Restriction on movement across the ABL in particular affects the possibility to accede to agricultural and pasture land.

³⁵ [http://www.reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/LSGZ-7TJDR5-full_report.pdf/\\$File/full_report.pdf](http://www.reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/LSGZ-7TJDR5-full_report.pdf/$File/full_report.pdf)

³⁶ The Council of Europe and UNIFEM observers jointly interviewed more than 500 respondents in ten conflict-affected villages of the Gori and Kareli districts adjacent to South Ossetia during the period mid-June – mid-July 2009. The findings were then summed up in the two issues of the UNIFEM/CoE Assessment Report on the Human Rights Situation of Persons Affected by August 2008 Hostilities, for 12-30 June 2009 and another for 1-15 July 2009.

³⁷ *ibid*

73. Various donors and international NGOs support programmes aimed at providing income generation opportunities and encouraging economic recovery and development. For example, the UNDP signed agreements with Georgian financial institutions to provide micro-loans of up to USD 3 000 in the agriculture, trade and service sectors in the conflict-affected areas of Shida Kartli, Samegrelo-Zemo Svaneti and Mtskheta-Mtianeti. Priority will be given to small-scale farmers, women, start-up businesses and IDPs.

74. Careful thought should be given to the idea of developing a separate strategy which regard to returnees. This would be a recognition of the fact that many of them continue to live under special conditions, and in particular have to continuously cope with various threats and challenges. It should also ensure that the same benefits apply equally to all persons living in similar situations, and perhaps include a list of areas where these apply.

75. In the village of Avlevi, the Secretariat heard complaints by the local residents that for reasons they could neither explain nor comprehend, the Kareli district was not considered to be part of the areas affected by the conflict. Hence, they were not entitled to the same benefits as residents in other regions, although, in their view, they were in the same situation as others.

4. Other issues

76. At the time of drafting the report, the Office of the State Minister for Reintegration was in the process of developing a strategy towards the population residing in the regions of South Ossetia and Abkhazia with a view to finalising it by November 2009. The Council of Europe was invited to contribute to this endeavour by providing assistance and expertise in its areas of expertise.

a. The situation in the Abkhazia region

77. The political situation in Abkhazia is dominated by the approaching “presidential elections” due to take place in December this year. While officially the “electoral campaign” has not yet started, there are indications that the local political actors are already engaged in a competition for votes. Some movements openly advocate a stricter stance with regard to the Georgian-speaking population in the Gali district, also with respect to the possibility of granting them local IDs (see below), which certainly contribute to the growing sense of insecurity in the affected community and force the people to rethink their strategies for the future.

- *Amendments to the law “On Abkhaz Citizenship” and local IDs*

78. On 31 July, the Abkhaz *de facto* Parliament passed a series of amendments to the local “Law on Citizenship”, which affirmed, *inter alia*, the right to Abkhaz citizenship of those former Georgian residents of the Gali region who fled during the 1992-1993 war and who prior to the adoption of this Law in 2005 accepted the invitation of the *de facto* authorities to return, provided that they give up their Georgian citizenship. This amendment prompted a strong critical reaction from the local opposition which, *inter alia*, argued that extending citizenship to the overwhelmingly ethnic Georgian population in the Gali district would clear the way for a new wave of Georgian “colonisation” and accused the *de facto* President of intending to use this law

in order to maximise his electoral gains by buying votes of the Georgian-speaking population in the forthcoming elections³⁸. The opposition also claimed that the *de facto* Parliament did not duly take into account the recommendations of the parliamentary commission on legislation, when adopting the amendments. Following opposition protests the *de facto* President Sergey Bagapsh did not sign the amendments into the local law and returned them to the local parliament for further consideration.

79. On 2 September, the *de facto* Abkhaz President set the deadline of 1 October for the delivery of IDs to the “Abkhaz citizens”³⁹. According to the draft local legislation, which at the time of drafting this report was under consideration by the *de facto* Parliament, only residents in possession of a valid Abkhaz ID would be entitled to vote in the upcoming “Presidential elections”.

80. As of the end of September, there were 3 720 pending applications for an Abkhaz ID in the Gali district⁴⁰. The controversy surrounding this issue has apparently led to a slowdown in the process of issuing Abkhaz IDs in Gali⁴¹. Moreover, the *de facto* authorities, at least at the local level, are reportedly demonstrating a certain reluctance to expand this process by inviting new applications.

- *Freedom of expression*

81. Local NGOs dealing with media and journalists’ rights have expressed their concern over the possible application of criminal sanctions in a defamation case against the local journalist, Anton Kriveniuk, brought by the *de facto* Abkhaz President. Without prejudging the merits of the case, they feared that if criminal responsibility was to be invoked, this would certainly be viewed as an attempt to limit freedom of expression, at the same time establishing a regrettable precedent on the eve of the electoral campaign⁴².

- *Access to education for Georgian-speaking children*

82. The beginning of the school year in the Gali district has been marked by a few incidents related to the functioning of Georgian-language schools in lower Gali.

³⁸ <http://www.abkhaziagov.org/ru/president/press/news/detail.php?ID=21480>

³⁹ <http://www.apsny.ru/apsnynews/apsnynews.php?mode=more&more=13766>

⁴⁰ Ibid There are an estimated 55 000 ethnic Georgians currently registered as residing in Gali. Information with regard to how many residents in the Gali district have already obtained the Abkhaz IDs was not available at the time of drafting the report.

⁴¹ According to the local legislation in force, the participation of a potential applicant in the conflicts in the 1990s on the Georgian side is a ground for refusal to grant “Abkhaz citizenship” and, consequently, to issue a local ID. Moreover, in some cases even the participation of a potential applicant’s close relatives in the conflicts on the Georgian side is considered as a ground for refusal to issue a local ID. On this particular issue, the *de facto* Abkhaz Prime Minister expressed the opinion that “by refusing to give passports to these people, we are violating the rights of a person who could not be held responsible for his/her relatives’ actions” and suggested to reconsider such an approach (<http://www.apsny.ru/apsnynews/apsnynews.php?mode=more&more=13766>)

⁴² On 18 September, a court in Sukhumi sentenced Mr Kriveniuk to three years of conditional imprisonment.

83. During the period under review, at least in one case, Georgian children from the Gali region were prevented from attending the school in the adjacent Zugdidi district, due to restrictions imposed on movement across the ABL. At the same time, the Secretariat was informed that at least in one case an arrangement was reached with the Russian border guards to provide unhindered access for the children from the other side of the ABL who are attending the local school. This arrangement seemed to be functioning well and could be extended.

84. During its visit, the Secretariat was also informed that the director of the Georgian-language school in the village of Sidi was sacked after a Georgian flag was reportedly spotted on a recorded video of a ceremony of the opening of the new school year which took place in that school. In a different episode, 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. However, in this case Russian military personnel intervened to ease tensions.

85. The issue of access to schools across the ABL was raised by the Georgian side at the IPRM meeting which took place in Gali on 22 September. The representative of the *de facto* Abkhaz President in the Gali region stated in this regard that children wishing to study in Zugdidi should move to live there⁴³.

86. The Georgian language instruction hours in the schools in Lower Gali remained the same as last year. As in the past, the school curricula include Abkhaz, Russian and English in addition to Georgian. There is, however, a shortage of qualified teachers of the Russian language. Teachers of the Abkhaz language are in practice not available in most of the schools in the Gali district.

- *Civil society, including human rights defenders*

87. The local non-governmental organisations in both Sukhumi and Gali have expressed their concern over a decrease in funding available to support their projects and activities following the August conflict, as a result of a decision taken by quite a few donors to either permanently or temporarily stop their programmes and funding in the region.

88. This is particularly true with respect to activities in the area of human rights, especially in the Gali district. After the closure of the UNOMIG, whose human rights office played a crucial role in supporting and facilitating such initiatives, no other organisation, at least among those present on the ground, seems to be willing and/or capable of filling this gap. Without the support and restoration of an international human rights presence on the ground, local organisations believe that they would have no other choice but to either cut or completely stop their human rights activities in the following months.

89. NGOs in Sukhumi have indicated their interest in implementing projects related to combating violence in families, promoting women's rights, assistance to and integration of disabled people, psychological rehabilitation of children affected by the conflict, media freedom

⁴³ <http://www.apsny.ru/apsnynews/apsnynews.php?mode=more&more=13906>

and the rights of journalists, as well as projects in civic education, including election monitoring techniques for civil society.

90. On its two visits to the region, the Secretariat noted that while there is an ongoing co-operation between the NGOs based in the Gali district and NGOs based elsewhere in the Abkhaz region, it is not always perceived on an equal footing. Genuine and equal-side co-operation between these NGOs should be carefully supported as an important confidence-building instrument. More generally, equitable representation of different groups of NGOs should also be pursued in relation to their participation in various meetings taking place outside the region.

- *Access to medical services*

91. As mentioned above, with few exceptions, ambulances are no longer allowed to take patients to a hospital in Zugdidi, without a special permit being issued by the local *de facto* authorities. It takes at least 40 minutes for the families/relatives to collect numerous signatures required to obtain such a pass. Alternatively, the patient can be taken to a hospital in Sukhumi, approximately 70 km away⁴⁴. The hospital in Gali has two ambulances, though neither is equipped with modern medical equipment.

92. There seems to be no particular reason why the procedure for obtaining a special permit for crossing the ABL cannot be revised and simplified. The medical staff should be entitled to make a final judgment as to whether the state of the patient requires emergency medical assistance and which of the above-mentioned alternatives should be reasonably pursued. Co-signature by a senior medical staff of the hospital should be enough to allow the ambulance to cross the ABL. Any security-related concerns could be addressed within the framework of the IPRM meetings, or, if necessary, brought to the discussions in Geneva.

- *Property rights*

93. There has been no change with regard to the legislation on property rights – only Abkhaz “citizens” are entitled to enter into transactions with real estate. According to the local Ombudsman, in the last two years three complaints were received from foreign citizens related to property acquisition, however in all these cases the complainants have entered into such transactions in violation of the local legislation⁴⁵.

b. The situation in the South Ossetia region

94. Information presented below was selected from different public sources, including Russian and South Ossetia ones. It could not be verified on the spot.

⁴⁴ NB. The quality of the roads between Sukhumi and Gali is poor.

⁴⁵ NB. According to the Georgian Law on the Occupied Territories, any transactions related to real estate property on the territory of Abkhazia and South Ossetia that were concluded not in line with the requirement of the Georgian legislation shall be deemed void from the moment of conclusion and shall not give rise to any legal consequences (Clause 5. Real Estate Property Rights on the Occupied Territories).

- *Returnees to South Ossetia*

95. No reliable and accurate data exists on the number of ethnic Georgians who were able to return to South Ossetia. The *de facto* South Ossetia President Eduard Kokoity recently stated that approximately 4 000 ethnic Georgians returned to South Ossetia, while the Deputy Head of the Russian Border Guard Service estimated that 6 000 ethnic Georgians had returned during the last two months mainly in the Akhgori region⁽⁴⁶⁾⁽⁴⁷⁾. In its report, Amnesty International quoted the mayor of Tskhinvali as saying that no cases of ethnic Georgians coming back had been observed, and noted that there was no effective possibility for ethnic Georgians to return to their original places of residence⁴⁸.

- *Humanitarian assistance/post-conflict reconstruction*

96. Post-conflict reconstruction in South Ossetia proceeds at a very slow pace. According to South Ossetia *de facto* authorities, 68 out of the 588 facilities (such as schools, hospitals, communication facilities and others) which were completely destroyed during the conflict have been restored and are now operational, due to Russian assistance⁴⁹.

97. Reconstruction work has started only on less than 5 % of those houses where such work has been envisaged by the reconstruction plan⁵⁰. In Tskhinvali alone there is a need for repair and reconstruction of housing for 2 000 families in the municipal sector and approximately 3 000 privately-owned houses⁵¹.

98. The region is overwhelmingly dependent on financial and humanitarian assistance from Russia. Financial assistance from the Russian Government, amounting to 50 000 rubles (approx. \$1 582), was envisaged to be given to each family affected by the conflict. However, this aid has hardly reached the intended beneficiaries, as a result of widespread corruption⁵². Reportedly less than 20 percent of the population have received financial assistance, even though the whole financial package has been transferred to South Ossetia⁵³.

99. According to the *de facto* authorities, as of September 2009, humanitarian assistance was distributed to 7 034 families⁵⁴. During the reporting period, the *de facto* authorities paid visits to

⁴⁶ *BBC Monitoring*, 26 August 2009

⁴⁷ Interview of the Deputy Head of the Russian Border Guard service, Evgeny Inchin, to Ria Novosti available in Russian at http://www.newsgeorgia.ru/human_factor/20090826/151220561.html

⁴⁸ In addition, Amnesty International estimates the number of people remaining in the Akhgori region to be approx. 1 000. See “*Civilians in the aftermath of the war: The Georgia-Russia conflict one year on*” August 2009.

⁴⁹ <http://www.vremya.ru/2009/155/4/236043.html>

⁵⁰ Interview of the Deputy Head of the Tskhinvali Administration to the Eurasianet available at <http://www.unhcr.org/refworld/country,...GEO,,4a8414fa1f,0.html>

⁵¹ Amnesty International “*Civilians in the aftermath of the war: The Georgia-Russia conflict one year on*” August 2009.

⁵² On 5 August, Mr Vadim Brovtsev, a Russian national, was appointed as South Ossetia’s *de facto* Prime Minister. The appointment has been largely interpreted as an effort by Russia to oversee the spending of Russian assistance.

⁵³ Interview of the Deputy Head of the Tskhinvali Administration to the Eurasianet available at <http://www.unhcr.org/refworld/country,...GEO,,4a8414fa1f,0.html>

⁵⁴ <http://cominf.org/node/1166481212>

various locations in the region while using this opportunity to distribute humanitarian assistance packages to residents in the Akhagori and the Djava regions.

100. With regard to the post-conflict reconstruction, the Secretariat was informed by various interlocutors that the new Moskovskiyi district in the northern part of Tskhinvali is being constructed on the site of the former village of Tamarasheni which, before the August conflict, was mainly populated by ethnic Georgians. It will reportedly accommodate, *inter alia*, the families of the Russian military personnel serving in the South Ossetia region. Due to restrictions on access, the Secretariat could not verify this information on the spot.

- *Social problems, access to health care, education and public utilities*

101. Many villages in South Ossetia remain isolated from Tskhinvali and other parts of the region due to the lack of a well-developed road infrastructure. The absence of roads is of particular concern to those who are in need of urgent and/or regular medical assistance.

102. The state of the health care system is also an issue of concern. Due to delays in reconstruction, the hospital in Tskhinvali is expected to be fully operational only as of next year⁵⁵. During the period July-August, a group of Russian doctors operated a field hospital in the Akhagori district, conducting medical check-ups, diagnoses and consultations. The local population also complains about the lack of medicines⁵⁶.

103. Due to delays in the reconstruction works, an estimated 700 children in Tskhinvali alone are currently unable to attend school⁵⁷.

104. Residents in the Akhagori district reportedly experienced regular shortages of water, electric power and gas, the latter being supplied by the Georgian side. Another issue of concern was the delay in the payment of salaries, which are supposed to have been paid by South Ossetia since the beginning of 2009⁵⁸.

IV. Concluding remarks

105. An international human rights presence in the conflict-affected areas – and in particular in the Abkhazia and South Ossetia regions - continues to be of the utmost importance, and its urgency is increasing. As has been underlined by the CoE Commissioner for Human Rights, people must not be made hostage to the political process. There is a pressing need to ensure an unhindered access of humanitarian assistance to the territories concerned and a permanent presence on the ground for organisations involved in the protection of human rights, for the sake of the local population concerned.

⁵⁵ <http://cominf.org/en/node/1166481071>

⁵⁶ <http://cominf.org/node/1166480630>

⁵⁷ Such estimations were made by *de facto* South Ossetia Deputy Minister of Education and director of the Tskhinvali private gymnasium (<http://www.regnum.ru/news/1209141.html>)

⁵⁸ <http://cominf.org/node/1166480816>

106. In the absence of an agreement on a lasting political solution, there is a need for immediate pragmatic steps which could remove at least the most urgent concerns of the affected population, including unimpeded access to medical services and education. Such possibilities indeed exist as demonstrated by the models already functioning.

107. The list of possible areas for the Council of Europe contribution to improving the human rights situation in the areas affected by the conflict – such as IDPs, education, civil society and human rights defenders - is non-exhaustive and should not be limited only to providing the human rights presence on the ground. Such presence, however, is essential to enable the organisation to carefully identify and support targeted initiatives in the various fields of its expertise, on an ongoing basis.

108. Further deliberation should be given to a possible Council of Europe contribution to a peaceful conflict resolution in the light of relevant Recommendations and Resolutions of the Parliamentary Assembly of the Council of Europe, as well as the recommendations and observations included in the “Tagliavini report”.