



COMMISSIONER FOR HUMAN RIGHTS

COUNCIL OF EUROPE



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**SPECIAL MISSION TO GEORGIA
INCLUDING SOUTH OSSETIA
SUMMARY OF FINDINGS**

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25 to 27 September 2008

The Council of Europe Commissioner for Human Rights visited Georgia including South Ossetia from 25 to 27 September 2008. The special mission was organised in order to assess the follow-up given to the Commissioner's six principles for urgent human rights and humanitarian protection formulated after his visit to the region in late August 2008. Those principles were endorsed at international level and accepted by all relevant actors involved in the conflict.

Right to return: The Commissioner recommended that all the relevant political decision-makers must make a clear statement of commitment to the principle of the right to return for those who wish to do so. For this right to be fully effective in practice, there should be a guarantee of safety and security, and houses which have been destroyed should be rebuilt.

About half of those displaced in August have now been able to return to their homes.

The principle of the right to return was discussed with the de facto authorities in Tskhinvali. Those authorities indicated to the Commissioner that they accept and will respect this principle. This policy needs to be fully enforced, safety must be guaranteed and destroyed houses rebuilt.

Rights of displaced persons to care and support: In August, the Commissioner found that neither the authorities nor the international community had done enough to provide those who fled or were displaced with adequate living conditions. During his latest visit the Commissioner found that there had been progress in this area, and that there is now a plan for caring for those who are not likely to be able to return to their homes in the near future. They are estimated to be at least 17,000. With winter approaching, it is crucial to address their needs with urgency.

Work is underway to build 2,100 single-family housing units close to the highway between Tbilisi and Gori. The Commissioner visited the construction site and can confirm that, when built, the houses will provide a good solution for a large number of displaced persons who are not yet able to return to their homes. The increased activities from the Georgian government and international organisations to address the needs of those persons are to be welcomed. It is essential that the rights of the more than 220,000 IDPs from previous displacement are upheld in this new situation.

The majority of the more than 37,000 Ossetians who fled to the Russian Federation have now returned and the Commissioner has been assured that the needs of those remaining are now cared for in a satisfactory manner.

The strides taken towards improving the situation of such persons cannot be a substitute for the right to return; individuals must be enabled to end their displaced status and go home if they so choose.

Demining: There is a critical need to de-mine large areas affected by the conflict. There are still large quantities of UXO (unexploded ordnance) and bombs – including submunition “duds” (unexploded submunitions from cluster munitions) - which continue to pose a real danger to people. In the buffer zone, the Russian army has indicated that they have already picked up and neutralised some 26,500 pieces of such materials, and that more work remains to be done. Organisations such as Halo Trust and UNMAS have been contributing significantly to de-mining efforts in the areas under Georgian control.

The challenges of systematic de-mining require full cooperation and information-sharing by both sides. International services should be provided to assist this important task.

Protection against lawlessness: One of the most serious remaining problems is the issue of ensuring safety for people in all areas affected by the conflict. Of particular concern is the northern third of the so-called “buffer zone”. In the southern third of the “buffer zone” the situation appears to have been stabilised and most people (some 90%) have reportedly returned. In the middle third, the rate of return is said to be approximately 50%. However, in the northern part – i.e. the area adjacent to the administrative border of South Ossetia - there are still reports of looting, torching and threats, and far fewer people have been able to return.

Protection of detainees/prisoners of war and persons in hiding: There has been an acute need to ensure the release and exchange of prisoners of war and other detainees and to enable the return of persons who are in hiding. In this area there has now been significant progress. The Commissioner offered his good offices to both sides on these problems and achieved important agreements, the results of which will be known in the coming weeks. Progress is also being made on identifying the dead bodies exchanged and recently found, thereby reducing the number of cases of missing persons whose fate is unknown.

International presence and monitoring for the protection of human rights: The international community is now totally mobilised with a view to contributing to the genuine protection of human rights in areas affected by the conflict. Monitors from the international community must be aware of the potential human rights challenges and trained to handle them. There is a need to process information from the monitors to respond to urgent situations as well as to patterns of violations. Good coordination between the international actors is essential. The Commissioner is ready to contribute to such efforts within his mandate provided the requisite resources are made available.

The problem of access of international aid has yet to be resolved. It is imperative that all humanitarian organisations are allowed to have access to all the relevant areas, from all directions, all the time. Lifting the existing hindrances to access is crucial so that people in need can receive the assistance necessary for their recovery and protection.