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安全理事会

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大会  
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安全理事会  
第七十七年

议程项目 36

古阿姆集团地区旷日持久的冲突及其  
对国际和平、安全与发展的影响

2022 年 3 月 2 日格鲁吉亚常驻联合国代表给秘书长和安全理事会主席  
的同文信

谨随函附上 2021 年关于在俄罗斯占领的格鲁吉亚领土上侵犯人权行为的汇  
编报告(见附件)。

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2022 年 3 月 2 日格鲁吉亚常驻联合国代表给秘书长和安全理事会主席  
的同文信的附件



**2021 Compilation Report  
on the human rights violations  
in the Russia-occupied territories of Georgia**

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## **1. Introduction**

1. While the whole world has continued facing an unprecedented global crisis derived from the COVID-19 pandemic, the local population residing in the Russia-occupied Abkhazia and Tskhinvali regions of Georgia has become even more vulnerable. Unfortunately, the list of specific human rights violations in the Russia-occupied regions of Georgia goes long and includes ethnic discrimination, violations of right to life, torture and ill-treatment, arbitrary detentions, kidnappings, restriction of the freedom of movement, infringement of right to property, restrictions on education in native Georgian language, violation of right to health, even amid the outbreak of the pandemic. Against this backdrop, ethnically cleansed IDPs and refugees remain continuously deprived of their fundamental right to return to their homes in the Russia-occupied Abkhazia and Tskhinvali regions of Georgia by the occupying power.

2. This alarming situation demonstrates the need for keeping this issue high on international agenda. In this regard, the present Report, which is mostly based on the findings of International Organizations, contains information on the human rights violations in the territories of Georgia under Russia's occupation (Abkhazia and Tskhinvali regions) for the year 2021. It aims to contribute to the provision of regular and updated information to the international community on the human rights situation in both Georgian provinces.

## **2. Occupation and responsibility of the occupying power**

3. The obligation of the occupying power arising from the international law, to ensure the well-being of the population living in the occupied territories is continuously violated by the Russian Federation that has been exercising effective control over Abkhazia and Tskhinvali regions of Georgia. Consequently, these regions suffer from the extreme deterioration of the humanitarian situation and increased human rights violations occurring on daily basis. In full disregard for international law, primarily in violation of article 2(4) of the UN Charter - stating that "all Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations" - the Russian Federation is undertaking steps towards the de-facto annexation of Georgia's two regions. The recent examples have been the illegitimate attempts to unilaterally establish the Georgia-Russia state border on the segments of the Russia-occupied territories by incorporating a part of Aibgha village of Abkhazia, Georgia into Krasnodar Krai of Russia, signing the so-called agreement on dual citizenship with the

Russian occupation regime in Tskhinvali on 21 September 2021 (the same scenario is underway in the Russia-occupied Abkhazia region of Georgia) and the holding of the 2021 Russian State Duma elections in both occupied regions and the opening of about 20 polling stations on 19 September 2021.

4. The fact that the Russian Federation bears full responsibility for violations of human rights and fundamental freedoms in the occupied Abkhazia and Tskhinvali regions of Georgia was once again reaffirmed by the historical judgment of the European Court of Human Rights (ECHR) of 21 January 2021 on the case of *GEORGIA v. RUSSIA (II)*. In particular, the present judgment of the ECHR provided a legal evaluation of the Russia-Georgia war and the subsequent period. The ECHR legally established and unequivocally confirmed the fact of Russia's occupation and effective control over Abkhazia and Tskhinvali regions of Georgia, Russia's responsibility, during the August 2008 war and further occupation, for killing, torture, ill-treatment, and arbitrary detention of Georgian civilians and military personnel; for looting and burning of houses of Georgians, and inhuman treatment of Georgians "targeted as an ethnic group"; violations of the Ceasefire Agreement of 12 August 2008; as well as Russia's responsibility for the inability of hundreds of thousands of IDPs and refugees to return to their homes.

5. On 25 January 2021 the Parliamentary Assembly of the Council of Europe adopted the **Resolution 2357 on "progress of the Assembly's monitoring procedure."** In the document PACE called on the Russian Federation "to implement the demands of the international community with regard to ... the occupied Georgian regions of South Ossetia and Abkhazia ...".<sup>1</sup>

6. The responsibility of the Russian Federation over the flagrant violations of human rights in the occupied territories of Georgia was underscored in the UN Human Rights Council **Resolution 46/30 on "Cooperation with Georgia"** adopted on 24 March 2021. In particular, in the Resolution the UNHRC took note of the "judgment of the European Court of Human Rights in the case *Georgia v. Russia (II)*" and also stressed the findings of the reports of the United Nations High Commissioner for Human Rights in which she "underscored the responsibility of the authorities exercising effective control in Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia to uphold the fundamental freedoms and human rights of all people living therein ...".<sup>2</sup>

7. On 12 May 2021 the Committee of Ministers of the Council of Europe adopted yet another **Decision on the agenda item "Council of Europe and the Conflict in Georgia."** According

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<sup>1</sup> Resolution 2357 on "the progress of the Assembly's monitoring procedure" Parliamentary Assembly of the Council of Europe (PACE), 25 January 2021, available at <<https://pace.coe.int/en/files/28995/html>>.

<sup>2</sup> The UN Human Rights Council (UNHRC) Resolution 46/30 on "Cooperation with Georgia", 24 March 2021, available at <<https://undocs.org/A/HRC/RES/46/30>>.

to the Decision “... more than twelve years after the armed conflict between the Russian Federation and Georgia, the Russian Federation continues to impede the peaceful conflict resolution process and to undermine the security and stability in the wider region through its continuing military presence in the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia, increased military exercises and infrastructure reinforcements, including the new positions and fences being established in the Chorchana/Tsnelisi area, the implementation of the so-called treaties on alliance and strategic partnership/integration, incorporation of illegal military units of the Tskhinvali region of Georgia into the armed forces of the Russian Federation, the creation of a so-called ‘joint group of armed forces’ in the Abkhazia region, the establishment of so-called ‘joint information and co-ordination centres of law enforcement agencies’, the functioning of so-called ‘customs points’ in both Georgian regions, aimed at the integration of these regions respectively into the customs sphere of the Russian Federation, as well as the adoption of the so-called programme on the creation of a common socio-economic space between Russia and the Abkhazia region of Georgia.” Furthermore, in the Decision, the CoE Member States reiterated that “any illegal acts by the Russian Federation aimed at changing the status of the Georgian regions, including through issuing Russian passports and so-called ‘residents’ permits’, thus establishing a so-called ‘status of foreign residents’, have no legal effect and further aggravate the situation on the ground.” The CoE Member States “called upon the Russian Federation to stop and reverse this illegal process and to comply with its international obligations and commitments, including under the EU-mediated 12 August 2008 Ceasefire Agreement, in particular with regard to the withdrawal of military and security forces from the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia and allowing the establishment of international security mechanisms on the ground.” Moreover, according to the Decision “Georgia, as the only sovereign State under international law over its regions of Abkhazia and Tskhinvali region/South Ossetia, is still prevented from exercising its legitimate jurisdiction over these regions due to the continuous impediments put up by the Russian Federation, including the latter’s continuing military presence therein.” It should be emphasized that in the document the CoE Member States welcomed “the judgment of the European Court of Human Rights in the case Georgia v. Russian Federation (II) that established the responsibility of the Russian Federation for grave human rights violations during the period of occupation of the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia following the August 2008 war, as the State exercising effective control over those regions ...”, reiterated their call to the Russian Federation as the State exercising effective control “to immediately cease policies leading to human rights violations in both regions of Georgia” and also called on the Russian Federation “to execute the judgment of the European Court of Human Rights in the case Georgia v. Russian Federation (II).”<sup>3</sup>

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<sup>3</sup> Committee of Ministers’ Decision “Council of Europe and the Conflict in Georgia”, adopted at the CoE Ministers Deputies’ 1404<sup>th</sup> meeting, 12 May 2021, available at

8. During the reporting period, on 16 September 2021, the **European Parliament of the EU adopted recommendation** to the Council, the Commission and the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy on the direction of EU-Russia political relations. In particular, the document stressed that “the current Russian regime is threatening peace and security in Europe by continuing with systemic human rights violations against its people and aggressive behaviour in its foreign policy, including but not limited to: ... the violation of the territorial integrity and the destabilisation of ... Georgia ...; support for frozen conflicts and its failure to respect ceasefire agreements in Georgia and ....” The document also underscored the necessity of exerting the pressure on the Russian Federation “to unconditionally fulfil all the provisions of the EU-mediated ceasefire agreement of 12 August 2008, in particular the commitment to withdrawing all its military forces from the occupied territories of Georgia.” The European Parliament also assessed that “a ‘passportisation’ policy is being used to boost the numbers of Russian compatriots and de facto to extend Russian jurisdiction over territories occupied by it and breakaway territories, notably ... South Ossetia, Abkhazia ...” and whereas these actions are a violation of international law.<sup>4</sup>

9. The NATO Parliamentary Assembly adopted **Resolution 470 “Maintaining NATO’s Focus on the Russian Challenge”** on 11 October 2021, in which the Assembly condemned “Russia’s ongoing violation of the territorial integrity of Georgia”, expressed “concern about the grave human rights violations and ethnic discrimination against Georgians in the occupied territories of Abkhazia and Tskhinvali region/South Ossetia” and stressed the “necessity of implementation of the EU-mediated ceasefire agreement by the Russian Federation.” In the Resolution the Assembly urged member governments and parliaments of the North Atlantic Alliance “to continue to denounce Russia’s temporary occupation and illegal annexation of parts of ... Georgia ...”.<sup>5</sup>

10. **Report (A/HRC/48/45) of the United Nations High Commissioner for Human Rights on “Cooperation with Georgia”** of 12 July 2021 stressed that “... the authorities in control in Abkhazia and South Ossetia are responsible for protecting the human rights of all people under their control as well as for addressing any conduct that violates their human rights.”<sup>6</sup>

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<[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=0900001680a27248](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a27248)>.

<sup>4</sup> European Parliament recommendation to the Council, the Commission and the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy on the direction of EU-Russia political relations, 16 September 2021, available at

<[https://www.europarl.europa.eu/doceo/document/TA-9-2021-0383\\_EN.html?fbclid=IwAR0s-YPKeZga0JXRzCXbqb3xTFprY3YEOyi07wyUNgRIVwF7796ku8VN-gl](https://www.europarl.europa.eu/doceo/document/TA-9-2021-0383_EN.html?fbclid=IwAR0s-YPKeZga0JXRzCXbqb3xTFprY3YEOyi07wyUNgRIVwF7796ku8VN-gl)>.

<sup>5</sup> Resolution 470 “Maintaining NATO’s Focus on the Russian Challenge”, NATO Parliamentary Assembly, 11 October 2021, available at <<https://www.nato-pa.int/download-file?filename=/sites/default/files/2021-10/2021%20-%20NATO%20PA%20Resolution%20470%20-%20Russia.pdf>>.

<sup>6</sup> Report (A/HRC/48/45) of the United Nations High Commissioner for Human Rights on “Cooperation with Georgia”, 12 July 2021, paragraph 37, available at <<https://undocs.org/A/HRC/48/45>>.

11. **“Georgia 2020 Human Rights Report”** by the U.S. Department of State published on 30 March 2021 emphasized that “Russian-occupied regions of Abkhazia and South Ossetia remained outside central government control and de facto authorities were supported by Russian forces.”<sup>7</sup>

12. **“Human Right and Democracy Report 2020”** by the United Kingdom’s Foreign, Commonwealth and Development Office published on 8 July 2021, speaks about the Russia-occupied territories of Georgia. According to the document “Russian interference in Georgia’s breakaway regions of Abkhazia and South Ossetia led to a further deterioration in the human rights situation there ...”.<sup>8</sup>

13. On 7 April 2021 the Amnesty International issued the **Report “2020/21: the state of the world’s human rights.”** The document stressed that during the reporting period “the breakaway regions of Abkhazia and South Ossetia/Tskhinvali Region remained under Russian occupation and overall control ...”.<sup>9</sup>

14. On 14 April 2021 the European Union issued an official **Statement on the Secretary General’s 23<sup>rd</sup> Consolidated Report on the conflict in Georgia** and later on 10 November 2021 the **Statement on Secretary General’s 24<sup>th</sup> Consolidated Report**. The EU recalled the landmark judgement of the ECHR of 21 January 2021 on the case of GEORGIA v. RUSSIA (II) in the **Statement on Secretary General’s 24<sup>th</sup> Consolidated Report**. It noted that “the ruling clearly concludes that after 12 August 2008 the Russian Federation, exercising effective control over South Ossetia and Abkhazia, violated several provisions of the European Convention on Human Rights” and reiterated its call “upon the Russian Federation to ensure proper follow-up of the ruling, including, as foreseen in the ruling itself, through an adequate and effective investigation into the events which had occurred during the active phase of hostilities, as well as after their cessation, and to hold all those responsible for human rights violations accountable.” In the same Statement the EU reiterated its grave concern “about the continuing Russian illegal military presence in the Georgian regions of Abkhazia and South Ossetia”, condemned “the organisation of illegal polling stations in the Georgian regions of Abkhazia and South Ossetia for the Russian State Duma elections held on 17-19 September 2021” also “Russia’s illegal decision to sign the so-called agreement on dual citizenship with Tskhinvali on 20 September 2021, as well as the unilateral delineation of the state border between Georgia and Russia on segments of the Georgian territories and to modify the cadastral map of the Russian Federation to include the village of Aibgha in

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<sup>7</sup> “Georgia 2020 Human Rights Report”, the U.S. Department of State, 30 March 2021, p. 2, available at <<https://www.state.gov/wp-content/uploads/2021/03/GEORGIA-2020-HUMAN-RIGHTS-REPORT.pdf>>.

<sup>8</sup> “Human Right and Democracy Report 2020”, United Kingdom’s Foreign, Commonwealth and Development Office, 8 July 2021, available at <<https://www.gov.uk/government/publications/human-rights-and-democracy-report-2020/human-rights-and-democracy-2020-foreign-commonwealth-development-office-report>>.

<sup>9</sup> Amnesty International Report “2020/21: the state of the world’s human rights”, 7 April 2021, p. 166, available at <file:///C:/Users/User/Downloads/POL1032022021ENGLISH.pdf>.



the municipality of Gagra in Abkhazia.” Hence, the EU assessed that “these are destabilizing actions and a step towards de facto annexation of the Georgian territories.”<sup>10</sup> In both its statements on **23<sup>rd</sup> and 24<sup>th</sup> Consolidated Reports on the conflict in Georgia** the EU reiterated “its grave concern about the continuing Russian illegal military presence in the Georgian regions of Abkhazia and South Ossetia” and once again urged “Russia to fulfil its obligations under the EU-mediated ceasefire agreement of 12 August 2008 and its subsequent implementing measures of 8 September 2008.”<sup>11</sup>

15. **NATO Secretary-General Jens Stoltenberg, at the joint press conference with the President of Georgia, Salome Zourabichvili** on 22 January 2021 declared, that NATO continues its call on “Russia to end its recognition of the regions of Abkhazia and South Ossetia and to withdraw its forces.” NATO Secretary-General also took note of the judgment of the ECHR of 21 January 2021 on the case of GEORGIA v. RUSSIA (II) and stressed that “it confirms that Russia is responsible for human rights violations in Abkhazia and South Ossetia, and that Russia actually exercises control there” and the ECHR judgement only strengthens NATO’s call “for Russia to comply with international law and respect Georgia’s territorial integrity.”<sup>12</sup>

16. On 21-24 June 2021, **Thomas E. Garret, Secretary General of the Community of Democracies (CoD) visited Georgia**. During the visit, the Secretary General also traveled to the occupation line near village Odzisi adjacent to the occupied Tskhinvali region. From where he observed the Russian military positions in the territories of Georgia under occupation and stressed that he had an opportunity to witness “the ongoing, decades-long Russian aggression against Georgia.” The Secretary General noted that “the abduction of Georgian citizens and the harsh repression of Georgian villages in the occupied areas are painful.” He expressed wish “for their day of liberation and a return to the sovereign and territorial integrity of this democratic nation.”<sup>13</sup>

17. On 3 December 2021, within the framework of the 28<sup>th</sup> OSCE Ministerial Council, the Ministers for Foreign Affairs of Albania, Sweden, Poland, and North Macedonia, as the previous, current, incoming, and future Chairpersons of the OSCE issued the following statement - **Stockholm “QUADRIGA” Statement: Our Commitments, Our Security, Our**

<sup>10</sup> The EU Statement on the Secretary General’s 24<sup>th</sup> Consolidated Report on the conflict in Georgia, 10 November 2021, available at <[https://eeas.europa.eu/delegations/council-europe/107056/eu-statement-secretary-generals-24th-consolidated-report-conflict-georgia\\_en?fbclid=IwAR3qGtyKrPd\\_YSykwDU9UwLNQJzk\\_BXge-HZtCQ2abHU7K9c7SxBN2r\\_GvE](https://eeas.europa.eu/delegations/council-europe/107056/eu-statement-secretary-generals-24th-consolidated-report-conflict-georgia_en?fbclid=IwAR3qGtyKrPd_YSykwDU9UwLNQJzk_BXge-HZtCQ2abHU7K9c7SxBN2r_GvE)>.

<sup>11</sup> See also the EU Statement on the Secretary General’s 23<sup>rd</sup> Consolidated Report on the conflict in Georgia, 14 April 2021, available at <[https://eeas.europa.eu/delegations/council-europe/96597/eu-statement-secretary-generals-23rd-consolidated-report-conflict-georgia\\_en](https://eeas.europa.eu/delegations/council-europe/96597/eu-statement-secretary-generals-23rd-consolidated-report-conflict-georgia_en)>.

<sup>12</sup> Statement of Jens Stoltenberg, NATO Secretary-General, at the joint press conference with the President of Georgia, Salome Zourabichvili, 22 January 2021, available at

<[https://www.nato.int/cps/en/natohq/opinions\\_180793.htm?selectedLocale=en](https://www.nato.int/cps/en/natohq/opinions_180793.htm?selectedLocale=en)>.

<sup>13</sup> Information on the visit of Thomas E. Garret, the Secretary General of the Community of Democracies (CoD) to Georgia, 21-24 June 2021, available at <<https://community-democracies.org/secretary-generals-visit-to-georgia/>>.

**OSCE.** The “QUADRIGA” voiced concern “about the continuing deterioration of the human rights situation in the Georgian regions of Abkhazia and South Ossetia” and called for the commitments made in the EU-mediated Ceasefire Agreement of 12 August 2008 “to be implemented immediately and in full.”<sup>14</sup>

18. With regard to the judgment of the European Court of Human Rights (ECHR) of 21 January 2021 on the case of GEORGIA v. RUSSIA (II), ***Joint Statement by a Group of Countries*** was delivered by the Ambassador Anne-Kirsti Karlsen at the Permanent Council of the OSCE on 15 April 2021. In the Statement the Group of Countries called “on the Russian Federation to fully comply with the judgment, including by putting an end to human rights violations in the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia ... and ensuring an adequate and effective investigation of the events as indicated in the ECHR’s ruling.”<sup>15</sup>

19. During the reporting year ***the Group of Friends of Georgia (GoF of Georgia) in the OSCE issued Joint Statements*** concerning the situation in the Russia-occupied territories of Georgia. In their most recent statement of 3 December 2021 delivered at the OSCE Ministerial Council Meeting, the GoF of Georgia stressed that “thirteen years since the Russian Federation’s military invasion of Georgia” they remained deeply concerned “over the continued occupation of parts of the territory of Georgia ...” and “over Russia’s military exercises and ongoing military presence in Georgia’s Abkhazia and South Ossetia regions.” The GoF of Georgia condemned “Russia’s steps which appear intended to unilaterally establish the Georgia-Russia state border on the segments of the occupied territories and incorporate a part of Aibgha village of Georgia into Krasnodar Krai” and urged “Russia to reverse this process.” The GoF of Georgia also expressed concern on the “ongoing work in implementation of the ‘programme’ on creation of a common socio-economic space between the Russian Federation and the Abkhazia region of Georgia as well as the so-called agreement on dual citizenship with the South Ossetia region of Georgia, as another step toward de facto annexation” and therefore condemned “the holding of the 2021 Russian State Duma elections in Abkhazia and South Ossetia regions of Georgia and illegal opening of polling stations, as a blatant violation of Georgia’s sovereignty.” Furthermore, GoF of Georgia noted “the January 2021 judgment of the European Court of Human Rights in the case concerning the armed conflict between Georgia and the Russian Federation in August 2008 and its consequences, including its findings that Russia has exercised effective control over Georgia’s regions of Abkhazia and South Ossetia following the 12 August 2008 ceasefire agreement, including through its military presence” and stressed that “the Court also ruled that Russia, in violation of the European Convention on Human Rights, tortured

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<sup>14</sup> Stockholm “QUADRIGA” Statement: Our Commitments, Our Security, Our OSCE, 28<sup>th</sup> OSCE Ministerial Council, 3 December 2021, available at <<https://www.osce.org/chairstmanship/506756>>.

<sup>15</sup> Joint Statement by a Group of Countries, delivered by the Ambassador Anne-Kirsti Karlsen at the Permanent Council of the OSCE, 15 April 2021, available at <<https://www.osce.org/files/f/documents/c/b/485432.pdf>>.

Georgian Prisoners of War; arbitrarily detained and killed Georgian civilians, and was responsible for their inhuman and degrading treatment ... and failed to conduct investigations into killings of civilians.” Moreover, the GoF of Georgia welcomed “Georgia’s compliance with the EU-mediated 12 August 2008 ceasefire agreement” and called upon “Russia to fulfill immediately its clear obligation under the ceasefire agreement to withdraw its forces to pre-conflict positions ...” and to “reverse its recognition of the so-called independence of Georgia’s Abkhazia and South Ossetia regions.”<sup>16</sup>

### 3. Occupation line and restriction of the freedom of movement

20. Article 13 (1) of the Universal Declaration of Human Rights recognizes that “everyone has the right to freedom of movement and residence within the borders of each state.”<sup>17</sup> This notion together with Article 12 (1) of the International Covenant on Civil and Political Rights (ICCPR) and Article 2 of the Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms guarantee that this right is protected from interference and in no case may a person be arbitrarily deprived of the right to freedom of movement.<sup>18</sup> Moreover, the UN Human Rights Committee specified this right as an “indispensable condition for the free development of a person” that interacts with several other rights enshrined in the ICCPR.<sup>19</sup>

21. The violation of the right to freedom of movement and restriction to enter the Russia-occupied Abkhazia and Tskhinvali regions of Georgia together with the unprecedentedly lengthy closure of the so-called “crossing points” have extremely aggravated the humanitarian circumstances of the conflict-affected people. Occupation line in Abkhazia region was opened in July 2021 however Tskhinvali region still remained closed off leading to total isolation of this region and Georgian citizens from the rest of Georgia. It is worrisome that closure of the so-called “crossing points” even entailed fatal results. For instance, on 7 April 2021, four residents of Gali district in the Russia-occupied Abkhazia region of Georgia died while trying to cross the river Enguri to reach the Georgian Government controlled territory. On 24 May 2021, resident of Gali district, Gocha Korsantia fell off the cliff while trying to avoid being detained by the occupation forces for crossing the occupation line.

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<sup>16</sup> Joint Statement of the Group of Friends of Georgia (GoF of Georgia), OSCE Ministerial Council Meeting, 3 December 2021, available <<https://ge.usembassy.gov/joint-statement-of-the-group-of-friends-of-georgia/>>.

<sup>17</sup> Article 13 (1) of the Universal Declaration of Human Rights.

<sup>18</sup> Article 12 of the International Covenant on Civil and Political Rights; Article 2 of the Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms.

<sup>19</sup> ICCPR General Comment No. 27: Article 12 (Freedom of Movement), adopted at the Sixty-seventh session of the Human Rights Committee, 2 November 1999, available at

<<https://www.refworld.org/pdfid/45139c394.pdf>>.

Later Gocha Korsantia passed away. These are yet other victims of the restrictions of the freedom of movement.

22. In the **Resolution 46/30 on “Cooperation with Georgia”**, the UN HRC expressed serious concern “at the continued process of installation and advancement of barbed wire fences and different artificial barriers, which are enforced periodically along the administrative boundary line in Abkhazia, Georgia and Tskhinvali region/South Ossetia, Georgia and adjacent areas, including during the coronavirus disease (COVID-19) pandemic.” Furthermore, the UN HRC expressed serious concern also “at the negative consequences of the prolonged closure of the so-called crossing points and the increasing restrictions on freedom of movement ... .”<sup>20</sup>

23. In the **Decision of the Committee of Ministers** the CoE Member States deeply regretted that despite the constant calls upon the Russian Federation “it continues to install razor and barbed wire fences and other artificial obstacles along the administrative boundary lines (ABLs)” and divide families and communities. Furthermore, the CoE Member States expressed grave concern “about the lengthy closure of ‘crossing points’ in the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia, even during the COVID-19 pandemic, which led to severe humanitarian consequences for the local population.” Further profound concern was expressed over the violations of the right to freedom of movement. Moreover, the CoE Member States reiterated their call on the Russian Federation as the State exercising effective control “to remove any impediment, restriction or limitation to the right to freedom of movement across the administrative boundary lines (ABLs)” and “to re-open ‘crossing points’.”<sup>21</sup>

24. On 14 April 2021 the Committee of Ministers’ Deputies of the Council of Europe discussed SG’s **23<sup>rd</sup> Consolidated Report on “the Conflict in Georgia”** that subsequently assessed dire humanitarian situation in the Russia-occupied territories of Georgia. In particular, according to the Report “the ‘crossing points’ on the ABL, including the main one at the Inguri bridge, were closed as of 14 March 2020 due to the pandemic, and COVID-19 challenges have continued to dominate the freedom of movement issue.”<sup>22</sup> The document stressed that “... the closure of the ‘crossing points’ had increased the number of attempted crossings of the ABL outside the ‘crossing points’ in insecure conditions creating occurrences of risk for life and health and bringing about instances of illegal detentions and fines.”<sup>23</sup> Furthermore, it was underscored that “the ‘crossing points’ on the ABL, including the main one at

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<sup>20</sup> See footnote 2.

<sup>21</sup> See footnote 3.

<sup>22</sup> 23<sup>rd</sup> Consolidated Report on the Conflict in Georgia, Secretary General of the Council of Europe (CoE SG), 14 April 2021, Paragraph 32, available at

<<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680a206c8>>.

<sup>23</sup> *Ibid*, Paragraph 34.

Mosabruni/Odzisi, have remained closed since September 2019” and “the whole ABL was closed by the end of February 2020” (51).

25. The dire humanitarian situation in the Russia-occupied territories of Georgia was further reviewed in the SG’s **24<sup>th</sup> Consolidated Report on “the Conflict in Georgia”** discussed on 10 November 2021 by the Committee of Ministers’ Deputies of the Council of Europe. In particular, according to the document “so-called ‘borderisation’ activities have reportedly continued at a steady pace during the period under review, including in terms of refurbishing existing structures, the extension of fences, and the installation of surveillance equipment.”<sup>24</sup> Furthermore, the document stressed that during the reporting period, “the so-called ‘borderisation’ process was continuing at several locations, with interlocutors noting daily activity that included retrenchment of ground lines and the installation/reinforcement of observation posts, as well as new fencing.”<sup>25</sup> Moreover, “the human rights and humanitarian situation of the conflict-affected communities remained under strain, notably due to persisting and/or newly imposed restrictions on freedom of movement, documentation issues, and obstacles to access to basic services” - reads the Report (32). The document also noted that “the closure of the main ‘crossing point’ of Mosabruni/Odzisi since September 2019 represents the longest closure since 2008” (54) and “despite the ABL being closed essentially since 2019, the continued lack of clarity and information on so-called crossing ‘permission documents’ for the ethnic Georgian population in Akhalkalaki remains of concern as it creates additional obstacles to the freedom of movement” (61).

26. On 14 April 2021 the **Organization for Democracy and Economic Development-GUAM issued official Statement on the Secretary General’s 23<sup>rd</sup> Consolidated Report on the Conflict in Georgia**. In the statement the delegations of the GUAM member states noted that the situation in Georgia’s Abkhazia and Tskhinvali regions remained alarming and violations of human rights, “including freedom of movement” occurred on a daily basis. The GUAM expressed deep concern over “the process of so-called ‘borderization’ and closure of the so-called ‘crossing points’.”<sup>26</sup>

27. In the **Statement on the Secretary General’s 23<sup>rd</sup> Consolidated Report on the conflict in Georgia** the EU expressed concern “about the documentation gap and related restrictions on freedom of movement” and stressed that “the ongoing violations of the freedom of movement, including through the unprecedented, prolonged closure of the Administrative Boundary

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<sup>24</sup> 24<sup>th</sup> Consolidated Report on the Conflict in Georgia, Secretary General of the Council of Europe (CoESG), 10 November 2021, Paragraph 35, available at <<https://rm.coe.int/consolidated-report-on-the-conflict-in-georgia-april-september-2021/1680a457d9>>.

<sup>25</sup> *Ibid*, Paragraph 53.

<sup>26</sup> The Organization for Democracy and Economic Development-GUAM Statement on the Secretary General’s 23<sup>rd</sup> Consolidated Report on the Conflict in Georgia, 14 April 2021, available at <<https://guam-organization.org/en/statement-of-the-delegations-of-guam-member-states-on-the-23rd-consolidated-report-of-the-secretary-general-of-the-council-of-europe-on-the-conflict-in-georgia/>>.

Line (ABL) ‘crossing points’, severely affect the security, safety and well-being of the local population, exacerbated by the COVID-19 pandemic.” The EU also called “for the immediate reopening of the ‘crossing points’ ...” and noted that “the most recent tragic events on 7 April when four lives were lost during an attempt to cross the Enguri river once more demonstrate the urgent need for increased cooperation.”<sup>27</sup> In both its Statements *on the Secretary General’s 23<sup>rd</sup> and 24<sup>th</sup> Consolidated Reports on the conflict in Georgia* the EU underscored that “tensions in the Chorchana-Tselisi area continue to be worrying” hence, deplored “ongoing ‘borderisation’ activities along the ABL – installation of barbed-wire fences, artificial barriers and surveillance equipment, and refurbishing of existing structures” and urged “to discontinue them immediately.”<sup>28</sup>

**28. Report (A/75/891) of the UN Secretary-General on “status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia”** issued on 21 May 2021 speaks about the violation of the right to freedom of movement and restriction to enter the Russia-occupied Abkhazia and Tskhinvali regions of Georgia. According to the Report “concerns regarding limitations on basic rights, including freedom of movement, increased following the signing in 2015 of two so-called laws: the ‘Law on the Legal Status of Foreigners in Abkhazia’ and the ‘Law on Procedures of Exit from the Republic of Abkhazia and the Entry into the Republic of Abkhazia’” (the document also stressed that similar “laws” were also introduced “by the authorities in control in South Ossetia”). The UN Secretary-General once again urged “the authorities in control in Abkhazia to take all measures necessary to facilitate freedom of movement ... .”<sup>29</sup> Furthermore, “during the reporting period, freedom of movement continued to be restricted by the authorities in control in South Ossetia for Akhgori residents and those displaced since September 2019” - reads the document.<sup>30</sup> In its Report the UN Secretary-General noted that “the so-called ‘borderization’ measures along the administrative boundary lines with both South Ossetia and Abkhazia continued throughout the reporting period” and “further obstacles to the freedom of movement, including so-called ‘state border signs’, watch posts and surveillance equipment, continued to be observed along the administrative boundary lines” (28). Moreover, “the issue of freedom of movement across the administrative boundary line has security, humanitarian and human rights dimensions and remains of the utmost importance to the local population” - reads the Report and speaks about the developments during the reporting period that were marked by two trends: “enhanced control and limitations, and the further formalization of the documentation

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<sup>27</sup> See footnote 11.

<sup>28</sup> See footnotes: 10 and 11.

<sup>29</sup> Report (A/75/891) of the UN Secretary-General on “status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia”, 21 May 2021, Paragraph 18, available at <file:///D:/mfa%20docs%20as%20of%207%20July%202021/2021%20Report%20on%20Occupied%20Territories/materials/UNSG%20report.pdf>.

<sup>30</sup> *Ibid*, Paragraph 23.

conditioning the ability to cross the administrative boundary line” (46). Therefore, the UN Secretary-General underlined that he remained concerned “by the persistent security challenges stemming from continued negative trends related to the so-called ‘borderization’, restrictions on the freedom of movement and other unilateral actions” (60).

29. “... persistent restrictions on freedom of movement ..., aggravated by the impact of the COVID-19 pandemic, have increased gaps in human rights protections as well as the isolation and vulnerability of the populations in those regions” - speaks the **Report (A/HRC/48/45) of the UNHCHR on “Cooperation with Georgia.”**<sup>31</sup> The document also underlined that “during the reporting period restrictions on freedom of movement persisted in both Abkhazia and South Ossetia and adjacent areas, in particular along the Administrative Boundary Lines” and “such restrictions continued to have negative consequences on human rights.”<sup>32</sup> The Report pointed out that “over the same period of time, a continued process of the so-called ‘borderization’ was enforced along the Administrative Boundary Lines with Abkhazia and South Ossetia, including during the COVID-19 crisis” (43). Furthermore, the document noted that “... on 7 April 2021, four people died from drowning in the Inguri river in an attempt to cross from Abkhazia to Tbilisi-controlled territory” (47) and “... the closure of the Administrative Boundary Line in September 2019 by authorities in control in South Ossetia for an indefinite period of time following the opening of a police guard post in the village of Chorchana, located at Tbilisi-controlled territory, has aggravated the humanitarian situation in the Akhagori district” (48). Hence, the High Commissioner addressed to “all relevant parties” to “lift all restrictions to freedom of movement in order to facilitate the enjoyment of human rights and services by the affected populations and avoid measures leading to their increased vulnerability and isolation” (76).

30. Restriction of the freedom of movement was also assessed in the **“Georgia 2020 Human Rights Report”** by the U.S. Department of State. According to the document “Russian ‘borderization’ of the administrative boundary lines increased, further restricting movement and separating residents from their communities and livelihoods.” Furthermore, the Report stressed that “regarding travel documents, residents of Abkhazia who had Georgian citizenship could not use their Georgian passports to cross the Abkhazia administrative boundary line to or from Tbilisi-administered territory” and “since 2018 de facto authorities prohibited older Soviet-era passports, used by thousands of ethnic Georgians living in Abkhazia for crossing, threatening the livelihood of many residents.” Furthermore, “Georgian passport holders not resident in Abkhazia could cross a checkpoint if they possessed invitation letters cleared by the de facto state security services allowing them to enter Abkhazia” and “the latter did not consistently provide permission to cross and

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<sup>31</sup> See footnote 6, Paragraph 39.

<sup>32</sup> *Ibid*, Paragraph 42.

limited movement to specific areas.” The document emphasized that “de facto Abkhaz authorities prohibited Georgian Orthodox Church clergy from entering the occupied territory.” The Report once again outlined that “de facto authorities continued to expand and reinforce fencing and other physical barriers along the administrative boundary line between Tbilisi-administered territory and South Ossetia” and “this expansion of the Russian ‘borderization’ policy further restricted movement, creating physical barriers and obstructing access to agricultural land, water supplies, and cemeteries.”<sup>33</sup>

31. On 9 February 2021 the **European Union published “Association Implementation Report on Georgia”**, which noted “‘borderisation’ activities continued, in particular along the South Ossetian Administrative Boundary Line (ABL) and tension in the Chorchana-Tsnelisi area persisted.”<sup>34</sup>

32. The Amnesty International in its **Report “2020/21: the state of the world’s human rights”** underlined that “in Georgia, Russia and the breakaway territories of Abkhazia and South Ossetia/ Tskhinvali Region continued to restrict freedom of movement with the rest of the country, including through the further installation of physical barriers.”<sup>35</sup>

33. The **Report of the Public Defender of Georgia on “Situation of Protection of Human Rights and Freedoms in Georgia for 2020”** of 31 March 2021 stressed that “... regime established by the de facto authorities and the Russian border forces, restricts the movement of local resident due to artificial reasons ... .” The Report also noted that “from September 4, 2019, in the direction of occupied Akhagori, the de facto government completely closed the so-called A checkpoint used by up to 400 people daily” as a result, “local population was completely isolated and the situation of the residents there worsened.” In the Report the Public Defender of Georgia assessed that “the arbitrary restrictions imposed by de facto authorities on freedom of movement will negatively affect the exercise of various rights by the local population” and “as a result of the imposed restrictions, citizens living in the occupied Gali and Akhagori districts may gradually leave their homes, leading to ethnic cleansing.”<sup>36</sup>

34. On 16 June 2021, at the 75<sup>th</sup> Session of the UN General Assembly under the agenda item “protracted conflicts in the GUAM area and their implications for international peace, security and development” the **Statement was delivered on behalf of the Organization for Democracy and Economic Development-GUAM**. In the Statement the GUAM member states

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<sup>33</sup> See footnote 7, pp. 2, 35-37.

<sup>34</sup> “Association Implementation Report on Georgia” of the European Union, 9 February 2021, p. 6, available at <[https://eeas.europa.eu/sites/default/files/2021\\_association\\_implementation\\_report\\_in\\_georgia.pdf](https://eeas.europa.eu/sites/default/files/2021_association_implementation_report_in_georgia.pdf)>.

<sup>35</sup> See footnote 9, p. 44.

<sup>36</sup> Report Public Defender of Georgia on “Situation of Protection of Human Rights and Freedoms in Georgia for 2020”, 31 March 2021, pp. 344-345, available at <<https://www.ombudsman.ge/res/docs/2021070814020446986.pdf>>.



stressed that “restriction of rights related to freedom of movement ... illegally erected razor wire and other artificial obstacles continue to affect the everyday life of the local population”<sup>37</sup> living in Georgia’s Abkhazia and Tskhinvali regions.

35. The violation of the right to freedom of movement was also addressed by the ***Joint Statement of the GoF of Georgia in the OSCE***. In particular, in the Statement the GoF of Georgia expressed concern “over the ongoing installation of barbed wire fences and other artificial barriers along the administrative boundary lines (ABLs) of Georgia’s Abkhazia and South Ossetia regions” and on the “closure of so-called ABL crossing points in the South Ossetia region of Georgia for over 2 years.” The GoF of Georgia noted that “isolation and continuous restrictions on freedom of movement have destabilized the situation on the ground and severely impacted the security, safety, well-being, and humanitarian conditions of civilians in conflict-affected areas ... .” The GoF also urged “full resumption of all ABL crossings in both the Abkhazia and the South Ossetia regions ... .”<sup>38</sup>

#### 4. Denial of access

36. During the reporting period, there was no progress in granting international human rights monitoring mechanisms the access to the Russia-occupied Abkhazia and Tskhinvali regions of Georgia. Despite the urgent need of observation and assessment of already dire humanitarian and human rights situation therein, international human rights monitoring actors, even the European Union Monitoring Mission in Georgia (EUMM in Georgia), contrary to its mandate,<sup>39</sup> were prevented from entering to those regions of Georgia by the occupying power - the Russian Federation, as part of its policy to create obstacles for adequately addressing the issue on the ground.

37. In the ***Resolution 46/30 on “Cooperation with Georgia”***, the UN HRC expressed regret “at the refusal of those in control of Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia to grant unimpeded access to staff members of the Office of the High Commissioner and to the United Nations human rights mechanisms to both regions.” Therefore, the UN HRC demanded that “immediate and unimpeded access be given to the Office of the High Commissioner and international and regional human rights mechanisms to Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia.”<sup>40</sup>

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<sup>37</sup> UN General Assembly 75<sup>th</sup> Session, official record of the 81<sup>st</sup> Plenary Meeting A/75/PV.81, 16 June 2021, p. 5, available at <<https://undocs.org/en/A/75/PV.81>>.

<sup>38</sup> See footnote 16.

<sup>39</sup> Information about the mandate of the European Union Monitoring Mission in Georgia (EUMM in Georgia), available at <[https://eumm.eu/en/about\\_eumm/mandate](https://eumm.eu/en/about_eumm/mandate)>.

<sup>40</sup> See footnote 2.

38. By the ***Decision of the Committee of Ministers*** the CoE Member States deeply regretted that “neither the Commissioner for Human Rights, Council of Europe monitoring bodies, nor the Secretariat delegation preparing the Secretary General’s consolidated reports, have been granted access to the Georgian regions concerned” and hence “called on the Russian Federation to secure immediate and unrestricted access of the Council of Europe bodies to the Georgian regions.”<sup>41</sup>

39. The CoE SG’s both ***23<sup>rd</sup> and 24<sup>th</sup> Consolidated Reports on “the Conflict in Georgia”*** indicated that “throughout the reporting period, access for international engagement to South Ossetia has reportedly remained limited to the ICRC.”<sup>42</sup>

40. Subsequently, in both its ***Statements on the Secretary General’s 23<sup>rd</sup> and 24<sup>th</sup> Consolidated Reports on the conflict in Georgia*** the EU once again regretted that “monitoring bodies of the Council of Europe and its Human Rights Commissioner have not been granted access to the Georgian regions of Abkhazia and South Ossetia.”<sup>43</sup>

41. The issue of access to the Russia-occupied Abkhazia and Tskhinvali regions of Georgia was assessed in the ***Report (A/75/891) of the UN Secretary-General on “status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia.”*** In particular, the UN Secretary-General reiterated the “need for all relevant stakeholders to ... grant unfettered access for the Office of the United Nations High Commissioner for Human Rights to assess the human rights protection needs of the affected population, support related mechanisms and contribute to confidence-building.”<sup>44</sup> The Report also stressed that “since the conflict in August 2008, the United Nations has lacked operational access to South Ossetia ...” therefore, the UN Secretary-General strongly encouraged “the relevant stakeholders to actively facilitate unhindered regular access to South Ossetia to allow humanitarian and development agencies to assist the population and support the particularly vulnerable among those displaced.”<sup>45</sup> The UN Secretary-General emphasized that “all sides must respect their obligations under the relevant rules of international humanitarian law concerning humanitarian access, and act in good faith to fulfil those obligations” (49). Moreover, according to the Report “... local staff of United Nations agencies and international NGOs are not allowed access to Abkhazia” hence, the UN Secretary-General called “upon all relevant actors to ensure unimpeded access for all categories of personnel of all United Nations entities and international NGOs working to support local populations” (54). The UN Secretary-General also reiterated his call “for the respect of the international principles governing humanitarian access, including unhindered movement of personnel of international organizations, and for flexible, practical approaches and measures to be taken by relevant stakeholders” (55).

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<sup>41</sup> See footnote 3.

<sup>42</sup> See footnote 22, Paragraph 24 and footnote 24, Paragraph 26.

<sup>43</sup> See footnotes: 10 and 11.

<sup>44</sup> See footnote 29, Paragraph 12.

<sup>45</sup> *Ibid*, Paragraph 23.

42. In the **Report (A/HRC/48/45) of the UNHCHR on “Cooperation with Georgia”** the High Commissioner noted that “during the reporting period, no progress was made in granting OHCHR access to Abkhazia and South Ossetia pursuant to Human Rights Council resolution 46/30.”<sup>46</sup> The OHCHR once again reiterated its call for immediate and unimpeded access for OHCHR and international and regional human rights mechanisms “to Abkhazia and South Ossetia so that they may objectively assess the human rights situation and assist all actors concerned.”<sup>47</sup> At the same time, the High Commissioner addressed “to all relevant parties” to “facilitate access by the international community, including humanitarian and development actors, to allow delivery of assistance, not least in the context of the COVID-19 pandemic” (76).

43. In the **“Association Implementation Report on Georgia”** the European Union noted that “the ABL with the breakaway region of South Ossetia remained sealed-off, including for humanitarian purposes.”<sup>48</sup>

44. **“Georgia 2020 Human Rights Report”** by the U.S. Department of State stressed that “de facto authorities did not allow most international organizations regular access to South Ossetia to provide humanitarian assistance.” The document also noted that “the ICRC generally did not have access to prisons and detention facilities in Abkhazia” and indicated that “the ICRC reported it had an ad hoc visit to one detainee in Abkhazia during the year.” Furthermore, according to the Report “Russia and de facto Abkhaz authorities limited international organizations’ ability to operate in Abkhazia” and that “Russia and de facto South Ossetian authorities limited access of international organizations, including humanitarian organizations, to South Ossetia.” Moreover, “de facto authorities in the occupied territories continued to deny unimpeded access to the United Nations and other international bodies” - reads the document.<sup>49</sup>

45. The Amnesty International in its **Report “2020/21: the state of the world’s human rights”** underlined that occupied Abkhazia and Tskhinvali regions of Georgia remained “under Russian occupation and overall control, with their de facto authorities continuing to deny access to international monitors.”<sup>50</sup>

46. In the **Statement under the agenda item “protracted conflicts in the GUAM area and their implications for international peace, security and development”** the GUAM stressed that the situation in Georgia’s Abkhazia and Tskhinvali regions “is particularly alarming given that no international monitoring mechanisms are allowed to monitor the situation on the ground” and

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<sup>46</sup> See footnote 6, Paragraph 32.

<sup>47</sup> *Ibid*, Paragraph 74.

<sup>48</sup> See footnote 34, p. 7.

<sup>49</sup> See footnote 7, pp. 2, 9, 34, 46.

<sup>50</sup> See footnote 9, p. 166.

called for “immediate and unimpeded access by the Office of the High Commissioner for Human Rights and other international and regional human rights mechanisms to those territories.”<sup>51</sup>

47. By the ***Joint Statement the GoF of Georgia in the OSCE*** called “on those in control to enable full and unhindered access by international human rights organisations to the Georgian regions of Abkhazia and South Ossetia”, reaffirmed their unwavering support for the European Union Monitoring Mission in Georgia (EUMM in Georgia) and called “upon Russia to allow the EUMM to implement its mandate in full, including by enabling the EUMM’s access on both sides of the ABLs.” Moreover, the GoF of Georgia expressed regret over the “closure of the OSCE mission to Georgia in 2009” and encouraged “the OSCE participating States to decide on the reopening of the OSCE cross-dimensional mission in Georgia, including a monitoring capacity able to operate unhindered across the ABLs.”<sup>52</sup>

## **5. Violation of right to life; Torture and ill-treatment**

48. Notwithstanding the right to life, liberty and the security of person and absolute prohibition of torture and ill-treatment as grave violation of human rights that are guaranteed by the international law, tragic incidents of the past years prove these norms to be totally violated and disregarded in Abkhazia and Tskhinvali regions of Georgia by the Russian Federation as the occupying power. Subsequently, grave security, and humanitarian situation in the Russia-occupied Abkhazia and Tskhinvali regions of Georgia derived from the non-fulfillment even the peremptory norms of the international law, together with other destructive actions by the Russian Federation as the occupying power, leaves the residents of these regions of Georgia, especially ethnic Georgians extremely vulnerable.

49. Up to this point no progress has been achieved in executing justice for the cases of torture, inhuman treatment and deprivation of life of David Basharuli, Giga Otkhazia, Archil Tatunashvili, as well as in the case of death of Irakli Kvaratskhelia. Regrettably, the impunity in all those cases has led to another case of deprivation of life of Inal Jabiev in 2020, who was a victim of torture in a so-called custody in the Russia-occupied Tskhinvali region of Georgia. Therefore, the necessity of bringing the perpetrators to justice is vital, in order to prevent the sense of impunity and encouragement of ethnically targeted violence with regard to Georgian population.

50. In the ***Resolution 46/30 on “Cooperation with Georgia”***, the UN HRC expressed serious concern “at various forms of reported discrimination against ethnic Georgians,

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<sup>51</sup> See footnote 37.

<sup>52</sup> See footnote 16.

infringements of the right to life ...” Moreover, the UN HRC expressed serious concern “at the lack of accountability for unlawful killings of ethnic Georgians committed in the period from 2014 to 2019, which continues to contribute to impunity in both Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia.”<sup>53</sup>

51. By the ***Decision of the Committee of Ministers*** the CoE Member States expressed profound concern with regard to violations of the right to life, in the Russia-occupied Abkhazia and Tskhinvali regions of Georgia. Moreover, CoE Member States expressed grave concern “over impunity concerning the deaths of Georgian IDPs David Basharuli, Giga Otkhozoria and Archil Tatunashvili, and expressed concern over the death of another Georgian citizen, Irakli Kvaratskhelia, under unclear circumstances at a military base of Russian FSB forces in the Abkhazia region.” CoE Member states also strongly condemned “a decision in the region of Abkhazia that provides for the death penalty, under certain circumstances, in cases of the so-called ‘export, import and/or transit of drugs.’” Hence, CoE Member states called on the Russian Federation as the State exercising effective control “to remove any obstacles to ending impunity in cases concerning the murder of ethnic Georgians in the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia and to bringing the perpetrators to justice.”<sup>54</sup>

52. According to the ***23<sup>rd</sup> Consolidated Report on “the Conflict in Georgia”*** of the CoE SG “the delegation was in particular informed that no progress had been achieved on the cases of Giga Okhtozoria, David Basharuli and Archil Tatunashvili or on the cases of death of Irakli Kvaratskhelia and Inal Jabiev.”<sup>55</sup> The same aspect was underlined in the CoE SG’s ***24<sup>th</sup> Consolidated Report on “the Conflict in Georgia.”***<sup>56</sup>

53. In both its ***Statements on the Secretary General’s 23<sup>rd</sup> and 24<sup>th</sup> Consolidated Reports on the conflict in Georgia*** the EU expressed deep concern over the “impunity surrounding grave human rights violations in conflict-affected areas, which continue to undermine human security.”<sup>57</sup> Moreover, in the ***Statement on the Secretary General’s 24<sup>th</sup> Consolidated Report on the conflict in Georgia*** the EU reiterated “its call for a proper investigation into the tragic deaths of Georgian nationals Archil Tatunashvili, Giga Otkhozoria, David Basharuli, Irakli Kvaratskhelia and Inal Jabiev and for justice to be delivered.”<sup>58</sup>

54. “According to available information, no one has been held accountable for the four deaths that occurred between 2014 and 2019 in Abkhazia and South Ossetia that were

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<sup>53</sup> See footnote 2.

<sup>54</sup> See footnote 3.

<sup>55</sup> See footnote 22, Paragraph 29.

<sup>56</sup> See footnote 24, Paragraph 33.

<sup>57</sup> See footnotes: 10 and 11.

<sup>58</sup> See footnote 10.

mentioned in previous reports” and “such a lack of accountability contributes to a climate of impunity, which could lead to further tensions and insecurity” - reads the **Report (A/HRC/48/45) of the UNHCHR on “Cooperation with Georgia.”** The document also noted that “various submissions to OHCHR highlighted the case of Inal Jabiev, an ethnic Ossetian, who died on 28 August 2020, allegedly from injuries sustained while he was in custody in Tskhinvali.”<sup>59</sup> Hence, the OHCHR reiterated its call “upon all relevant actors to ensure independent, impartial and thorough investigations into these cases.”<sup>60</sup> The Report also referred to various submissions that underscored “the increase in the number of emblematic cases of the deprivation of liberty and the imposition of harsh punishments, including Zaza Gakheladze and Genadi Bestaev in South Ossetia and Irakli Bebuia in Abkhazia.” The document also noted that “the Public Defender raised concerns about ill-treatment and torture in detention facilities in South Ossetia” and “according to the same source, on 3 July 2020, Khvicha Mghebrishvili, a resident of the village of Mejvriskhevi, was arrested” and following his release “after 86 days in custody, on 25 September 2020, there have been reports of ill-treatment and torture in a temporary detention isolation facility in Tskhinvali” (52). Subsequently, the High Commissioner addressed “to all relevant parties” to “promptly and thoroughly investigate all allegations of torture, ill-treatment and related deaths, and intensify efforts to establish accountability, eradicate impunity, provide redress and prevent the occurrence of similar acts” “in and around Abkhazia and South Ossetia” (76).

55. “There was at least one report that de facto authorities in the Russian-occupied regions of the country committed an unlawful killing” - reads the **“Georgia 2020 Human Rights Report”** by the U.S. Department of State adding that “on August 28, Inal Jabiev, age 28, reportedly died in the custody of de facto South Ossetian police and was allegedly tortured to death.”<sup>61</sup>

56. **“Human Right and Democracy Report 2020”** by the United Kingdom’s Foreign, Commonwealth and Development Office stressed that Russian interference in the occupied Abkhazia and Tskhinvali regions of Georgia has led to deterioration of human rights situation therein “... with reports from local media of torture and ethnic discrimination.”<sup>62</sup>

57. The Amnesty International in its **Report “2020/21: the state of the world’s human rights”** stressed that “new torture allegations and a related death sparked widespread protests in South Ossetia/Tskhinvali Region.” In particular, the document underlined that “torture and other ill-treatment remained widespread in the breakaway South Ossetia/Tskhinvali Region, with three cases including one death reported in August” and “Inal

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<sup>59</sup> See footnote 6, Paragraph 40.

<sup>60</sup> *Ibid*, Paragraph 41.

<sup>61</sup> See footnote 7, p. 4.

<sup>62</sup> See footnote 8.

Dzhabiev and Nikolai Tskhovrebov were allegedly severely beaten following detention on 23 August.” Furthermore, the document noted that “Inal Dzhabiev died of his injuries while Nikolai Tskhovrebov was paralyzed with a spinal injury” and “photos of their injuries circulated on social media, together with those of a third man, Gennady Kulaev, detained on 24 August.”<sup>63</sup>

58. In the ***Report on “Situation of Protection of Human Rights and Freedoms in Georgia for 2020”*** the Public Defender of Georgia stressed that “violations of the right to life in the Occupied Territories remains alarming” and “infringements on the right to life of Davit Basharuli in 2014, Giga Otkozoria in 2016, Archil Tatunashvili in 2018 and Irakli Kvaratskhelia, a Georgian citizen killed at the Russian military base in Nabakevi Village, Gali District, Occupied Abkhazia are proofs of this.” The Public Defender emphasized that “perpetrators of all of these killings are representatives of the de facto regimes in the Occupied Territories”, who remained unpunished despite numerous calls for bringing them to justice. According to the Report “the ombudsman has for years also reported on the beating, ill-treatment and torture of prisoners in temporary isolators or prisons in the occupied territories.” Moreover, the document noted that “on September 25, 2020, after his release from 86-day imprisonment, the information on beating, ill-treatment and torture of Khvicha Mghebrishvili in a temporary detention center of Tskhinvali was spread.”<sup>64</sup>

59. By the ***Statement under the agenda item “protracted conflicts in the GUAM area and their implications for international peace, security and development”*** the GUAM expressed concern over the “intensified ethnically targeted human rights violations, deprivation of the right to life ...”<sup>65</sup> that continue to affect the everyday life of the local population living in Georgia’s Abkhazia and Tskhinvali regions.

60. In the ***Joint Statement the GoF of Georgia in the OSCE*** condemned “the killing of Georgian citizens Archil Tatunashvili, Giga Otkhozoria, and Davit Basharuli” and urged “Russia to remove any obstacles to bringing the perpetrators to justice.” In this context, the GoF of Georgia reiterated their support “for Georgia’s preventive steps aimed at eradicating impunity” and noted “the Otkhozoria-Tatunashvili List adopted by the government of Georgia.”<sup>66</sup>

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<sup>63</sup> See footnote 9, pp. 166-167.

<sup>64</sup> See footnote 36, pp. 32-33, 342-343.

<sup>65</sup> See footnote 37.

<sup>66</sup> See footnote 16.

## 6. Arbitrary detentions

61. While Article 3 of the Universal Declaration of Human Rights proclaims that everyone has the right to life, liberty and security of person, which is the substantive right protected by the Universal Declaration, it indicates the profound importance of Article 9 protecting the freedom from arbitrary detention enshrined therein. According to the General comment No. 35 of the International Covenant on Civil and Political Rights adopted by the Human Rights Committee on 16 December 2014, “liberty and security of person are precious for their own sake, and also because the deprivation of liberty and security of person have historically been principal means for impairing the enjoyment of other rights.”<sup>67</sup>

62. Since the occupation of Abkhazia and Tskhinvali regions of Georgia by the Russian Federation, any decision by the occupation regimes therein is considered null and void and any detention by the Russian occupation forces as illegal. However, kidnappings and illegal detentions, as a continuation of Russia’s destructive practice are used to further destabilize already existing grave situation on the ground.

63. While the tremendous efforts have made it possible to ensure the release of Zaza Gakheladze, there are still Georgian citizens, among others - Irakli Bebuia (detained on 30 September 2020) and Mamuka Chkhikvadze (detained on 10 December 2021), remaining in illegal custodies of the occupation forces. Continued international involvement and efforts are critical for their release.

64. In the **Resolution 46/30 on “Cooperation with Georgia”**, the UN HRC expressed serious concern at “various forms of reported discrimination against ethnic Georgians ... kidnappings ...”<sup>68</sup>

65. In the **Decision of the Committee of Ministers** the CoE Member States expressed grave concern “over the continued arbitrary detentions of local inhabitants along the administrative boundary lines (ABLS).” Moreover, the CoE Member States expressed grave concern “over the decision to prolong for more than twelve years the illegal detention of Georgian citizen Zaza Gakheladze, who was shot and wounded during his detention.” By the Decision, the CoE Member States called on the Russian Federation as the State exercising effective control to “cease arbitrary detentions of persons, including in the context of so-

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<sup>67</sup> General comment No. 35 of the International Covenant on Civil and Political Rights, the Human Rights Committee, 16 December 2014, available at

<[https://tbinetnet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f35&Lang=en](https://tbinetnet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f35&Lang=en)>.

<sup>68</sup> See footnote 2.



called 'illegal border crossing' ..." and to "immediately release Zaza Gakheladze and all other illegal detainees."<sup>69</sup>

66. The **23<sup>rd</sup> Consolidated Report on "the Conflict in Georgia"** of the CoE SG stressed that "... cases of arbitrary detention for passage outside the 'crossing points' continue to be reported" and "those who managed to cross the line and were caught were illegally detained and/or fined."<sup>70</sup> "The delegation was also informed of the illegal detention of a Georgian citizen, Genadi Bestaev, who was subsequently 'sentenced' during the reporting period to three years of 'imprisonment'" - reads the Report.<sup>71</sup> Cases of arbitrary detentions were further discussed in the **24<sup>th</sup> Consolidated Report on "the Conflict in Georgia"** of the CoE SG, which underlined that "incidents of illegal detentions were reported as continuing throughout the reporting period."<sup>72</sup> The Report further stated that "the delegation was informed by interlocutors that detention conditions in the region remain below minimum international standards."<sup>73</sup> Together with other cases of arbitrary detentions in the Russia-occupied territories of Georgia, the Report stressed the case of "illegal detention of the Georgian citizen, Gela Gochoshvili, since 14 August 2021" (57).

67. In the **Statement on the Secretary General's 23<sup>rd</sup> Consolidated Report on the conflict in Georgia** the EU called for the "release of all those illegally detained along the ABLs without delay, including illegally sentenced Georgian citizen Zaza Gakheladze."<sup>74</sup> Additionally, in the **Statement on the Secretary General's 24<sup>th</sup> Consolidated Report on the conflict in Georgia** the EU called "for the immediate release of Irakli Bebuia who was illegally sentenced to nine years of imprisonment in December 2020 and needs continued medical care."<sup>75</sup>

68. The **Report (A/75/891) of the UN Secretary-General on "status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia"** stressed that "obstacles to the freedom of movement, including so-called 'state border signs', watch posts and surveillance equipment, continued to be observed along the administrative boundary lines" and "increased surveillance by border guards of the Russian Federation and strict detention practices were also reported." The UN Secretary-General expressed concern "about the continued detention of civilians residing along the Abkhazia and South Ossetia administrative boundary lines for so-called 'illegal crossings'" and in this regard called for "full, transparent and independent

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<sup>69</sup> See footnote 3.

<sup>70</sup> See footnote 22, Paragraph 35.

<sup>71</sup> *Ibid*, Paragraph 54.

<sup>72</sup> See footnote 24, Paragraph 55.

<sup>73</sup> *Ibid*, Paragraph 39.

<sup>74</sup> See footnote 11.

<sup>75</sup> See footnote 10.

investigations into all such incidents in order to hold those responsible accountable and avoid their recurrence.”<sup>76</sup>

69. “OHCHR continued to receive reports of alleged deprivation of liberty, including arbitrary detention, in both Abkhazia and South Ossetia” - reads the **Report (A/HRC/48/45) of the UNHCHR on “Cooperation with Georgia.”**<sup>77</sup> Therefore, the High Commissioner addressed “to all relevant parties” to “put an end to the practice of detention in connection with the crossing of the Administrative Boundary Lines and conduct a thorough individual review of pertinent cases, in line with international standards.”<sup>78</sup>

70. According to **“Georgia 2020 Human Rights Report”** by the U.S. Department of State, significant human rights issues in the Russia-occupied Abkhazia and Tskhinvali regions of Georgia included cases of “unlawful detentions.” “There were frequent reports of detentions of Georgians along the administrative boundary lines of both the Russian-occupied regions of Abkhazia and South Ossetia.” For example “de facto South Ossetian authorities unlawfully detained Genadi Bestaev in November 2019, Khvicha Mghebrishvili on July 3, and Zaza Gakheladze on July 11” - reads the Report. The document stressed that “villagers who approached the administrative boundary lines or crossings risked detention by members of the Russian Federal Border Service ... .” Furthermore, it was underlined that “Russian guards along the Abkhazia administrative boundary line typically enforced the boundary-crossing rules imposed by de facto authorities through detentions and fines.” Moreover, the Report noted that “along the South Ossetia administrative boundary line, Russian guards frequently transferred individuals to de facto authorities.”<sup>79</sup>

71. “... Russian forces and the de facto authorities in Abkhazia and South Ossetia/ Tskhinvali Region continued to ... detain and fine residents for ‘illegal border crossings’” reads the **Report “2020/21: the state of the world’s human rights”** of the Amnesty International.<sup>80</sup>

72. In the **Report on “Situation of Protection of Human Rights and Freedoms in Georgia for 2020”** the Public Defender of Georgia stressed that “one of the most important challenges was the illegal detention of Georgian citizens by so-called regime for facts of border cross” and “an obvious example of this are cases of Vazha Gaprindashvili, Genadi Bestaev, Irakli Bebua, Zaza Gakheladze, Ramaz Begeluri, Mirian Taziashvili and Khvicha Mghebrishvili.” The Public Defender of Georgia underlined that “unacceptable practice of detaining people living in Georgian-controlled and occupied territories continues along the occupation line in both Abkhazia and South Ossetia” and “officers of the occupation regime

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<sup>76</sup> See footnote 29, Paragraph 28.

<sup>77</sup> See footnote 6, Paragraph 51.

<sup>78</sup> *Ibid*, Paragraph 76.

<sup>79</sup> See footnote 7, pp. 2, 12, 36.

<sup>80</sup> See footnote 9, p. 167.

and de facto security service regularly detain civilians for crossing the administrative border.” The Public Defender of Georgia pointed that “such arbitrary arrests violate the rights to liberty and security.” Moreover, the Public Defender assessed that “unlike previous years, when the release of illegally detained persons was limited to the imposition of an administrative offense and the imposition of an appropriate fine, cases of long-term illegal detention have recently increased.”<sup>81</sup>

73. In the *Statement under the agenda item “protracted conflicts in the GUAM area and their implications for international peace, security and development”* the GUAM noted that “illegal detentions and kidnappings along the line adjacent to the occupied territories”<sup>82</sup> continue to affect the everyday life of the local population.

74. In the *Joint Statement the GoF of Georgia in the OSCE* expressed deep concern on the “ongoing arbitrary detentions around the ABLs” and called “for the immediate and unconditional release of Irakli Bebuia and all those under arbitrary detention.”<sup>83</sup>

## 7. Violation of right to return

75. The right of refugees to return to their country of origin is fully recognized in international law.<sup>84</sup> Likewise, internally displaced persons shall enjoy, in full equality and without discrimination, the same rights and freedoms under international and domestic law as do other persons in their country, including the right to freedom of movement and residence, and shall be protected against arbitrary displacement.<sup>85</sup> Stemming from these notions the right to return as a customary norm of international human rights law has been codified in many international and regional human rights instruments. However, the most specific document, the UN Guiding Principles on Internal Displacement and in particular, Principle 28 indicates that internally displaced persons have the right to return voluntarily, in safety and with dignity to their homes or places of habitual residence. Nevertheless, in full disregard of this fundamental human right, hundreds of thousands of IDPs and refugees remain continuously deprived of the right to return to their homes in the Russia-occupied Abkhazia and Tskhinvali regions of Georgia by the occupying power and there is still no progress in this regard. It should be noted that the judgment of the European Court of Human Rights (ECHR) of 21 January 2021 on the case of GEORGIA v.

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<sup>81</sup> See footnote 36, pp. 337-338, 341.

<sup>82</sup> See footnote 37.

<sup>83</sup> See footnote 16.

<sup>84</sup> UNHCR, Voluntary Repatriation: International Protection, Handbook, 1996, Geneva, available at <<https://www.unhcr.org/uk/3bfe68d32.pdf>>.

<sup>85</sup> Resolution 74/160 on Protection of and assistance to internally displaced persons”, UNGA, 18 December 2019, available at <[file:///C:/Users/User/Downloads/A\\_RES\\_74\\_160-EN.pdf](file:///C:/Users/User/Downloads/A_RES_74_160-EN.pdf)>.

RUSSIA (II) legally established the responsibility of the Russian Federation - the authority exercising effective control over the occupied Georgian regions - for the violation of the right of IDPs and refugees to return to their homes and concluded that Russia has an obligation to enable inhabitants of the Georgian origin to return to their respective homes. In contrary, with the Russia's continuous destructive actions many more of residents of the Russia-occupied regions of Georgia are under threat of being forced to become IDPs.

76. In the **Resolution 46/30 on "Cooperation with Georgia"**, the UN HRC expressed concern that "internally displaced persons and refugees continue to be deprived of the right to return to their homes in Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia in a safe and dignified manner."<sup>86</sup>

77. By the **Decision of the Committee of Ministers** the CoE Member States expressed serious concern that "IDPs and refugees continue to be deprived of their fundamental right to voluntary return to their places of origin in a safe and dignified manner" and reiterated their call on the Russian Federation as the State exercising effective control "to create conditions for the voluntary, safe and dignified return of all IDPs and refugees."<sup>87</sup>

78. The UN General Assembly adopted the **Resolution 75/285 on "status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia"** on 16 June 2021. In the Resolution the General Assembly recognized "the right of return of all internally displaced persons and refugees and their descendants, regardless of ethnicity, to their homes throughout Georgia, including in Abkhazia and the Tskhinvali region/South Ossetia." Furthermore, the UN General Assembly called "upon all participants in the Geneva discussions ... to take immediate steps to ensure respect for human rights and create favourable security conditions conducive to the voluntary, safe, dignified and unhindered return of all internally displaced persons and refugees to their places of origin." The Resolution underlined "the need for the development of a timetable to ensure the voluntary, safe, dignified and unhindered return of all internally displaced persons and refugees affected by the conflicts in Georgia to their homes."<sup>88</sup>

79. By the **Resolution 470 "Maintaining NATO's Focus on the Russian Challenge"** NATO Parliamentary Assembly expressed concern over the grave human rights violations in the Russia-occupied Abkhazia and Tskhinvali regions of Georgia as well as underlined "the right of internally displaced people and refugees to return to their homes."<sup>89</sup>

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<sup>86</sup> See footnote 2.

<sup>87</sup> See footnote 3.

<sup>88</sup> UNGA Resolution (75/285) on "status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia", 16 June 2021, available at <file:///C:/Users/User/Downloads/A\_RES\_75\_285-EN.pdf>.

<sup>89</sup> See footnote 5.

80. According to the CoE SG's both **23<sup>rd</sup> and 24<sup>th</sup> Consolidated Reports on "the Conflict in Georgia"** "during the period under review, no progress could be reported as regards the voluntary, safe, dignified and unhindered return of internally displaced persons (IDPs) and refugees on the basis of internationally recognised principles."<sup>90</sup>

81. Respectfully, by the **Statements on the Secretary General's 23<sup>rd</sup> and 24<sup>th</sup> Consolidated Reports on the conflict in Georgia** the EU deeply regretted that "no progress could be reported regarding voluntary, safe, dignified and unhindered return of internally displaced persons and refugees" on the basis of internationally recognized principles.<sup>91</sup>

82. The **Report (A/75/891) of the UN Secretary-General on "status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia"** stressed that "no major changes were observed during the reporting period with regard to internally displaced persons and refugees exercising their right to return ...".<sup>92</sup> The Report also assessed that the Working Group II of the Geneva International Discussions "continued to focus on the humanitarian needs of all affected populations, which were exacerbated by the COVID-19 pandemic, including their livelihood, freedom of movement, documentation and access to rights." Although "all participants in Working Group II agreed that the issue of the return of internally displaced persons and refugees and related issues should be kept on the agenda, regrettably, there was neither substantial discussion on nor progress made in addressing this important matter." Moreover, the UN Secretary-General underlined that "'walkouts' by some of the participants under this agenda item have regrettably become the norm" and therefore urged "all participants to refrain from such actions and to address their concerns within the context of the Geneva international discussions." The UN Secretary-General stressed that "during the reporting period, there was no sustainable return to areas of origin or habitual residence."<sup>93</sup> According to the Report "there is a complex nexus between the individual right to voluntary, safe and dignified return and the establishment of the conditions conducive to such return" and the individual's right to return, "in the case of an internally displaced person, derives from the individual's right to freedom of movement as stipulated in international human rights instruments." The document also noted that "return is both a human right and a humanitarian issue and therefore cannot be directly linked to political questions or the conclusion of peace agreements" and "it must be addressed irrespective of any solution to the underlying conflict" (39). In addition, the UN Secretary-General noted that "no agreement or timetable for the voluntary return of all refugees and internally displaced persons has been developed, given the prevailing environment and ongoing discussions among all concerned" and "Working Group II of the Geneva international discussions could not deal with the issue of voluntary return owing to the continued unwillingness of some participants to discuss the matter." Therefore, the UN

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<sup>90</sup> See footnote 22, Paragraph 61 and footnote 24, Paragraph 63.

<sup>91</sup> See footnotes: 10 and 11.

<sup>92</sup> See footnote 29, Paragraph 16.

<sup>93</sup> *Ibid*, Paragraph 9.

Secretary-General reiterated that “as long as the conditions for organized return in safety and dignity are not fulfilled and the mechanisms for property restitution are not established, the design of a comprehensive timetable or road map for returns must remain an open matter to be addressed.” The UN Secretary-General further reiterated his call “upon all participants in the Geneva international discussions to engage constructively on the issue, in accordance with international law and relevant principles, and to abandon the practice of walking out when the issue of the voluntary return of refugees and internally displaced persons is tabled by Working Group II” (57).

83. “While there was little official information on the human rights and humanitarian situation in South Ossetia, de facto authorities refused to permit most ethnic Georgians driven out by the 2008 conflict to return to their homes in South Ossetia” - reads **“Georgia 2020 Human Rights Report”** by the U.S. Department of State. Furthermore, the document noted that “despite their 1994 agreement with Georgia, Russia, and UNHCR that called for the safe, secure, and voluntary return of IDPs who fled during the 1992-93 war, de facto Abkhaz authorities continued to prevent the return of those displaced by the war.”<sup>94</sup>

84. In the ***Statement under the agenda item “protracted conflicts in the GUAM area and their implications for international peace, security and development”*** the GUAM regreted “that despite the calls made by the international community, hundreds of thousands of internally displaced persons (IDPs) and refugees from the Georgian regions of Abkhazia and Tskhinvali/South Ossetia, fleeing from ethnic cleansing, continue to be deprived of their fundamental right to return to their homes in safety and dignity.” The GUAM also stressed that “deterioration of the humanitarian and human rights situation on the ground not only further impedes that return but also poses the imminent threat of a new wave of forced displacement.”<sup>95</sup>

85. On 16 June 2021, at the 75<sup>th</sup> Session of the UN General Assembly the Delegation of the ***European Union delivered the Statement under the agenda item “protracted conflicts in the GUAM area and their implications for international peace, security and development.”*** In the Statement the EU underlined “the importance of the right of refugees and internally displaced persons (IDPs) to choose a durable solution, including a voluntary, safe and dignified return ...”<sup>96</sup>

86. During the reporting year the Co-Chairs of the Geneva International Discussions issued statements concerning the situation in the Russia-occupied territories of Georgia. In their most recent statement of 8 December 2021, the Co-Chairs pointed out that “... a discussion on the core issue of internally displaced persons and refugees could not take place due to a walkout by some participants.”<sup>97</sup>

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<sup>94</sup> See footnote 7, pp. 2, 37.

<sup>95</sup> See footnote 37.

<sup>96</sup> *Ibid*, p. 8.

<sup>97</sup> Press communiqué of the Co-Chairs of the Geneva International Discussions, 8 December 2021, available at <<https://dppa.un.org/en/press-communique-of-co-chairs-of-geneva-international-discussions-8-december-2021>>.

87. By the Joint Statement on the judgment of the European Court of Human Rights (ECHR) of 21 January 2021 on the case of GEORGIA v. RUSSIA (II), delivered **at the Permanent Council of the OSCE the Group of Countries** called on the Russian Federation “to fully comply with the judgment, including by ... enabling the IDPs to return to their homes in safety and dignity ... .”<sup>98</sup>

88. In the **Joint Statement the GoF of Georgia in the OSCE** noted that in the judgment of the European Court of Human Rights (ECHR) of 21 January 2021 on the case of GEORGIA v. RUSSIA (II) the Court ruled that the Russian Federation “prevented the return of ethnic Georgians to their homes.” Hence, the GoF of Georgia called “on Russia to fully comply with the judgment, including by allowing internally displaced persons (IDPs) to return to their homes in safety and dignity.”<sup>99</sup>

## 8. Violation of right to health

89. The COVID-19 pandemic has reminded international community the vital importance of healthcare and necessity of ensuring unwavering protection of individual’s right to health. While, the International Covenant on Economic, Social and Cultural Rights ensures “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health” it also stipulates that the steps to achieve the full realization of this right shall include “the prevention, treatment and control of epidemic, endemic, occupational and other diseases.”<sup>100</sup>

90. The Russian Federation as the occupying power fails to guarantee even the essential right to health of the people living in the occupied territories of Georgia, where apart from grave human rights violations, illegal process of fortification of the occupation line, restriction of freedom of movement, unprecedentedly lengthy closure of the so-called crossing points amid the pandemic and denial of medical evacuations, have had a particularly negative humanitarian impact on the people living therein. These outrageous actions devastated social-economic conditions of the people trapped in the Russia-occupied regions of Georgia, and even entailed death of dozens being denied from emergency medical evacuation from the Russia-occupied territories to the Georgian Government controlled territory.

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<sup>98</sup> See footnote 15.

<sup>99</sup> See footnote 16.

<sup>100</sup> Article 12 of the International Covenant on Economic, Social and Cultural Rights.

91. With regard to the Russia-occupied Abkhazia and Tskhinvali regions of Georgia the UN HRC expressed serious concern at "... infringements of ... the right to the highest attainable standard of health ..." in the **Resolution 46/30 on "Cooperation with Georgia."**<sup>101</sup>

92. In the **Decision of the Committee of Ministers** the CoE Member States expressed concern "with regard to violations of ... the right to health" and reiterated their call to the Russian Federation as the State exercising effective control to remove any restriction or limitation of the freedom of movement, including for medical purpose and "to cease the denial and/or delay of medical evacuations, especially amid the Covid-19 pandemic."<sup>102</sup>

93. "It was reported that the closure of the 'crossing points' had increased the number of attempted crossings of the ABL outside the 'crossing points' in insecure conditions creating occurrences of risk for life and health ..." - read both the **23<sup>rd</sup> and 24<sup>th</sup> Consolidated Reports on "the Conflict in Georgia"** of the CoE SG.<sup>103</sup> Moreover, according to the Reports the closures of the "ABL" have placed "a particular burden on those who would cross regularly for medical treatment and the purchase of medicines, with the lack of access to cheaper medicines from the other side of the ABL further compounded by rising medical prices."<sup>104</sup>

94. The **Report (A/75/891) of the UN Secretary-General on "status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia"** noted that "the repeated changes in policies related to documentation and challenges experienced in obtaining documentation to enable crossings, coupled with the closure of crossing points, have raised concerns among the affected population about future developments and the impact they may have on their ability to stay in contact with family, maintain access to markets and benefit from medical and other services."<sup>105</sup> The Report also stressed that "persons in need should be able to gain access to medical attention wherever it can be offered as quickly as possible and at the highest possible standard." Therefore, the UN Secretary-General called "upon all stakeholders to exercise maximum care and flexibility in that regard and to improve the conditions for crossings, including through the introduction of a fast-track procedure for vulnerable persons" and called "upon the relevant authorities to ease the crossing procedure, in cases where such a procedure exists, for family visits, notably in the case of medical or other family emergencies, imminent death or funerals."<sup>106</sup>

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<sup>101</sup> See footnote 2.

<sup>102</sup> See footnote 3.

<sup>103</sup> See footnote 22, Paragraph 34 and footnote 24, Paragraph 37.

<sup>104</sup> See footnote 22, Paragraph 40 and footnote 24, Paragraph 45.

<sup>105</sup> See footnote 29, Paragraph 22.

<sup>106</sup> *Ibid*, Paragraph 47.



95. “The COVID-19 pandemic has heightened concerns about the human rights and humanitarian situations in Abkhazia and South Ossetia” - reads the **Report (A/HRC/48/45) of the UNHCHR on “Cooperation with Georgia.”**<sup>107</sup> According to the Report “the prolonged closure of crossing points in Abkhazia and South Ossetia by the authorities in control ... including as part of measures purportedly to contain the spread of COVID-19 – aggravated the already limited access of local residents to ... health care, pensions, markets and other services available in the Tbilisi-controlled territory.”<sup>108</sup> Furthermore, the document underlined that “the closure of crossing points, which continued throughout the reporting period, had a significant impact on the lives and livelihoods of the affected people” and “the affected population was unable to cross over to the Tbilisi-controlled territory to receive pensions or allowances for internally displaced people.” This has put additional pressure “on the most vulnerable segments of the society, including, in particular, the elderly, the disabled and persons with chronic medical conditions, who were prevented from accessing assistance and services in the Tbilisi-controlled territory” (45). In the document the UN High Commissioner underscored that “... the COVID-19 pandemic has deepened concerns about low-quality medical services and infrastructure, lack of qualified medical personnel and complications in the movement of patients across the Administrative Boundary Lines” and “these factors, combined, have had a negative impact on the right to access to health, especially for individuals in need of prompt and/or regular medical assistance that is only available in Tbilisi-controlled territory” (53). Furthermore, the High Commissioner stressed that “accustomed to crossing the Administrative Boundary Line with Abkhazia to access health-care services, buy medicines and collect their pensions, this population has become increasingly isolated” (54). Moreover, “various submissions raised concerns about the severe impact of the closure of the crossing point and the arbitrary restrictions in the context of the issuance of movement permits by the authorities in control in South Ossetia on access to health care for the ethnic Georgian population living in the Akhalkalaki district” -reads the Report (55). “Concerning the situation of human rights in and around South Ossetia” the High Commissioner addressed “to all relevant parties” to “guarantee prompt medical assistance and emergency evacuations for all people in South Ossetia” (76).

96. **“Georgia 2020 Human Rights Report”** by the U.S. Department of State noted that “on July 7, media outlets reported the death of Akhalkalaki resident Gela Gariev at the Tskhinvali hospital after several failed attempts to cross the South Ossetia administrative boundary line to receive medical treatment in Tbilisi-administered territory” and “by year’s end 16 persons reportedly died in occupied South Ossetia due to inability to cross into Tbilisi-administered territory to receive higher quality medical care.” The Document also underlined that “the last person was Onise Gatenashvili, who died on November 14 during ICRC-administered medical evacuation to Tbilisi-administered territory” and “the reason of death was determined to be delayed treatment.” Furthermore, according to the Report

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<sup>107</sup> See footnote 6, Paragraph 39.

<sup>108</sup> *Ibid*, Paragraph 44.

closures of the so-called “crossing points” “particularly affected ethnic Georgian Gali residents, who became practically unable to collect their pensions and allowances or to receive scheduled (nonemergency) medical treatment in Tbilisi-administered territory” and “the Gali clinics were also said to be largely ignored by de facto Abkhaz authorities in terms of receiving international humanitarian medical assistance.”<sup>109</sup>

97. **“Human Right and Democracy Report 2020”** by the United Kingdom’s Foreign, Commonwealth and Development Office stressed that “enhanced restrictions on freedom of movement through the closure of crossing points prevented residents from accessing healthcare during the pandemic.”<sup>110</sup>

98. “Crossing points shut in 2019 remained closed, and at least 10 residents were said to have died after being refused permission for medical transfer to the rest of Georgia” - reads the **Report “2020/21: the state of the world’s human rights”** of the Amnesty International.<sup>111</sup>

99. According to **Report on “Situation of Protection of Human Rights and Freedoms in Georgia for 2020”** of the Public Defender of Georgia “the categorical negative position of the occupied Tskhinvali regime, in relation to receiving help from the Georgian authorities and complete closure of the checkpoint, further complicates access to medical care locally and the number of people who have died in the occupied territories due to lack of access to such services has increased” and “despite the difficult situation, transferring patients from Akhagori to the Georgian-controlled territory is also problematic.” The Public Defender of Georgia also noted that “improper medical services and infrastructure in the occupied territories, unfavorable level of qualifications of nursing staff and high prices for services, as well as complicated movement of patients on the dividing line, have a negative impact on the population's access to right to health” and “in these circumstances, most of the population living in the occupied territories seek for medical care outside the occupied territories.”<sup>112</sup>

100. In the **Statement under the agenda item “protracted conflicts in the GUAM area and their implications for international peace, security and development”** the GUAM noted that violations of the right to health continued to affect the everyday life of the local population <sup>113</sup> living in Georgia’s Abkhazia and Tskhinvali regions. Moreover, it was

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<sup>109</sup> See footnote 7, pp. 34-35.

<sup>110</sup> See footnote 8.

<sup>111</sup> See footnote 9, p. 44.

<sup>112</sup> See footnote 36, pp. 339-340.

<sup>113</sup> See footnote 37.

underlined that the human rights and humanitarian situation therein had been further exacerbated owing to the adverse impact of the COVID-19 pandemic.

101. By the *Joint Statement the GoF of Georgia in the OSCE* addressed the violation of the right to health in the Russia-occupied territories of Georgia. The GoF of Georgia noted that “particularly in Akhalgori district” “local population suffers from shortages of medicine and food, and is denied access to pensions and essentials, including the free healthcare services available in Georgian Government controlled territory” creating a risk for “further depopulation of the Akhalgori district.”<sup>114</sup>

## 9. Violation of right to education in native language

102. The right to education as one of the fundamental human right has been universally recognized since the Universal Declaration of Human Rights, together with various international and regional human rights instruments enshrined it as the right of everyone.<sup>115</sup> Nevertheless, this right should not be seen as a stand-alone notion but twined with the element of native language that is one of the key component for the enjoyment of the right to education. For instance, as duly guaranteed by Article 2 of the Universal Declaration of Human Rights “everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as ... language ... .”<sup>116</sup> Furthermore, the responsibility of proper provision of education is the obligation of occupying powers derived from the international humanitarian law. For instance, Article 50 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War states that “the occupying power shall, with the co-operation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children” further stating that “should the local institutions be inadequate for the purpose, the occupying power shall make arrangements for the maintenance and education, if possible by persons of their own nationality, language and religion, of children who are orphaned or separated from their parents as a result of the war and who cannot be adequately cared for by a near relative or friend.”<sup>117</sup>

103. Notwithstanding this minimum safeguard under international law, prohibition of education in native language in the Russia-occupied territories of Georgia, deprives thousands of children the right to get the education in native Georgian language as neither

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<sup>114</sup> See footnote 16.

<sup>115</sup> Article 26 of the Universal Declaration of Human Rights.

<sup>116</sup> *Ibid*, Article 2.

<sup>117</sup> Article 50 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War.

teachers, not children speak Russian language. The lengthy closure of the occupation line made matters worse, as the children who used to cross the occupation line to attend classes in Georgian schools located in the adjacent area are now deprived of the possibility to do so. The linguistic discrimination is yet another attack against their rights, identity and dignity.

104. In the **Resolution 46/30 on “Cooperation with Georgia”** the UN HRC expressed concern at the restriction “on education in one’s native language in both Georgian regions ...”.<sup>118</sup>

105. By the **Decision of the Committee of Ministers** the CoE Member States expressed concern with regard to violation of right to education in native language and reiterated their call to the Russian Federation as the State exercising effective control to “remove any impediment, restriction or limitation to the right to freedom of movement across the administrative boundary lines (ABLs), including for ... educational purposes ... “ and “to cease violations of the right to education in schools and preschools, including education in the native Georgian language in both Georgian regions.”<sup>119</sup>

106. According to the CoE SG’s both **23<sup>rd</sup> and 24<sup>th</sup> Consolidated Reports on “the Conflict in Georgia”** “as regards the situation of education in the Georgian language in schools in Abkhazia” no progress has been noted since the last report and “previously expressed concerns about restrictions on access to education in the native language persist.”<sup>120</sup> Furthermore, according to the **23<sup>rd</sup> Consolidated Report on “the Conflict in Georgia”** “... education in the Georgian language has been banned not only at schools but also at kindergartens in the Gali district” and “the existing measures are widely seen as a form of ethnic discrimination by ... a number of international interlocutors.”<sup>121</sup> Furthermore, the document stressed that “the COVID-19 pandemic has affected the teaching-learning process in the Gali district and brought forward the issue of access to modern technologies: very few students have access to computers and internet and not all teachers do.”<sup>122</sup> Moreover, “due to the closure of the ‘crossing points’ of Khurcha-Nabakevi, pupils registered to schools in the Tbilisi-controlled territory could not attend class physically and were obliged to attend remotely” - reads the Report (46). In addition, both documents underlined that “no progress has been noted during the reporting period regarding the situation of

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<sup>118</sup> See footnote 2.

<sup>119</sup> See footnote 3.

<sup>120</sup> See footnote 22, Paragraph 43 and footnote 24, Paragraph 48.

<sup>121</sup> See footnote 22, Paragraph 43.

<sup>122</sup> *Ibid*, Paragraph 45.

education in the Georgian language in schools in South Ossetia” and “previously expressed concerns about restrictions on access to education in the native language persist.”<sup>123</sup>

107. In the Statement *on the Secretary General's 23<sup>rd</sup> Consolidated Report on the Conflict in Georgia*, the GUAM underlined that human rights violations, including the right to get education in the native language in Georgia's Abkhazia and Tskhinvali regions occurred on a daily basis.<sup>124</sup>

108. In the *Statement on the Secretary General's 23<sup>rd</sup> Consolidated Report on the conflict in Georgia* the EU expressed concern about the related restrictions on “... access to services and education in one's native language in both entities, further aggravated by the COVID-19 pandemic.”<sup>125</sup> The same concern was expressed by the *Statement on the Secretary General's 24<sup>th</sup> Consolidated Report on the conflict in Georgia*.<sup>126</sup>

109. The *Report (A/HRC/48/45) of the UNHCHR on “Cooperation with Georgia”* stressed that “allegations of human rights violations persist, resulting from discrimination based on ethnic grounds, particularly affecting ethnic Georgians” including restriction of the right to education in the Russia-occupied regions of Georgia.<sup>127</sup> Furthermore, “the prolonged closure of crossing points in Abkhazia and South Ossetia by the authorities in control ... aggravated the already limited access of local residents to education ... ”<sup>128</sup> Moreover, “various submissions to OHCHR reiterated that there were continued restrictions on the use of Georgian as a language of instruction in Abkhazia and South Ossetia, particularly affecting the ethnic Georgian population living in Gali, Abkhazia, as well as in Akhagori, Znauri and Sinaguri, South Ossetia” and “restrictions on mother-tongue education continued to affect the quality of education, to marginalize communities and to create the risk of a poorly educated generation of people in those regions, including the associated negative socioeconomic impacts” - reads the Report (58). The document also underscored that “in Abkhazia, access to water, sanitation and hygiene in schools, including school health stations, which provide primary health-care services to rural communities, is reportedly poor” and “according to information received, children in Gali district were completely left out of the education process for the most part of 2020 and beginning of 2021” (59). The UN High Commissioner underlined that restrictions on freedom of movement and “frequent closures of crossing points continued to hamper access to education for children who have to cross the Administrative Boundary Line” (61).

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<sup>123</sup> See footnote 22, Paragraph 60 and footnote 24, Paragraph 62.

<sup>124</sup> See footnote 26.

<sup>125</sup> See footnote 11.

<sup>126</sup> See footnote 10.

<sup>127</sup> See footnote 6, Paragraph 39.

<sup>128</sup> *Ibid*, Paragraph 44.

110. ***“Georgia 2020 Human Rights Report”*** by the U.S. Department of State underlined that “de facto Abkhaz authorities” “closed village schools and did not provide ethnic Georgians opportunities for education in their native language.” Furthermore, the document reads as follows, “de facto authorities dismissed ethnic Georgian teachers in Abkhazia deemed to have insufficient knowledge of Russian” and “the language of instruction for students in first through fourth grades in Lower Gali was Russian.” Therefore, “Russian was the only instructional language in the Tkvarcheli and Ochamchire zones, and the de facto authorities prohibited Georgian-language instruction there.” The Report stressed that “during the year, as de facto authorities fully closed the line, purportedly because of the pandemic, prospective students residing in the occupied territories were unable to take the national examinations for university enrollment.” Moreover, the document highlighted that “de facto South Ossetian authorities also required ethnic Georgians of all ages to study in Russian.”<sup>129</sup>

111. According to ***Report on “Situation of Protection of Human Rights and Freedoms in Georgia for 2020”*** of the Public Defender of Georgia “one of the major challenges facing occupied Gali region during pandemic was online education.” Furthermore, the Public Defender of Georgia stressed that “recognition of higher education diplomas issued by Georgia in the occupied territories, remains a challenge” as the “de facto authorities do not recognize them.” Consequently, “young people find it difficult to find employment in the occupied territories.”<sup>130</sup>

112. In the ***Statement under the agenda item “protracted conflicts in the GUAM area and their implications for international peace, security and development”*** the GUAM stressed that prohibition of education in the native Georgian language affects the everyday life of the local population<sup>131</sup> living in Georgia’s Abkhazia and Tskhinvali regions.

113. By the ***Joint Statement the GoF of Georgia in the OSCE*** expressed concern “over the ethnic discrimination against Georgians residing in Georgia’s Abkhazia and South Ossetia regions and abuses, including severe restrictions on rights related to ... education ...” and condemned “the decision to replace instruction in Georgian language with Russian in schools of the ethnic-Georgian-inhabited Gali district of the Abkhazia region.”<sup>132</sup>

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<sup>129</sup> See footnote 7, p. 60.

<sup>130</sup> See footnote 36, pp. 348-349.

<sup>131</sup> See footnote 37.

<sup>132</sup> See footnote 16.

## 10. Infringement of right to property

114. Various human rights instruments prohibit arbitrary deprivation of property.<sup>133</sup> For instance, Article 1 of the Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms ensures the ability to enjoy the property and gives exclusive right to the owner.<sup>134</sup> International humanitarian law even goes beyond with regard to this notion and requires occupying powers to respect the right to property. Specifically, Article 53 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War stresses that “any destruction by the occupying power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or co-operative organizations, is prohibited ... .”<sup>135</sup> Nevertheless, right to property of hundreds of thousands of IDPs and refugees from the Russia-occupied Abkhazia and Tskhinvali regions of Georgia remains infringed by the Russian Federation as the occupying power. Moreover, with incremental land grabbing practice and the so-called “borderization”, which was ongoing during the reporting period, many more Georgians are under threat to be deprived of this fundamental human right.

115. In the ***Resolution 46/30 on “Cooperation with Georgia”*** the UN HRC expressed serious concern at infringement of property rights in both Russia-occupied regions of Georgia and “the continued practice of demolition of the ruins of houses belonging to internally displaced persons in the Tskhinvali region/South Ossetia, Georgia.”<sup>136</sup>

116. By the ***Decision of the Committee of Ministers*** the CoE Member States expressed concern with regard to the violation of the right to property and over the “demolition of the homes of Georgian IDPs in the Tskhinvali region/South Ossetia, in violation of the property rights of IDPs.”<sup>137</sup>

117. According to the ***Resolution 75/285 on “status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia”*** the UN General Assembly “stresses the need to respect the property rights of all internally displaced persons and refugees affected by the conflicts in Georgia and to refrain from obtaining property in violation of those rights.”<sup>138</sup>

118. According to the ***Report (A/75/891) of the UN Secretary-General on “status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali***

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<sup>133</sup> Article 17(2) of the Universal Declaration of Human Rights.

<sup>134</sup> Article 1 of the Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms.

<sup>135</sup> Article 53 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War.

<sup>136</sup> See footnote 2.

<sup>137</sup> See footnote 3.

<sup>138</sup> See footnote 88.

**region/South Ossetia, Georgia**” “since 1 January 2019, the authorities in control in Abkhazia have banned holders of the old Abkhaz ‘passports’ from crossing the administrative boundary line, thereby compelling the individuals to apply for the new 2016 version of the de facto ‘passport’ or a ‘foreign resident permit’”<sup>139</sup> and the “‘foreign resident permit’ does not grant its holder the full range of political, housing, land and property rights.”<sup>140</sup> “Property-related issues remained within the scope of Working Group II of the Geneva international discussions” - stressed the Report. The UN Secretary-General underlined that “obstacles to resolving those issues” as well as his call “upon all concerned to adhere to the principles on housing and property restitution for refugees and displaced persons (referred to as the ‘Pinheiro principles’) and the underlying norms of international law, including international human rights law ... remain valid.” The document underscored that “the Special Rapporteur on the human rights of internally displaced persons noted during his visit in September 2016 that internally displaced persons were entitled to the restitution of, or compensation for, their lost property, regardless of whether they had chosen to return, integrate into their area of displacement or relocate elsewhere.” Therefore, the UN Secretary-General encouraged “the participants in the Geneva international discussions to facilitate an expert session to address housing, land and property rights within the context of the international discussions” (56).

119. Human rights violations persist, “... resulting from discrimination based on ethnic grounds, particularly affecting ethnic Georgians” including restriction of the right to property in the Russia-occupied regions of Georgia - reads the **Report (A/HRC/48/45) of the UNHCHR on “Cooperation with Georgia.”**<sup>141</sup> The Report stressed that the so-called “borderization” had a “... continuing negative impact on the already poor socioeconomic conditions of the affected population, as well as on their sense of security, preventing their access to property, grazing and farming lands, religious sites and graveyards.”<sup>142</sup> Furthermore, according to the document, “there were reports of the imposition of cumbersome procedures for some ethnic Georgians in obtaining the ‘foreign residence permit’ as a result of a more rigid enforcement of requirements to prove long-term residence, including a high processing fee, which was not affordable for many applicants” and “affected residents were reportedly concerned by their ‘foreigner’ status, given that they had resided in Abkhazia for generations, and also by the fact that the ‘permit’ did not entitle them to a range of human rights, including political, housing, land and property rights” (50). Hence, the Report underlined that “according to various submissions, information on property issues contained in the previous report remained valid” (62).

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<sup>139</sup> See footnote 29, Paragraph 20.

<sup>140</sup> *Ibid*, Paragraph 21.

<sup>141</sup> See footnote 6, Paragraph 39.

<sup>142</sup> *Ibid*, Paragraph 43.



120. ***“Georgia 2020 Human Rights Report”*** by the U.S. Department of State underlined that significant human rights issues in the Russia-occupied regions of Georgia included “restrictions on the ability of ethnic Georgians to own property or register businesses.” Furthermore, the Report stressed that “in Russian-occupied Abkhazia, the de facto legal system prohibits property claims by ethnic Georgians who left Abkhazia before, during, or after the 1992-93 war, thereby depriving internally displaced persons of their property rights.” It noted that “in a June 29 report on human rights, Abkhaz ‘ombudsperson’ Asida Shakryl addressed rights violations of the ethnic Georgian population residing in occupied Abkhazia.” “She particularly highlighted that the law neglects the rights of the ‘indigenous’ population”, “for example, persons permanently residing in the Gali district, whose ancestors were born in Abkhazia and own property, have no right to elect members of, or be elected to ‘local government’ bodies” and “they also have no right to sell or buy real estate.” Moreover, the document underscored that “in a 2010 decree, de facto South Ossetian authorities invalidated all real estate documents issued by the Georgian government between 1991 and 2008 relating to property in the Akhagori Region.” “The decree also declared all property in Akhagori belongs to the de facto authorities until a ‘citizen’s’ right to that property is established in accordance with the de facto ‘law,’ effectively stripping ethnic Georgians displaced in 2008 of their right to regain property in the region.” According to the Report “de facto authorities continued to pressure ethnic Georgians to acquire a ‘foreign residency permit’ that allows the holder to cross the administrative boundary line and remain in Abkhazia for a period of five years” and “an applicant must, however, accept the status of an alien (i.e., a Georgian living as a foreigner in Abkhazia), may not purchase property, may not transfer residency rights of property to children born in de facto controlled territory, may not vote, and must accept a lack of other basic rights.”<sup>143</sup>

121. In both its ***Statements on the Secretary General’s 23<sup>rd</sup> and 24<sup>th</sup> Consolidated Reports on the conflict in Georgia***, the EU expressed concern about the related restrictions on “property rights” in both Russia-occupied Abkhazia and Tskhinvali regions of Georgia.<sup>144</sup>

122. In the Statement ***under the agenda item “protracted conflicts in the GUAM area and their implications for international peace, security and development”*** the EU underlined the right of IDPs and refugees from the Russia-occupied Abkhazia and Tskhinvali regions of Georgia “to be able to exercise property rights” and expressed regret that so far no progress has been achieved on the issue.<sup>145</sup>

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<sup>143</sup> See footnote 7, pp. 2, 22-23, 38.

<sup>144</sup> See footnotes: 10 and 11.

<sup>145</sup> See footnote 37, p. 8.

123. In the *Joint Statement the GoF of Georgia in the OSCE* noted that ethnic discrimination against Georgians included “severe restrictions on rights related to ... residence and property, particularly in connection with the destruction of the houses of IDPs.”<sup>146</sup>

## 11. Conclusion

124. The reporting period, as in previous years was marked by the blatant violations of human rights and fundamental freedoms of people living in the Russia-occupied regions of Georgia. Massive violations of human rights in the Russia-occupied regions of Georgia includes and is not limited to violations of right to life;<sup>147</sup> torture and ill-treatment;<sup>148</sup> arbitrary detention;<sup>149</sup> violations of the right to freedom of movement,<sup>150</sup> right to return,<sup>151</sup> right to health,<sup>152</sup> right to property<sup>153</sup> and right to education in one’s native language.<sup>154</sup>

## 12. Appeal to the international community

125. Georgia appeals to the international community and International Organizations:

*to call* on the Russian Federation to reverse its recognition of the so-called independence of Georgian regions - Abkhazia and Tskhinvali;

*to call* on the Russian Federation to end the occupation of the Georgian territories;

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<sup>146</sup> See footnote 16.

<sup>147</sup> Article 3 of the Universal Declaration of Human Rights; Article 6 of the International Covenant on Civil and Political Rights; Article 2 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

<sup>148</sup> Article 5 of the Universal Declaration of Human Rights; Article 7 of the International Covenant on Civil and Political Rights; Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

<sup>149</sup> Article 9 of the Universal Declaration of Human Rights; Article 9 of the International Covenant on Civil and Political Rights; Article 5 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

<sup>150</sup> Article 13 of the Universal Declaration of Human Rights; Article 12 of the International Covenant on Civil and Political Rights; Article 2 of the Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms.

<sup>151</sup> UN Guiding Principles on Internal Displacement.

<sup>152</sup> Article 12 of the International Covenant on Economic, Social and Cultural Rights.

<sup>153</sup> Article 17 of the Universal Declaration of Human Rights; Article 1 of the Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms.

<sup>154</sup> Article 26 (read in conjunction with Article 2) of the Universal Declaration of Human Rights; Article 2 of the Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms; Article 28 (read in conjunction with Paragraph 1 of Article 2) of the Convention on the Rights of the Child.

*to call* on the Russian Federation to implement the EU-mediated Ceasefire Agreement of 12 August 2008 and withdraw its illegally stationed troops from the occupied territories of Georgia;

*to call* on the Russian Federation to stop violations of human rights in the occupied territories of Georgia;

*to call* on the Russian Federation as the occupying power to ensure the protection of human rights and fundamental freedoms and the removal of barbed and razor wires and other artificial obstacles and banners along the occupation line;

*to call* on the Russian Federation as the occupying power to allow immediate and unimpeded access to the Office of the High Commissioner for Human Rights and international and regional human rights mechanisms to Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia;

*to call* on the Russian Federation as the occupying power to allow immediate and unimpeded access to the European Union Monitoring Mission to both occupied regions of Georgia;

*to condemn* violations of human rights in the Russia-occupied territories of Georgia;

*to take* additional measures in order to monitor and report on the human rights situation in the Russia-occupied territories of Georgia. More specifically, Georgia appeals to:

- i) the international organizations, bodies and actors to continue efforts to access Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia in order to address, monitor and report on human rights situation in these regions.