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مجلس حقوق الإنسان

الدورة الحادية والثلاثون

البند ٤ من جدول الأعمال

حالات حقوق الإنسان التي تتطلب اهتمام المجلس بها

مذكرة شفوية مؤرخة ١٧ كانون الأول/ديسمبر ٢٠١٥ موجهة من البعثة
الدائمة لجورجيا لدى مكتب الأمم المتحدة والمنظمات الدولية الأخرى
في جنيف إلى مكتب رئيس مجلس حقوق الإنسان

تهدّي البعثة الدائمة لجورجيا لدى مكتب الأمم المتحدة والمنظمات الدولية الأخرى في جنيف
تحياتها إلى مكتب رئيس مجلس حقوق الإنسان، وتشرف بأن تحيل طيه التقرير الفصلي الثالث
(تموز/يوليه - أيلول/سبتمبر ٢٠١٥) لوزارة خارجية جورجيا بشأن حالة حقوق الإنسان في المناطق
المحتلة من جورجيا (انظر المرفق)*.

وفي هذا السياق، ترحو البعثة الدائمة تعميم هذه المذكرة الشفوية ومرفقها بوصفها من
وثائق الدورة الحادية والثلاثين لمجلس حقوق الإنسان، في إطار البند ٤ من جدول الأعمال.

* استُنسخ كما ورد، وباللغة التي قُدّم بها فقط.



الرجاء إعادة استعمال الورق

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Annex to the note verbale dated 17 December 2015 from the Permanent Mission of Georgia to the United Nations Office and other international organizations in Geneva addressed to the Office of the President of the Human Rights Council

Third quarterly report (July-September 2015) of the Ministry of Foreign Affairs of Georgia on the human rights situation in the occupied regions of Georgia

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I. Introduction

Aims of the report and methodology applied

This is the third quarterly report of the Ministry of Foreign Affairs of Georgia, covering the period of July-September 2015 and aiming at assessing the human rights situation in the occupied regions of Georgia. The first quarterly report covered the period of January-March 2015 and the second quarterly report covered the period of April-June 2015. The Ministry of Foreign Affairs of Georgia will further continue the preparation of such reports on a quarterly basis. This reporting exercise aims to contribute to the provision of regular and updated information to the international community, to states as well as to international inter-governmental and non-governmental organizations, on the human rights situation in the occupied regions of Georgia.

As for the applied methodology, this reporting exercise consolidates and assesses existing information from various open sources, national and international, on violations of human rights in the occupied regions of Georgia. Due to limitations on its length, the report does not aim to collect/contain information on all cases of violations of human rights in the occupied regions of Georgia; it aims to consolidate and assess only some of the most known examples of violations. The methodology applied does not provide for the conduct of fact-finding visits to the occupied regions of Georgia, nor to the conduct of interviews. Therefore the methodology applied does not enable this reporting exercise to collect and produce new data on the human rights situation in the occupied regions of Georgia.

Responsibility of the occupying power for human rights violation

Currently, the territories of two regions of Georgia – Abkhazia, Georgia and the Tskhinvali Region, Georgia are occupied by the Russian Federation. The occupation of regions of Georgia by the Russian Federation has been recognized by the international community. The Russian Federation as the occupying power, exercises effective control over Abkhazia, Georgia and the Tskhinvali Region, Georgia. These two regions still remaining under foreign military occupation, constitute above all dangerous “black holes” in verifying human rights violations and holding the violators accountable. The occupying power, exercising effective control, has been preventing numerous international organizations, including humanitarian, from entering those territories.

Installation of barbed wire fences and new banners/signposts

The occupation line along the administrative boundary line (ABL) with Abkhazia and the Tskhinvali Region separates Georgia from its two occupied territories. Since January 2013 the Russian occupation forces intensified the process of the installation of barbed wire fences and other artificial obstacles along the occupation lines in Abkhazia and the Tskhinvali Region (launched back in 2009). Currently, the total length of artificial barriers along the occupation line in Tskhinvali Region is nearly 51 km. Barbed wire fences cover a stretch of more than 12 km in the Abkhazian region.

During the reporting period¹, on 10th July, 2015 the Russian occupying forces installed banners marking the so-called “state border” on the territory adjacent to the occupied Tskhinvali Region, namely in the vicinity of the village of Tsitelubani, Gori district and in the vicinity of the village of Orchosani, occupied Akhgori district, next to the Tbilisi-Gori central highway.²

The following has been observed: “[o]fficials from the EU’s monitoring mission (EUMM) say one new sign has been placed 300 metres south of a previous marker near the

¹ July-September 2015.

² See “Statement of the Ministry of Foreign Affairs of Georgia”, dated 11 July 2015.

village of Orchosani, while another has been moved 1km further south near Tsitelubani.”³ As a result of the above action, a certain segment of the Baku-Supsa pipeline⁴ adjacent to the village of Orchosani fell under the control of the Russian occupation forces.⁵ This means that the Russian federation controls a 1.6 km-long segment of the pipeline owned by British firm BP.⁶ It has been noted that “[o]ne new Russian- and Ossetian language sign declaring the area as part of South Ossetia is just a few hundred metres from Georgia’s main east-west highway, linking the capital with its Black Sea ports and neighbouring Turkey. During the 2008 war, Russian tanks used the same road to move on Tbilisi, stopping 20km short of the capital but demonstrating Georgia’s vulnerability.”⁷

On 10 August 2015, the Russian occupying forces installed additional banners marking the so-called “state border” on the territory adjacent to the occupied Tskhinvali Region, namely in the vicinity of the villages of Tamarasheni and Tseronisi, Kareli district thus leaving plots of lands of several local farmers beyond new markers.⁸

It should be emphasized that these actions of the Russian Federation were followed by the reaction on behalf of the international community. The international community has expressed concern on the extension of the occupation area and indicated at these actions’ negative implications for living conditions of local residents and their human rights, including the freedom of movement. Below are listed some examples of that reaction.

The UN Secretary-General made the following statement: “[t]he Secretary-General takes note of the recent events at the line of control of South Ossetia. He expresses his concerns regarding activities that may negatively impact the freedom of movement and livelihood of the local population.”⁹ The European Union stated: “[t]he installation of new demarcation signposts along the administrative boundary line of Georgia’s breakaway region of South Ossetia has led to tension in the area, with potentially negative effects on the local population, their livelihood and freedom of movement.”¹⁰ The President of the Parliamentary Assembly (PACE) of the Council of Europe stated: “I have received extremely worrying information about unilateral changes to the Administrative Border Line (ABL) of the breakaway Georgian region of South Ossetia, and about continuous borderisation of this ABL, by Russian forces. . . . The borderisation of the ABL runs counter to international law and only serves to escalate tension.

³ EU warning over Russia ‘land grab’ in South Ossetia border row, BBC, 16 July, 2016; Georgia accuses Russia of violating international law over South Ossetia. The Guardian, July 14 2015. Available at: <http://www.theguardian.com/world/2015/jul/14/georgia-accuses-russia-of-violating-international-law-over-south-ossetia>.

⁴ It should be noted that “The Baku-Supsa pipeline carries up to 145,000 barrels of oil a day from Azerbaijan’s Caspian oil fields to Georgia’s Supsa terminal on the Black Sea. Its strategic importance was made clear just before the 2008 war, when BP had to use it to re-route oil to western markets after its larger BTC pipeline across Georgia was closed by an explosion.” *Georgia accuses Russia of violating international law over South Ossetia*. The Guardian, July 14 2015. Available at: <http://www.theguardian.com/world/2015/jul/14/georgia-accuses-russia-of-violating-international-law-over-south-ossetia>.

⁵ See “Statement of the Ministry of Foreign Affairs of Georgia”, dated 11 July 2015.

⁶ *EU urges Russia to halt Georgia ‘Provocations’*. EU Observer, 17 July 2015. Available at: <https://euobserver.com/foreign/129686>. It is noteworthy that in the year 2014, some 31 million barrels of crude oil were transported through the Baku-Supsa 830-kilometer long pipeline for Western markets. *EU issues warning over Russian ‘land grab’ near Georgian breakaway region*. i24news. Available at: <http://www.i24news.tv/en/news/international/78622-150716-eu-issues-warning-over-russian-land-grab-near-georgian-breakaway-region>.

⁷ *Georgia accuses Russia of violating international law over South Ossetia*. The Guardian, July 14 2015. Available at: <http://www.theguardian.com/world/2015/jul/14/georgia-accuses-russia-of-violating-international-law-over-south-ossetia>.

⁸ See “Statement of the Ministry of Foreign Affairs of Georgia”, dated 11 August 2015.

⁹ Statement attributable to the Spokesperson for the Secretary-General on the development at the line of control of South Ossetia, Georgia. 16 July 2015.

¹⁰ Statement by the Spokesperson on development at the administrative boundary line of Georgia’s breakaway region of South Ossetia. 15 July 2015.

Instead of bringing people on both sides of the line together, these actions drive them further apart, which I can only strongly condemn, as I did after I visited the ABL last May.”¹¹

The Ministry of Foreign Affairs of Romania stated the following: “[t]he Ministry expresses its concern over the recent developments across the administrative border in Georgia’s Tskhinvali region/South Ossetia involving the placement of the so-called “border signs” there. Such actions may escalate the situation on the ground, negatively affect the local population, restrict their right to free movement and lead to provocations.”¹² The Ministry of Foreign Affairs of Czech Republic stated: “[w]e strongly condemn these unlawful activities, which create significant impediments for residents on both sides of the administrative boundary line, harm international efforts for peaceful resolution of the conflict, and have a negative impact on the security situation in the whole region.”¹³ The Ministry of Foreign Affairs of Latvia stated the following: “[t]he Foreign ministry states its concern about the shifting of demarcation signposts along the administrative boundary line of the breakaway region of South Ossetia on 10 July 2015. Such actions are provocative, they have a negative impact on the security situation in the region, they cause increases in distrust, they make conflict resolution more difficult, and they reduce the ability of people living in the area to move around freely.”¹⁴ According to the Ministry of Foreign Affairs of Lithuania “illegal placement of banners on July 10, moving even deeper towards Tbilisi-controlled territory, and in immediate vicinity to the Tbilisi-Gori central highway and Baku-Supsa oil pipeline, constitutes yet another serious violation of Georgia’s sovereignty and territorial integrity by the Russian Federation. These illegal activities are in breach of international law, they create significant impediments for residents on both sides of the administrative boundary line, harm international efforts for peaceful resolution of the conflict, and have a negative impact on the security situation in the whole region.”¹⁵

II. Freedom from torture and ill-treatment

It is noteworthy that during and after the August War of 2008, numerous cases were reported from the occupied regions of Georgia of torture and ill-treatment.¹⁶

Several cases were noted during the reporting period¹⁷ on violations of the right to freedom from torture and ill-treatment. For example, information available in the Georgian media and other open sources suggest the following cases that are listed below.

On 10th August 2015, a resident of Gali district was detained by Russian FSB officers for so called “illegal border crossing” in the area of the village of Nabakevi, Gali district. During the detention the detainee was severely beaten by the Russian FSB officers.

¹¹ “Anna Brasseur concerned by changes to the Administrative Border Line in Georgia”. 16 July 2015.

¹² Statement of the Ministry of Foreign Affairs of Romania, 21 July 2015.

¹³ Statement of the MFA Condemning Demarcation Activities of Separatists South Ossetia. 16 July 2015.

¹⁴ Statement of the Ministry of Foreign Affairs of Latvia, 16 July 2015.

¹⁵ Statement of the Ministry of Foreign Affairs of Lithuania on violation of Georgia’s sovereignty and territorial integrity by the Russian Federation, 14 July 2015.

¹⁶ For example, see “Human Rights in the War-Affected Areas Following the Conflict in Georgia”, OSCE/ODIHR, 27 November 2008, pp. 24-25, p. 36, p. 59, 74; “August Ruins”, Report of the Georgian Non-Governmental Organizations on Violations of Fundamental Human Rights and International Humanitarian Law, August War, 2008, Tbilisi 2009, p. 40; “Russia’s Responsibility for Human Rights in Occupied Regions of Georgia” Submission from the Georgian Young Lawyers’ Association (GYLA), National Institute for Human Rights (NIHR) and Human Rights Priority for consideration at the 113th Session of the Human Rights Committee (16 March – 2 April 2015) Russian Federation, p. 3 and 9; Report of the Year 2014 of the Public Defender of Georgia on the Situation of Rights of the Population Affected by the Conflicts, 5 June 2015, page 23; Report on the visit to the region of Abkhazia, Georgia, carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27 April to 4 May 2009.

¹⁷ July-September 2015.

On 27th August 2015, the Russian occupying forces entered a house in Ochamchire district without a permission of the dwellers of the house. The Russian occupying forces deposed a reserve of barbed wire fences in the house again without permission of owners of the house. The militaries physically assaulted the male member of the family as a result of that the whole family left the house and escaped.

On 19th September 2015, Russian militaries entered the village of Tchuburkhinji, Gali district with armored military vehicles and raided several houses in the village. They seized several thousands of kilograms of hazelnut harvest and winter reserve food products from the families. During the raiding, they offended and physically assaulted some of the local residents.¹⁸

III. Arbitrary detentions

The Russian FSB officers regularly carry out arbitrary detention for so called “illegal border crossing” along the occupation line.¹⁹ Between 2009 and March 2015, in total 2117 people were detained by Russian FSB officers for so called “illegal border crossing”; 1416 were detained along the occupation line in the Abkhazian region²⁰ and 701 in the Tskhinvali region.²¹

Numerous cases have been reported during the reporting period²² on arbitrary detention in the occupied regions. For example, information available in the Georgian media and other open sources report the following cases that are listed below.

On 1st July 2015, 15 residents of Gali district were detained by Russian FSB officers for so called “illegal border crossing”.

On 4th July 2015, 25 residents of Gali district were detained by Russian FSB officers for so called “illegal border crossing” in the area of the village of Nabakevi, Gali district.

On 25th July 2015, a resident of the village of Khurvaleti, Gori district was detained by Russian FSB officers for so called “illegal border crossing”. He was detained while harvesting the crops in his agricultural plot of land, which became beyond recently installed new signposts.

¹⁸ For paragraphs 13, 14 and 15 of this report, see sources in weekly press reviews on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia’s Autonomous Republic of Abkhazia, July-September 2015; Incidents on the background of restoration of Abkhazian railway – Russian occupants are physically assaulting local residents. “newposts.ge”, 27 August 2015.

¹⁹ Georgia’s Human Rights Report for 2013, United States Department of State, p. 15, available at: <http://www.state.gov/documents/organization/220492.pdf>; “Human Rights in the War-Affected Areas Following the Conflict in Georgia”, OSCE/ODIHR, 27 November 2008, pp. 24-25, p. 25, pp. 37-38, 74; “August Ruins”, Report of the Georgian Non-Governmental Organizations on Violations of Fundamental Human Rights and International Humanitarian Law, August War, 2008, Tbilisi 2009, p. 40; “Human Rights in Areas Affected by the South Ossetia Conflict. Special Mission to Georgia and Russian Federation”, by Thomas Hammarberg, the Council of Europe Commissioner for Human Rights (Vladikavkaz, Tskhinvali, Gori, Tbilisi and Moscow, 22-29 August 2008), paragraph 94; “Pillay praises Georgia’s plan to introduce comprehensive human rights reforms, Opening remarks by UN High Commissioner for Human Rights, Navi Pillay, at a press conference in Tbilisi.” Georgia, 21 May 2014, available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14624#sthash.OkWtyUpY.dpuf>.

²⁰ However according to the Russian Border Guards’ information, during the last 5 years, approximately 10 000 people were detained by them along the occupation line in the Abkhazian region for so called “illegal border crossing”. See <http://www.apsnypress.info/news/pogranupravlenie-fsb-rossii-v-abkhazii-otmechaet-pyatuyu-godovshchinu-so-dnya-obrazovaniya>

²¹ “Georgian Citizens Detained by Russian Occupational Troops in 2009-2015”, 18 May, 2015. Institute for Development of Freedom of Information (IDFI).

²² July-September 2015.

On 13th August 2015, a resident of the village Kirbali, Gori district was detained by Russian FSB officers for so called “illegal border crossing”. According to local residents the detainee was collecting timber in the vicinity of the occupation line.

On 24 August 2005, a resident of the village Akhrisi, Gori district was detained by Russian FSB officers in the area of the village of Ikorta, Tskhinvali district and criminal charges were brought against the detainee for so called “illegal border crossing”.

On 25th August 2015, two residents of the village of Bershueti, Gori district were detained by Russian FSB officers for so called “illegal border crossing”. However, according to local residents, the two residents did not cross the occupation line, they just approached it.

On 29th August 2015, a mother and her two children from the village of Speti, Sachkhere district were detained by Russian FSB officers for so called “illegal border crossing”. All three were released on September 1st after paying a fine amounting to 2 000 rubles.

On 9th September 2015, a resident of Senaki district was detained by Russian FSB officers and was sentenced two and half years of imprisonment for so called “illegal border crossing”.

On 10th September 2015, a resident of Tbilisi and a resident of Gori were detained by Russian FSB officers in the area of the village of Okona, Znauri district and criminal charges were brought against them for so called “illegal border crossing”.

On 23 September 2015, a resident of the town of Gori, was detained by Russian FSB officers for so called “illegal border crossing”.²³

IV. Freedom of movement

People are regularly detained by Russian FSB officers for so called “illegal border crossings” while the operating crossing points along the occupation line allow crossings only to individuals having one of the types of “documents” recognized by the occupying power and based on vague criteria as to the validity of these documents.²⁴ For example, there are five crossing points along the occupation line with Abkhazia and only certain “documents” are accepted for entering or exiting the region of Abkhazia.²⁵ The list of accepted “documents” was published on 15 June 2015 by Russian FSB border control service in the Russian language.²⁶ Those unable to present those documents or show up at the crossing point out of working hours, are denied the right to cross, often leading to casualties among those locals, including children and women, seeking urgent medical treatment.

Numerous cases were reported during the reporting period on violations of the right to freedom of movement.²⁷ It has been argued by the Council of Europe that “[s]erious concerns

²³ For paragraphs 18 - 27 of this report, see sources in weekly press reviews on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia’s Autonomous Republic of Abkhazia, July-September 2015; Urgent? Russians have kidnapped 45 years old man, “postalioni.com”, 25 July 2015; Russian Occupants Kidnapped a Man, “presa.ge”, 13 August 2015; Border Guards detained 2 people, “interpressnews.ge”, 25 August 2015; Detention by Russian occupants, “newposts.ge”, 23 September 2015.

²⁴ Consolidated Report on the Conflict in Georgia, Council of Europe (November 2014 - March 2015), 22 April 2015, SG/Inf (2015) 18, paragraph 44.

²⁵ *The Realm of the Possible - Finding ways forward in the Georgian-Abkhaz context: People in the Gal/I region*, Conciliation Resources, July 2015, page 8. It should be noted here that the distribution of new so called “Abkhaz passports” will be launched in autumn 2015 and the process will be completed in February 2016. Out of 300 000 new “documents”, 250 000 will be internal “passports” and 50 000 will be resident permits.

²⁶ <http://abkhazinform.com/item/1356-pogranupravlenie-fsb-rf-v-abkhaziiinformiruet-grazhdan-o-dokumentakh-pozvolayayushchikhpereseekat-gruzino-abkhazs>

²⁷ See weekly press reviews on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia’s Autonomous Republic of Abkhazia, July-September 2015.

persist on the disputed legal status of the majority of residents in the Gali region and a fraction of population of Ochamchira and Tkvarcheli districts. . . . [T]he documentation gap continues to restrict the local population's freedom of movement and creates obstacles to their access to basic services, protection and socio-economic benefits. This has rendered the population increasingly vulnerable and prone to abuse."²⁸

Installation of new banners/signposts

As already described above, on 10th July, 2015 the Russian occupying forces installed banners with the inscription "state border" in the vicinity of the villages of Tsitelubani and Ochrhosani. The negative impact of the installation of new banners on the freedom of movement of the local population has been widely recognized.

For example, in the context of the installation of new banners, the UN Secretary-General expressed "concerns regarding activities that may negatively impact the freedom of movement and livelihood of the local population."²⁹ The spokesman of the EU's monitoring mission (EUMM), Mr John Durning said that Russia's "borderization" policy "creates obstacles to freedom of movement and the livelihoods of the local population".³⁰ The Ministry of Foreign Affairs of Latvia stated that "they cause increases in distrust, they make conflict resolution more difficult, and they reduce the ability of people living in the area to move around freely."³¹ The Ministry of Foreign Affairs of Romania stated that "Such actions may escalate the situation on the ground, negatively affect the local population, restrict their right to free movement and lead to provocations."³²

The Guardian cited a farmer from Tsitelubani "we've lost most of our fields. . . . The Russians said we are no longer allowed there".³³ It has been noted that "it also cuts off local Georgian farmers from 10 hectares of wheat fields and cattle pastures."³⁴ It has been argued by the Council of Europe that "local population also refrains from accessing lands and pasture due to fear of detention which remains an acute concern; indeed, among those detained are farmers or herders who cross the ABL for livelihood purposes."³⁵

Detention linked to hazelnut harvesting

Summer is the season for hazelnut harvest in Georgia. Hazelnut constitutes significant source of income for some people living in the occupied region of Abkhazia, in particular, for the most of the local residents of Gali district hazelnut constitutes the main source of income.³⁶ During the hazelnut harvesting period, some people leaving on the territory controlled by the central government of Georgia, try to cross the occupation line in order to earn by working on

²⁸ Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2015), SG/Inf (2015) 41, paragraphs 47 and 51.

²⁹ Statement attributable to the Spokesperson for the Secretary-general on the development at the line of control of South Ossetia, Georgia. 16 July 2015.

³⁰ *Georgia accuses Russia of violating international law over South Ossetia*. The Guardian. July 14 2015. Available at: <http://www.theguardian.com/world/2015/jul/14/georgia-accuses-russia-of-violating-international-law-over-south-ossetia>

³¹ Statement of the Ministry of Foreign Affairs of Latvia, 16 July 2015.

³² Statement of the Ministry of Foreign Affairs of Romania, 21 July 2015.

³³ *Georgia accuses Russia of violating international law over South Ossetia*. The Guardian. July 14 2015. Available at: <http://www.theguardian.com/world/2015/jul/14/georgia-accuses-russia-of-violating-international-law-over-south-ossetia>

³⁴ *EU urges Russia to halt Georgia "Provocations"*. EU Observer. 17 July 2015. Available at: <https://euobserver.com/foreign/129686>

³⁵ Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2015), SG/Inf (2015) 41, paragraph 62.

³⁶ See weekly press review (between 10 August and 14 August 2015) on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia's Autonomous Republic of Abkhazia, July-September 2015.

hazelnut harvesting.³⁷ And many residents of the occupied region of Abkhazia try to cross the occupation line in order to transport and sell wholesale the harvested hazelnut in Zugdidi, the territory controlled by the central government of Georgia, where the price is much higher than offered by local markets in the occupied region.³⁸ Information available in the Georgian media and other open sources report the following cases.³⁹

On 29th August 2015, a resident of the village of Torsa, Khobi district was detained by Russian FSB officers for so called “illegal border crossing” while returning from hazelnut harvesting trip in the village Mukhuri, Gali district. Information of current whereabouts of the detainee is still missing.

According to the information disseminated on 21st September 2015, a resident of Martvili (the territory controlled by the central government of Georgia) was detained in Gali district and was sentenced 3 months of pre-trial detention for so called “illegal border crossing”. The detainee entered the occupied territory in order to earn by working during the season of hazelnut harvesting in Gali district. The detainee faces the perspective of the imprisonment for 3 or 4 years.

On 30th September 2015, a resident of the village of Nabakevi, Gali district was detained by Russian FSB officers while transporting across the occupation line loads of sacks of hazelnut to the territory controlled by the central government of Georgia.

It has been argued that “warnings of enforcing stricter controls on the crossing regime continue to be periodically issued”.⁴⁰ The Council of Europe noted that on 27 August, Mr Khajimba publicly declared on the need for imposing control on trade activities across the ABL.⁴¹ In summer decision was made to collect tariffs over local products sold on the territory controlled by the central government of Georgia.⁴²

Restrictions on pupils and teachers

It should be emphasized that the process of the installation of barbed wire fences by the Russian Federation and limitations on freedom of movement in the occupied regions of Georgia violate human rights, including, the right to education in the native language. It has been argued by the Council of Europe that “[c]oncerns also persist about freedom of movement of children who cross the ABL to access schooling and the related documentation.”⁴³

Children residing in the occupied villages of Gali district, need to cross the occupation line in order to go to schools in the Tsalenjikha and Zugdidi districts on the territory controlled by the central government of Georgia.⁴⁴ For comparison, in 2014, 103 schoolchildren were

³⁷ See weekly press review (between 15 August and 22 August 2015) on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia’s Autonomous Republic of Abkhazia, July-September 2015.

³⁸ See weekly press review (between 1 July and 6 July 2015) on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia’s Autonomous Republic of Abkhazia, July-September 2015.

³⁹ See weekly press review on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia’s Autonomous Republic of Abkhazia, July-September 2015.

⁴⁰ Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2015), SG/Inf (2015) 41, paragraph 45.

⁴¹ Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2015), SG/Inf (2015) 41, paragraph 45.

⁴² Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2015), SG/Inf (2015) 41, paragraph 45.

⁴³ Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2015), SG/Inf (2015) 41, paragraph 55.

⁴⁴ “A special Report of the Public Defender of Georgia – The Right to Education in Gali District: New Developments and Challenges of the Academic Year of 2015-2016”, Public Defender of Georgia, October 2015, page 10.

registered from the occupied Gali district in these schools and by the end of June 2015 the number was 45.⁴⁵ This tendency of the decrease of number has been continuing in the academic year 2015-2016.⁴⁶

The decision has been made by the occupying power to ban attendance in the schools located in the territory controlled by the central government of Georgia; parents of the schoolchildren are forced to take their children to schools in the occupied region. For example, in September 2015, Russian FSB officers did not allow three pupils all of them residents of Gali district to cross the occupation line in order to attend the school lessons in Tsalenjikha district on the territory controlled by the central government of Georgia.⁴⁷ According to information disseminated on 14 September, first grade schoolchildren from the village of Chkhoushia, Gali district were prevented from crossing the occupation line and attending the classes in their school.⁴⁸

It should be also noted that Georgian language teachers of the schools in the occupied Gali district are banned to cross the occupation line and enter territory controlled by the central government of Georgia. On 15 September 2015, teachers and directors of the schools in the occupied Gali district were warned that the crossing of the occupation line would result in dismissal from their positions. Georgian language teachers of the schools in the occupied Gali district often encounter difficulties in crossing the ABL and are often prevented from doing so.⁴⁹

V. Right to property

The issue of homes and property lost during the conflicts in Georgia remains unsolved. For years, the right to property has been subject to systematic and gross violations in the occupied regions of Georgia; hundreds of houses of ethnic Georgians were burned/destroyed deliberately during and after the August War of 2008.⁵⁰

The situation described with regard to the right to property remained the same between July and September 2015. Numerous sources suggest continuing violations of the rights to property during the reporting period.⁵¹

⁴⁵ Proceedings of “Conference on the Right to Education in the Georgian Language in the Occupied Gali District”, held on 23 June, 2015.

⁴⁶ “A special Report of the Public Defender of Georgia – The Right to Education in Gali District: New Developments and Challenges of the Academic Year of 2015-2016”, Public Defender of Georgia, October 2015, page 10.

⁴⁷ “A special Report of the Public Defender of Georgia – The Right to Education in Gali District: New Developments and Challenges of the Academic Year of 2015-2016”, Public Defender of Georgia, October 2015, page 11.

⁴⁸ See weekly press review (between 14 September and 20 September 2015) on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia’s Autonomous Republic of Abkhazia, July-September 2015.

⁴⁹ Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2015), SG/Inf (2015) 41, paragraph 56.

⁵⁰ “Human Rights in the War-Affected Areas Following the Conflict in Georgia”, OSCE/ODIHR, 27 November 2008, pp. 24-25, pp. 26-28; p. 42; pp. 44-45, p. 61; “August Ruins”, Report of the Georgian Non-Governmental Organizations on Violations of Fundamental Human Rights and International Humanitarian Law, August War, 2008, Tbilisi 2009, p. 28; “Human Rights in Areas Affected by the South Ossetia Conflict. Special Mission to Georgia and Russian Federation”, by Thomas Hammarberg, the Council of Europe Commissioner for Human Rights (Vladikavkaz, Tskhinvali, Gori, Tbilisi and Moscow, 22-29 August 2008), paragraph 94; “Russia’s Responsibility for Human Rights in Occupied Regions of Georgia” Submission from the Georgian Young Lawyers’ Association (GYLA), National Institute for Human Rights (NIHR) and Human Rights Priority for consideration at the 113th Session of the Human Rights Committee (16 March – 2 April 2015) Russian Federation, p. 4 and 9.

⁵¹ July-September 2015.

It has been argued, in the context of installation of banners in July 2015 with the inscription “state border” in the vicinity of the villages of Tsitelubani and Ochrhosani, that “the major consequence seems to be the direct loss of land and livelihood – now located beyond the signposts – for over 150 villagers from above mentioned villages altogether.”⁵² It should be emphasized that the installation of new banners in August 2015 in the vicinity of the villages of Tamarasheni and Tseronisi, Kareli district left plots of lands of several local farmers beyond new markers.⁵³

Other examples of violations of the rights to property are the following cases: according to the information disseminated on 11th July 2015, Russian militaries introduced a ban to around 110 families in Gali district on the use of their land properties in the surroundings of river Enguri. This ban applies to properties located within one kilometer radius from the certain segment of the bank of river Enguri.⁵⁴

On 19th September 2015, Russian militaries entered the village of Tchuburkhinji, Gali district with armored military vehicles. They raided several houses in the village and seized several thousands of kilograms of hazelnut harvest from the families. They also confiscated winter reserve food products and personal belongings.⁵⁵

On 30th September 2015, Russian FSB officers raided the house of a family in the village of Nabakevi, Gali district and seized around 800 kilogram of hazelnut harvest from the family.⁵⁶

It should be emphasized that according to the decision of so called “Russian – Abkhazian Commission”, the Russian Federation citizens that are ethnically Georgian and are refugees from the Abkhazian region of Georgia, will not be able to claim ownership to their property located in Abkhazia. The reason is the following: these people did not pay so called communal and property taxes for the last 15-20 years.⁵⁷

VI. Right to education in the native language

The right to receive education in the native language is widely recognized under international law.⁵⁸ In the Gali district there are 31 schools. By the end of academic year 2014-2015 there were 4, 459 pupils and 918 employees in these 31 schools; from 4, 459 pupils, 4, 351 i.e. 97.57 per cent, were ethnically Georgian and from 918 employees, 91.78 per cent were ethnically Georgian.⁵⁹

From 31 schools only 11 schools, all of which are in “lower zone” of Gali district, had the status of Georgian schools until the end of the academic year 2014-2015 and subjects were taught

⁵² Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2015), SG/Inf (2015) 41, paragraph 61.

⁵³ See “Statement of the Ministry of Foreign Affairs of Georgia”, dated 11 August 2015.

⁵⁴ See weekly press review (between 6 July and 12 July 2015) on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia’s Autonomous Republic of Abkhazia, July-September 2015.

⁵⁵ See weekly press review (between 14 September and 20 September 2015) on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia’s Autonomous Republic of Abkhazia, July-September 2015.

⁵⁶ See weekly press review on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia’s Autonomous Republic of Abkhazia, July-September 2015.

⁵⁷ News agency – “timer.ge”. 9 September 2015.

⁵⁸ *Languages and the Realization of the Right to Education*, UNESCO. For example, under the ECHR, the right to education implies the right to be educated in the national language. *Belgian Linguistic Case*, Judgment of 23 July 1968, para 3 (A.6 (1968), p.31). In *Cyprus v. Turkey* the Court stated that the abolishing the facility for Greek-Cypriot children in Northern Cyprus for pursuing a secondary education in the Greek language violated Article 2 of the ECHR. Judgment of 10 May 2001, paragraphs 273-280.

⁵⁹ See weekly press review (between 27 July and 2 August 2015) on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia’s Autonomous Republic of Abkhazia, July-September 2015.

in the Georgian language.⁶⁰ As for 9 schools which are in “upper zone” of Gali district, subjects are taught only in the Russian language.⁶¹ And only 2 hours per week are allocated for learning the Georgian language as a foreign language in these schools. As for the remaining 11 schools in Gali district (nowadays these 11 schools are illegally considered as Tkhvarcheli and Ochamchire “zone” schools), all of them were transformed to the Russian schools:⁶² since the academic year 2008-2009 in these schools even the teaching of the Georgian language and literature has been banned and teachers of the Georgian language and literature has been dismissed.

In these 11 schools, all of which are in “lower zone” of Gali district, the teaching hours of the Georgian language and literature had been decreasing gradually each academic year; for example, in these 11 schools, the teaching hours of the Georgian language and literature decreased from 10-10 hours to 6-6 hours in the academic year 2014-2015 and these 4-4 hours were used for teaching the Russian language.⁶³ Before 2014, in 11 Georgian schools in “lower zone” of Gali district, the Russian language was taught from 3rd grade classes as a foreign language and from the academic year 2014-2015 the Russian language was taught from the 1st grade classes as a “mother tongue”.⁶⁴ This was a kind of a preparatory measure for transforming the existing curriculum into the Russian language, planned for the academic year 2015-2016. It is noteworthy that this is a practice which had been used in all other schools of Gali district where Russian language 1st grade classes gradually replaced Georgian language 1st grade classes and Georgian schools gradually became Russian schools.⁶⁵

From the beginning of September of the academic year 2015-2016, drastic changes were made in the curriculum of these 11 schools of Gali district, namely now all subjects are taught in the Russian language in the first four grade classes i.e. in first grade, second grade, third grade and fourth grade classes.⁶⁶ The Council of Europe noted that “... the Russian language was adopted as the language of instruction in grades from one to four in all 11 schools in Lower Gali effective from the beginning of the new school year.”⁶⁷ The Russian curriculum means that the Russian textbooks, licensed by the Ministry of Education and Science of the Russian Federation and published in the Russian Federation, are used for the teaching.⁶⁸ In these classes only 1 hour per week is allocated for learning the Georgian language as a foreign language.⁶⁹

⁶⁰ *The Realm of the Possible - Finding ways forward in the Georgian-Abkhaz context: People in the Gal/I region*, Conciliation Resources, July 2015, page 10; Report of the Year 2014 of the Public Defender of Georgia on the Situation of Rights of the Population Affected by the Conflicts, 5 June 2015, page 26.

⁶¹ “A special Report of the Public Defender of Georgia – The Right to Education in Gali District: New Developments and Challenges of the Academic Year of 2015-2016”, Public Defender of Georgia, October 2015, page 5.

⁶² “A special Report of the Public Defender of Georgia – The Right to Education in Gali District: New Developments and Challenges of the Academic Year of 2015-2016”, Public Defender of Georgia, October 2015, page 5.

⁶³ 2014 Annual Report of the Public Defender of Georgia on the Situation of Human Rights and Fundamental Freedom in Georgia, page 845.

⁶⁴ 2014 Annual Report of the Public Defender of Georgia on the Situation of Human Rights and Fundamental Freedom in Georgia, page 845.

⁶⁵ 2014 Annual Report of the Public Defender of Georgia on the Situation of Human Rights and Fundamental Freedom in Georgia, page 845.

⁶⁶ “A special Report of the Public Defender of Georgia – The Right to Education in Gali District: New Developments and Challenges of the Academic Year of 2015-2016”, Public Defender of Georgia, October 2015, page 5.

⁶⁷ Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2015), SG/Inf (2015) 41, paragraph 52.

⁶⁸ “A special Report of the Public Defender of Georgia – The Right to Education in Gali District: New Developments and Challenges of the Academic Year of 2015-2016”, Public Defender of Georgia, October 2015, page 4; See weekly press review (between 31 August and 4 September 2015) on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia’s Autonomous Republic of Abkhazia, July-September 2015.

⁶⁹ See weekly press review (between 31 August and 4 September 2015) on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia’s Autonomous Republic of Abkhazia, July-September 2015.

During the summer school holidays, teachers of these 11 schools in Gali district were instructed to attend special training courses on Russian curriculum.⁷⁰ It was noted that “[t]hese changes have put significant constraints on schooling in the Georgian language.”⁷¹ Moreover, in these schools, the documents cannot be processed in the Georgian language.⁷² For example, in one of these 11 schools, namely in the school located in the village of Okumi, Gali district schoolchildren and teachers are banned from communicating with each other in the Georgian language.⁷³ It has been argued that a massive dismissal of the Georgian language teachers is planned. The policy, if continued for 6 years, will result in gradual replacement of the Georgian curriculum with the Russian curriculum for all grades in these 11 schools of “lower zone” of Gali district.⁷⁴

It is alarming that all so called preparatory classes (that are pre-requisite for transferring to 1st grade classes) and all existing kindergartens were converted into Russian language.⁷⁵ It should be mentioned here that nine school directors were dismissed for their so called “disloyal” attitudes.

VII. Conclusions

It can be concluded that the situation described in the occupied regions of Georgia with regard to freedom of torture and ill treatment and examples provided for the reporting period⁷⁶ constitute infringements on freedom from torture and ill-treatment and therefore are violations of Article 7 of the International Covenant on Civil and Political Rights (ICCPR); Article 5 of the Universal Declaration of Human Rights (UDHR); Article 3 of the European Convention on Human Rights (ECHR); and the OSCE commitments⁷⁷.

It can be concluded that the situation described in the occupied regions of Georgia with regard to arbitrary detention and examples provided for the reporting period⁷⁸ constitute arbitrary detention and therefore violations of Article 9 of the International Covenant on Civil and Political Rights (ICCPR); Article 3 of the Universal Declaration of Human Rights (UDHR); Article 5 of the European Convention on Human Rights (ECHR); and relevant provisions of the OSCE commitments⁷⁹.

⁷⁰ See weekly press review (between 24 August and 30 August 2015) on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia’s Autonomous Republic of Abkhazia, July-September 2015.

⁷¹ Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2015), SG/Inf (2015) 41, paragraph 53.

⁷² Proceedings of “Conference on the Right to Education in the Georgian Language in the Occupied Gali District”, held on 23 June, 2015.

⁷³ See weekly press review (between 5 September and 12 September 2015) on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia’s Autonomous Republic of Abkhazia, July-September 2015.

⁷⁴ “A special Report of the Public Defender of Georgia – The Right to Education in Gali District: New Developments and Challenges of the Academic Year of 2015-2016”, Public Defender of Georgia, October 2015, page 6.

⁷⁵ Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2015), SG/Inf (2015) 41, paragraph 52.

⁷⁶ July-September 2015.

⁷⁷ The Vienna Concluding Document (1989) prohibits torture and other cruel, inhuman or degrading treatment or punishment. Paragraph 23.4; The Paris Document (1990) also prohibits torture and other cruel, inhuman or degrading treatment or punishment; the Istanbul Charter for European Security commits to “eradicating torture and other cruel, inhuman or degrading treatment or punishment throughout the OSCE area.” Paragraph 21.

⁷⁸ July-September 2015.

⁷⁹ The Vienna Concluding Document (1989) provides for ensuring that no one is subjected to arbitrary arrest, detention or exile. Paragraph 23.1; According to the Moscow Document (1991) “no one will be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law”. Paragraph 23.1 (i).

It can be concluded that the situation described in the occupied regions of Georgia with regard to freedom of movement and examples provided for the reporting period⁸⁰ constitute violations of the right to freedom of movement, namely of Article 12 of the International Covenant on Civil and Political Rights (ICCPR); Article 13 of the Universal Declaration of Human Rights (UDHR); Article 2, Protocol No. 4 of the European Convention on Human Rights (ECHR); and the OSCE freedom of movement commitments⁸¹.

It can be concluded that the situation described in the occupied regions of Georgia with regard to right to property and examples provided for the reporting period⁸² violate the right to property, namely Article 17 of the Universal Declaration of Human Rights (UDHR); Article 1, Protocol No. 1 of the European Convention on Human Rights (ECHR); and the OSCE commitments⁸³.

It can be concluded that the situation described in the occupied regions of Georgia with regard to education in the native language and examples provided for the reporting period⁸⁴ constitute violations of the right to education in one's native language and therefore violations of Article 26 (read in conjunction with Article 2) of the Universal Declaration of Human Rights (UDHR); Article 2, Protocol No. 1 of the European Convention on Human Rights (ECHR); Article 28 (read in conjunction with paragraph 1 of Article 2) of the UN Convention on the Rights of the Child; and relevant provisions of OSCE commitments⁸⁵.

VIII. Appeal to the international community

The Ministry of Foreign Affairs of Georgia appeals to the international community, states as well as international intergovernmental and non-governmental organizations:

- To continue recognizing extensively and widely the occupation of the territories of Georgia by the Russian Federation;
- To continue calling on the Russian Federation to bear responsibility for human rights violations on the occupied regions of Georgia;
- To continue calling on the Russian Federation to stop placing and remove barbed wire fences and other artificial obstacles and banners along the occupation line;
- To take additional measures in order to monitor and report on the human rights situation in the occupied regions of Georgia, more specifically, the Ministry of Foreign Affairs of Georgia appeals to:
 - The Office of the United Nations High Commissioner for Human Rights (OHCHR) to take additional measures in order to regularly address and assess the human right situation in Abkhazia and Tskhinvali region of Georgia;

⁸⁰ July-September 2015.

⁸¹ According to paragraph 33 of the Moscow Document (1991), the OSCE participating States are obliged to remove all restrictions with regard to travel within the territory of a State and with regard to residence for those entitled to permanent residence within the territory of a State. And according to paragraph 20 of the Vienna Concluding Document (1989), the OSCE participating States are committed to secure the right of everyone to freedom of movement and residence within the borders of a State.

⁸² July-September 2015.

⁸³ The OSCE commitments impose obligation on states to ensure that everyone has the right to enjoy property and that no one may be deprived of property except under conditions provided for by law. Moscow Document (1991), paragraph 24; Copenhagen Document (1990), paragraph 9.6.

⁸⁴ June-September 2015.

⁸⁵ According to paragraph 63 of the Vienna Document (1989), all shall have access to "the various types and levels of education without discrimination as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

- ii) The UN Human Rights Council's Special Procedure Mandate holders to take additional measures in order to address and report on the human right situation in Abkhazia and Tskhinvali region of Georgia;
 - iii) The OSCE and its autonomous institutions, namely the Office for Democratic Institutions and Human Rights (ODIHR) and the Office of the High Commissioner on National Minorities (HCNM) to find ways for monitoring the human rights situation in Georgia's occupied regions. Such steps could, inter alia, include undertaking a follow-up mission to the occupied regions of Georgia and preparing a report on the status of the implementation of the recommendations contained in the ODIHR/HCNM 2008 Report on "Human Rights in the War Affected Areas following the Conflict in Georgia";
 - To continue calling on the Russian Federation to allow a) access of the international human rights monitoring mechanisms to the occupied regions of Georgia; b) access of the relevant missions of international organizations (e.g. EUMM), including humanitarian organizations, to the occupied regions of Georgia through legal routes;
 - To continue and intensify condemning violations of human rights such as freedom of movement; freedom from torture and ill-treatment; the right to liberty; the right to property and the right to receive education in the native language in the occupied regions of Georgia.
-