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大会  
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安全理事会  
第七十九年

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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

2024 年 6 月 20 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 2023 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)。

请将本信及其附件作为大会议程项目 32 下的文件和安全理事会文件分发为  
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2024年6月20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附件



**2023 Compilation Report  
on the human rights violations  
in the Russia-occupied territories of Georgia**

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## 1. Introduction

1. For decades, Georgia has been witnessing the grave violations of international law by the Russian Federation in the occupied Abkhazia and Tskhinvali regions, which culminated in its full-scale military aggression against Georgia in 2008. Regrettably, these violations in the Russia-occupied territories of Georgia persist and conflict-affected people living in Georgia's Abkhazia and Tskhinvali regions have been suffering from various human rights infringements committed by the Russian Federation – the power exercising effective control as attested by the judgment on the case GEORGIA v. RUSSIA (II)<sup>1</sup> of the European Court of Human Rights (ECHR) of 21 January 2021 and further confirmed by the Court's decision on the case Mamasakhlisi and Others v. Georgia and Russia of 7 March 2023.<sup>2</sup>

2. Court's above-mentioned judgments together with other ECHR judgments of 2023, as well as the decision of the International Criminal Court (ICC) of 2022 represent a solid legal instrument establishing Russia's responsibility for mass violations committed therein against the Georgian population.

3. Unfortunately, in many parts of the world we witness total disregard for the main principles of international law and violations of human rights. Russia's ongoing full-scale military aggression against Ukraine is one of the disastrous examples to this.

4. Residents of the Russia-occupied territories of Georgia have continued to suffer from multiple human rights violations such as ethnic discrimination, torture and ill-treatment, violations of right to life, right to health, arbitrary detentions, kidnappings, infringement of right to property, restrictions of the freedom of movement and education in native Georgian language. In addition to these violations, the Russian Federation – the occupying power has continued to deprive forcefully displaced and ethnically cleansed IDPs and refugees of the right to return to their homes in the occupied territories of Georgia.

5. This dire human rights and humanitarian situation on the ground, demonstrates the necessity of keeping the issue high on international agenda. Hence, 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 2023. As in previous years, the aim of document is to contribute to the provision of regular and updated information to the international community on the human rights situation in both Russia-occupied Georgian regions.

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<sup>1</sup> Case GEORGIA v. RUSSIA (II), Judgment of the European Court of Human Rights (ECHR) of 21 January 2021, available at

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<sup>2</sup> Case Mamasakhlisi and Others v. Georgia and Russia, Judgment of the European Court of Human Rights (ECHR) of 7 March 2023, available at

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11. The security, humanitarian and human rights environment in the occupied Abkhazia and Tskhinvali regions of Georgia has been deteriorating, against the background of the Russian Federation's continued military presence, military build-up and frequent military exercises therein. The recent statements regarding the deployment of Russian military naval base in the occupied Abkhazia region of Georgia clearly represent Russia's another provocative attempt to destabilize the already dire situation on the ground. In parallel, the Russian Federation has intensified efforts to incorporate the occupied Abkhazia and Tskhinvali regions of Georgia further into its social, economic, political, military and judicial spheres. The illegal actions on the transfer of Bitchvinta resort in the occupied Abkhazia region of Georgia, as well as the so-called "agreement" on transfer of Sokhumi Airport for reconstruction and operation to the Russian Federation also represent another provocative steps towards this end.

12. On 24 January 2023 the Parliamentary Assembly of the Council of Europe adopted the **Recommendation 2245 on "the Reykjavik Summit of the Council of Europe – United around values in the face of extraordinary challenges"** in which PACE noted that "Russia's full-scale military aggression against Georgia in 2008 and subsequent occupation of Georgia's regions" is part of the aggressive policy, blatantly violating fundamental principles and norms of international law and rules-based international order.<sup>6</sup>

13. On 26 January 2023 the Parliamentary Assembly of the Council of Europe adopted the **Resolution 2483 on "progress of the Assembly's monitoring procedure (January-December 2022)."** In the document PACE condemned "the illegal occupation and creeping annexation by the Russian Federation of the Georgian regions of Abkhazia and Tskhinvali/South Ossetia."<sup>7</sup>

14. The responsibility of the Russian Federation over the blatant violations of human rights in the occupied territories of Georgia was once again underscored in the UN Human Rights Council **Resolution 52/40 on "Cooperation with Georgia"** adopted on 4 April 2023. In particular, the UN HRC took note of the "judgment of 21 January 2021 of the European Court of Human Rights in the case *Georgia v. Russia (II)*, which confirmed, inter alia, the effective control of the Russian Federation over Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia after the war between the Russian Federation and Georgia in August 2008, and its responsibility for the human rights violations committed therein" and also took note of the "judgment of 7 March 2023 of the European Court of Human Rights in the case *Mamasakhlisi and Others v. Georgia and Russia*, which once again confirmed the effective control of the Russian Federation over Abkhazia, Georgia before the war between the Russian Federation and Georgia in August 2008, and its full responsibility for human rights

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<sup>6</sup> Recommendation 2245 on "the Reykjavik Summit of the Council of Europe – United around values in the face of extraordinary challenges", Parliamentary Assembly of the Council of Europe (PACE), 24 January 2023, available at <<https://pace.coe.int/en/files/31592/html>>.

<sup>7</sup> Resolution 2483 on "progress of the Assembly's monitoring procedure (January-December 2022)", Parliamentary Assembly of the Council of Europe (PACE), 26 January 2023, available at <<https://pace.coe.int/en/files/31624/html>>.

violations in the region.” In the Resolution, the HRC acknowledged the conclusion of the “investigation phase into the situation in Georgia by the International Criminal Court in 2022, which resulted in the issuance of arrest warrants for war crimes committed against civilians perceived to be ethnically Georgian from 1 July to 10 October 2008, including during the war between the Russian Federation and Georgia in August 2008” and noted “the alleged role of the Russian military official uncovered by the investigation.” In this Resolution, the HRC condemned the “ongoing illegal military presence of the Russian Federation in Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia, without the consent of Georgia, and the attempts to legitimize its military presence, including through the organization of illegal so-called elections by the de facto authorities exercising effective control therein, signing so-called treaties, creating so-called joint socioeconomic spaces between the Russian Federation and Abkhazia, Georgia, land seizures, such as in the Gagra district in Abkhazia, Georgia, and statements about intent to hold a so-called referendum in the Tskhinvali region/South-Ossetia, Georgia on the matter of joining the Russian Federation.” Moreover, the HRC stressed the findings of the reports of the United Nations High Commissioner for Human Rights, in which the High Commissioner 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 and to address any conduct that violates or abuses their human rights ...”<sup>8</sup>

15. The UN General Assembly adopted the **Resolution 77/284 on “Cooperation between the United Nations and the Council of Europe”** on 26 April 2023. For the first time, this resolution pointed out the aggression by the Russian Federation against Georgia as one of the facts calling “for strengthened cooperation between the United Nations and the Council of Europe, notably in order to promptly restore and maintain peace and security based on respect of the sovereignty, territorial integrity and political independence of any State ...”<sup>9</sup>

16. On 16-17 May 2023, the “**Reykjavík Declaration**” was adopted at the 4<sup>th</sup> Summit of the Heads of State and Government of the Council of Europe. By the Declaration, the CoE Member States called on the Russian Federation “to comply with its international obligations and to immediately withdraw completely and unconditionally its forces from ... Georgia ...”<sup>10</sup>

17. On 30 June - 4 July 2023, during the 30<sup>th</sup> Annual Session, the OSCE Parliamentary Assembly adopted “**Vancouver Declaration**”, in which deep concern was expressed over “the Russian Federation’s formal occupation of Georgian territory since 2008.” The

<sup>8</sup> The UN Human Rights Council (UN HRC) Resolution 52/40 on “Cooperation with Georgia”, 4 April 2023, available at <<https://digitallibrary.un.org/record/4009864?ln=en&v=pdf>>.

<sup>9</sup> UNGA Resolution 77/284 on “Cooperation between the United Nations and the Council of Europe”, 26 April 2023, available at <<https://digitallibrary.un.org/record/4010475?ln=en&v=pdf>>.

<sup>10</sup> Reykjavík Declaration, 4<sup>th</sup> Summit of the Heads of State and Government of the Council of Europe, 16-17 May 2023, available at <<https://rm.coe.int/4th-summit-of-heads-of-state-and-government-of-the-council-of-europe/1680ab40c1>>.

Declaration also underscored “the necessity of full implementation by the Russian Federation of the EU-mediated 12 August 2008 Ceasefire Agreement ... as well as the decisions by the European Court of Human Rights of January 2021 and the International Criminal Court.” Furthermore, the OSCE Parliamentary Assembly urged for “the immediate and unconditional withdrawal of Russian military forces from the occupied Georgian regions of Abkhazia and Tskhinvali region/South Ossetia in line with the European Union-mediated ceasefire agreement of 12 August 2008.” Moreover, the OSCE Parliamentary Assembly condemned “the deterioration in the humanitarian and human rights situation in Georgia’s regions of Abkhazia and the Tskhinvali region/South Ossetia occupied by the Russian Federation, as a result of violations of fundamental freedoms and human rights of people living therein, various forms of discrimination against ethnic Georgians ... as a direct consequence of the Russian Federation’s ongoing occupation and ‘Russification’ policy.”<sup>11</sup>

18. On 31 October 2023 the Committee of Ministers of the Council of Europe adopted ***Decision on the agenda item “the Council of Europe and the Conflict in Georgia.”*** According to the Decision “... 15 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 illegal 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 and other areas, 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, the adoption of the so-called ‘programme on the creation of a common socio-economic space between Russia and the Georgian region of Abkhazia’, the signing of the so-called ‘agreements on dual citizenship with the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia’, land seizures, such as in the Gagra district in Abkhazia (Georgia) and statements about intent to hold a so-called ‘referendum’ in the Tskhinvali region/South Ossetia (Georgia) on the matter of joining the Russian Federation, the transfer of Sokhumi airport to Russia for reconstruction and operation, the regular conduct of illegal so-called ‘elections’ in both regions.” 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 also expressed concern “over hampering activities of

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<sup>11</sup> Vancouver Declaration, 30<sup>th</sup> Annual Session of the OSCE Parliamentary Assembly, 30 June-4 July 2023, available at <<https://www.oscepa.org/en/documents/annual-sessions/2023-vancouver/declaration-29/4744-vancouver-declaration-eng/file>>.



international organisations operating on the ground and restricting the confidence-building efforts” and 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, in the Decision, the CoE Member States stressed that “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 Russia’s effective control over the Georgian regions and the continuous impediments put up by the Russian Federation, including the latter’s continuing military presence therein.” In the Decision, the CoE Member States welcomed the judgment of the European Court of Human Rights (ECHR) of 21 January 2021 on the case GEORGIA v. RUSSIA (II), another judgment of the ECHR of 28 April 2023 on the case GEORGIA v. RUSSIA (II) (just satisfaction), ECHR’s judgment on the case Mamasakhlisi and Others v. Georgia and Russia of 7 March 2023 and also welcomed “the conclusion of the investigation phase in the Situation in Georgia by the International Criminal Court in 2022 that issued the arrest warrants for war crimes and crimes against humanity committed against ‘ethnic Georgian civilians in the context of an occupation by the Russian Federation’.” Subsequently, the CoE Member States called on the Russian Federation “to execute the judgments of the European Court of Human Rights, as well as to co-operate with the International Criminal Court.”<sup>12</sup>

19. During the reporting period, on 18 January 2023, the European Parliament adopted ***Resolution on the “implementation of the common foreign and security policy – annual report 2022.”*** By the Resolution, the European Parliament acknowledged “that Georgia was the first country to experience a full-scale Russian military aggression in August 2008, when Russia attempted to forcibly change the borders of a sovereign state in Europe, to occupy regions which are an indivisible part of Georgia — Abkhazia and the Tskhinvali region/South Ossetia — and take steps towards their de facto annexation, to expel hundreds of thousands of people from their homes as a result of ethnic cleansing and to divide societies with occupation lines.” Therefore, the European Parliament urged the EU “to keep demanding that Russia must implement its obligations under the EU-mediated 12 August 2008 Ceasefire Agreement.” Furthermore, in the Resolution the European Parliament called on the EEAS “to prepare a thorough report on violations of the 2008 ceasefire agreement given that the EU bears special responsibility as mediator of the 12 August 2008 Ceasefire Agreement”; “to identify and communicate the provisions which have still not been fulfilled by the Russian Federation and submit recommendations which could induce the Russian Federation to fulfil them, in particular the withdrawal of its military forces from Georgia’s occupied territories and allowing the establishment of

<sup>12</sup> Committee of Ministers’ Decision “Council of Europe and the Conflict in Georgia”, adopted at the CoE Ministers Deputies’ 1479<sup>th</sup> meeting, 31 October 2023, available at <[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=0900001680ad115b](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680ad115b)>.

international security mechanisms in the country ...”<sup>13</sup>

20. On the same day, the European Parliament adopted **Resolution on the “implementation of the common security and defence policy – annual report 2022.”** In the Resolution, the European Parliament stressed that “Russia is still not fully complying with the EU-mediated ceasefire agreement between Georgia and Russia of 12 August 2008”, strongly condemned “Russia’s illegal military presence in, and occupation of, the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia” and called on the EEAS “to prepare a thorough report of violations of the 12 August 2008 ceasefire agreement, an agreement for which the EU bears special responsibility as the mediator, identify and communicate clearly the provisions which have still not been fulfilled by the Russian Federation and submit recommendations, which could induce the Russian Federation to fulfil its international obligations, notably to withdraw its military forces from Georgia’s occupied territories and allow the establishment of an international security mechanism in these territories ...”<sup>14</sup>

21. On 21 February 2023, the Euronest Parliamentary Assembly adopted **Resolution on “promoting governance in public institutions on the basis of political dialogue and institutional cooperation in order to increase efficiency and administrative capacity.”** In the Resolution, the Euronest Parliamentary Assembly noted that “the Russian Federation continues to blatantly violate the sovereignty and territorial integrity of Georgia, undermining the security, humanitarian and human rights situation and violating fundamental principles and norms of international law in Georgia’s occupied regions.” Furthermore, the Euronest Parliamentary Assembly called on the Russian Federation “to fulfil its international obligations under the EU-mediated ceasefire agreement of 12 August 2008, to withdraw all its military and security personnel from Georgia’s occupied territories ...”<sup>15</sup>

22. On the same day, the Euronest Parliamentary Assembly adopted another **Resolution on “supporting the path of Ukraine, Moldova and Georgia towards EU membership”**, by which the Euronest Parliamentary Assembly reiterated “its deep concern over Russia’s occupation of the regions of Abkhazia and Tskhinvali/South Ossetia, which are indivisible parts of Georgia, and its intensified annexation process, which together represent the first

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<sup>13</sup> Resolution on the “implementation of the common foreign and security policy – annual report 2022”, European Parliament of the EU, 18 January 2023, available at <[https://www.europarl.europa.eu/doceo/document/TA-9-2023-0009\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2023-0009_EN.html)>.

<sup>14</sup> Resolution on the “implementation of the common security and defence policy – annual report 2022”, European Parliament of the EU, 18 January 2023, available at <[https://www.europarl.europa.eu/doceo/document/TA-9-2023-0010\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2023-0010_EN.html)>.

<sup>15</sup> The Euronest Parliamentary Assembly Resolution on “promoting governance in public institutions on the basis of political dialogue and institutional cooperation in order to increase efficiency and administrative capacity”, 21 February 2023, available at <<https://www.europarl.europa.eu/cmsdata/267144/Promoting%20governance%20in%20public%20institutions%20on%20the%20basis%20of%20political%20dialogue%20and%20institutional%20cooperation.pdf>>.

modern attempt to forcibly change the borders of a sovereign state in Europe.”<sup>16</sup>

23. On 22 May 2023, the NATO Parliamentary Assembly adopted **Declaration 481 on “a new NATO in an age of strategic competition: accelerating NATO’s adaptation at the Vilnius Summit.”** In the Declaration, the Assembly stressed that “Russia currently represents the most significant and direct threat to Allied security and to peace and stability in the Euro-Atlantic area” and condemned “in the strongest possible terms ... the continued illegal occupation of the Abkhazia and South Ossetia/Tskhinvali regions of Georgia.”<sup>17</sup>

24. The same occurrence was pointed out by the NATO Parliamentary Assembly in the **Resolution 485 on “strengthening stability and security in the Black Sea region following Russia’s full-scale military invasion of Ukraine”** of 9 October 2023. In particular, the NATO Parliamentary Assembly denounced in the strongest possible terms “... continued illegal occupation of the Abkhazia and South Ossetia/Tskhinvali regions of Georgia, which demonstrate daily the Russian Federation’s significant and direct threat to Allies’ security and to peace and stability in the Euro-Atlantic area.” In the same Resolution, the NATO Parliamentary Assembly condemned “Russia’s declared intention to build a naval base in Ochamchire, located in Georgian territory illegally occupied by Russia, threatening to further destabilise the Black Sea region.”<sup>18</sup>

25. On 23 November 2023, the European Parliament adopted **Resolution on the “Georgian citizens Tamaz Ginturi killed and Levan Dotiashvili abducted by the Russian occupation forces in the occupied Tskhinvali region of Georgia.”** By this Resolution, the European Parliament underlined that “Russia continues its illegal occupation of Abkhazia and Tskhinvali Region/South Ossetia in violation of Georgia’s sovereignty and territorial integrity, and the EU-mediated ceasefire agreement of 12 August 2008” and “Russia completely isolates the occupied regions from the rest of Georgia and the international community.” Therefore, the European Parliament strongly condemned “Russia’s illegal occupation of Abkhazia and Tskhinvali Region/South Ossetia” and urged “Russia to fully implement the EU-mediated ceasefire agreement of 12 August 2008 and unconditionally withdraw all occupational forces.”<sup>19</sup>

<sup>16</sup> The Euronest Parliamentary Assembly Resolution on “supporting the path of Ukraine, Moldova and Georgia towards EU membership”, 21 February 2023, available at <<https://www.europarl.europa.eu/cmsdata/267196/Supporting%20the%20path%20of%20Ukraine,%20Moldova%20and%20Georgia%20towards%20EU%20membership.pdf>>.

<sup>17</sup> Declaration 481 on “a new NATO in an age of strategic competition: accelerating NATO’s adaptation at the Vilnius Summit”, NATO Parliamentary Assembly, 22 May 2023, available at <<https://www.nato-pa.int/download-file?filename=/sites/default/files/2023-05/DECLARATION%20481%20-%20VILNIUS%20SUMMIT.pdf>>.

<sup>18</sup> Resolution 485 on “strengthening stability and security in the Black Sea region following Russia’s full-scale military invasion of Ukraine”, NATO Parliamentary Assembly, 9 October 2023, available at <<https://www.nato-pa.int/download-file?filename=/sites/default/files/2023-10/Resolution%20485%20-%20BLACK%20SEA%20REGION.pdf>>.

<sup>19</sup> Resolution on the “Georgian citizens Tamaz Ginturi killed and Levan Dotiashvili abducted by the Russian occupation forces in the occupied Tskhinvali region of Georgia”, European Parliament of the EU, 23 November 2023, available at <[https://www.europarl.europa.eu/doceo/document/TA-9-2023-0431\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2023-0431_EN.html)>.

26. On 19 April 2023 the Committee of Ministers' Deputies of the Council of Europe discussed SG's **27<sup>th</sup> Consolidated Report on "the Conflict in Georgia"**, which assessed dire humanitarian situation in the Russia-occupied territories of Georgia.<sup>20</sup> The Report recalled the historical judgment of the European Court of Human Rights (ECHR) of 21 January 2021 on the case GEORGIA v. RUSSIA (II).<sup>21</sup> The dire humanitarian situation in both Russia-occupied Abkhazia and Tskhinvali regions of Georgia was further reviewed in the SG's **28<sup>th</sup> Consolidated Report on "the Conflict in Georgia"** discussed on 29 November 2023 by the Committee of Ministers' Deputies of the Council of Europe.<sup>22</sup> The Report, along with the judgment of the ECHR of 21 January 2021 on the case GEORGIA v. RUSSIA (II), also recalled ECHR's judgment on the case Mamasakhlisi and Others v. Georgia and Russia of 7 March 2023 confirming the effective control of the Russian Federation over the occupied Abkhazia region of Georgia, even before the war between the Russian Federation and Georgia in August 2008, and its full responsibility for human rights violations therein and another judgment of the ECHR of 28 April 2023 on the case GEORGIA v. RUSSIA (II) (just satisfaction).<sup>23</sup> Moreover, the same document recalled the arrest warrants for three individuals – representatives of Russian occupation regime in Tskhinvali region issued on 30 June 2022 by the International Criminal Court (ICC) for the war crimes committed during Russia's military aggression against Georgia in 2008 (par. 18).

27. **Report (A/HRC/54/80) of the United Nations High Commissioner for Human Rights on "Cooperation with Georgia"** of 17 July 2023 stressed that "the authorities in control in Abkhazia and South Ossetia have the responsibility to respect and ensure the human rights of everyone in areas under their control, including the right of victims to effective remedies." Moreover, among other cases, the Report recalled the judgment of the European Court of Human Rights (ECHR) of 7 March 2023 on the case Mamasakhlisi and Others v. Georgia and Russia,<sup>24</sup> which confirmed the effective control of the Russian Federation over Georgia's Abkhazia region before the war between the Russian Federation and Georgia in August 2008, and its full responsibility for human rights violations committed therein.

28. **"Georgia 2022 Human Rights Report"** by the U.S. Department of State published on 20 March 2023, emphasized that "Russian-occupied regions of Abkhazia and South Ossetia remained outside central government control, and de facto authorities were supported by Russian forces" and noted that "Russian and de facto authorities in both regions committed

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<sup>20</sup> 27<sup>th</sup> Consolidated Report on "the Conflict in Georgia", Secretary General of the Council of Europe (CoE SG), 19 April 2023, Paragraph 30, available at <<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680aacba0>>.

<sup>21</sup> *Ibid*, Paragraph 15.

<sup>22</sup> 28<sup>th</sup> Consolidated Report on "the Conflict in Georgia", Secretary General of the Council of Europe (CoE SG), 29 November 2023, Paragraph 29, available at <<https://rm.coe.int/consolidated-report-on-the-conflict-in-georgia-april-september-2023/1680ad4f73>>.

<sup>23</sup> *Ibid*, Paragraphs: 16; 17.

<sup>24</sup> Report (A/HRC/54/80) of the United Nations High Commissioner for Human Rights on "Cooperation with Georgia", 17 July 2023, Paragraphs: 35; 61, available at <<https://digitallibrary.un.org/record/4018173?ln=en&v=pdf>>.

abuses with impunity.”<sup>25</sup>

29. “**Human Right and Democracy Report 2022**” by the United Kingdom’s Foreign, Commonwealth and Development Office published on 13 July 2023 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 continued deterioration of the human rights situation ...”<sup>26</sup>

30. It should be underlined that on 22 February 2023, the European Union issued the **Statement on 2022 Compilation Report on the human rights violations in the Russia-occupied territories of Georgia** at the Committee of Ministers of the Council of Europe. In the Statement the EU expressed “its deep concern about the state of play in the Georgian regions of Abkhazia and South Ossetia and the human rights situation there ...” Furthermore, the EU strongly condemned “Russian Federation’s illegal military presence and all other acts disregarding fundamental principles of international law, through which the Russian Federation continues to impede the peaceful conflict resolution process and to undermine the security and stability in the wider region.” The EU also reiterated “its firm support for Georgia’s sovereignty, independence and territorial integrity within its internationally recognized borders” and demanded that “Russia fulfil its obligations under the EU-mediated ceasefire agreement of 12 August 2008 and its subsequent implementing measures of 8 September 2008.”<sup>27</sup>

31. On 19 April 2023 the European Union issued an official **Statement on the Secretary General’s 27<sup>th</sup> Consolidated Report on “the conflict in Georgia.”** The EU strongly condemned “the Russian Federation’s recognition of the so-called independence of South Ossetia and Abkhazia and its illegal military presence, increased military exercises, infrastructure reinforcements ... in these Georgian regions.” The EU stressed that “such actions demonstrate a lack of respect for the sovereignty and territorial integrity of its neighbours and for the rules-based international system.” Furthermore, the EU reiterated “its deep concern with respect to the preparation of a so-called transfer of the Bichvinta estate in Abkhazia, Georgia, to the Russian Federation on a 49-year lease.”<sup>28</sup>

<sup>25</sup> “Georgia 2022 Human Rights Report”, the U.S. Department of State, 20 March 2023, p. 2, available at <[https://www.state.gov/wp-content/uploads/2023/03/415610\\_GEORGIA-2022-HUMAN-RIGHTS-REPORT.pdf](https://www.state.gov/wp-content/uploads/2023/03/415610_GEORGIA-2022-HUMAN-RIGHTS-REPORT.pdf)>.

<sup>26</sup> “Human Right and Democracy Report 2022”, United Kingdom’s Foreign, Commonwealth and Development Office, 13 July 2023, available at <<https://www.gov.uk/government/publications/human-rights-and-democracy-report-2022/human-rights-and-democracy-the-2022-foreign-commonwealth-development-office-report>>.

<sup>27</sup> The EU Statement on 2022 Compilation Report on the human rights violations in the Russia-occupied territories of Georgia at the Committee of Ministers of the Council of Europe, 22 February 2023, available at <[https://www.eeas.europa.eu/delegations/council-europe/eu-statement-georgia%E2%80%99s-report-human-rights-violations-georgian-regions-abkhazia-and-south-ossetia\\_en](https://www.eeas.europa.eu/delegations/council-europe/eu-statement-georgia%E2%80%99s-report-human-rights-violations-georgian-regions-abkhazia-and-south-ossetia_en)>.

<sup>28</sup> The EU Statement on the Secretary General’s 27<sup>th</sup> Consolidated Report on “the conflict in Georgia”, 19 April 2023, available at <[https://www.eeas.europa.eu/delegations/council-europe/eu-statement-secretary-generals-27th-consolidated-report-conflict-georgia-committee-ministers\\_en?s=51](https://www.eeas.europa.eu/delegations/council-europe/eu-statement-secretary-generals-27th-consolidated-report-conflict-georgia-committee-ministers_en?s=51)>.

32. Later, on 29 November 2023, the European Union issued an official *Statement on the Secretary General's 28<sup>th</sup> Consolidated Report on "the conflict in Georgia."* The EU reiterated "its support to the Reykjavik Summit Declaration, which calls on the Russian Federation to comply with its international obligations and to withdraw its forces from Georgia and reasserts Council of Europe member States' unwavering support for Georgia's sovereignty, independence and territorial integrity, within its internationally recognised borders." The EU deplored that "no effort has been made by the Russian Federation in response to these calls nor in implementing previous Committee of Ministers decisions on 'the Council of Europe and the conflict in Georgia'." In the Statement, the EU recalled the judgment of the ECHR of 28 April 2023 on the case GEORGIA v. RUSSIA (II) (just satisfaction). Like its previous statement on 27<sup>th</sup> Consolidated Report on "the conflict in Georgia", the EU strongly condemned "the Russian Federation's illegal military presence in the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia, recognition of the so-called independence of these regions, increased military exercises, infrastructure reinforcements ... in these Georgia's regions." Moreover, the EU expressed strong concern "about Russia's reported plans to establish a permanent naval base of its Black Sea Fleet in Georgia's region of Abkhazia."<sup>29</sup>

33. The EU in both its Statements on *Secretary General's 27<sup>th</sup> and 28<sup>th</sup> Consolidated Reports on "the conflict in Georgia"* recalled the historical judgment of the European Court of Human Rights (ECHR) of 21 January 2021 on the case GEORGIA v. RUSSIA (II), ECHR's judgment on the case Mamasakhlisi and Others v. Georgia and Russia of 7 March 2023 and arrest warrants for three individuals – representatives of Russian occupation regime in Tskhinvali region issued on 30 June 2022 by the International Criminal Court (ICC) for the war crimes committed during Russia's military aggression against Georgia in 2008. Furthermore, in both Statements the EU demanded Russian Federation fulfil its obligations "under the ceasefire agreement of 12 August 2008 and its subsequent implementing measures of 8 September 2008."<sup>30</sup>

34. On 11 July 2023, NATO Heads of State and Government participating in the meeting of the North Atlantic Council in Vilnius, issued "*Vilnius Summit Communiqué.*" By the Communiqué, NATO Heads of State and Government participating in the present meeting called "on Russia to withdraw the forces it has stationed in Georgia without its consent" and further called "on Russia to reverse its recognition of the Abkhazia and South Ossetia regions of Georgia; to end the militarisation of these regions and continued attempts to forcibly separate them from the rest of Georgia ..."<sup>31</sup>

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<sup>29</sup> The EU Statement on the Secretary General's 28<sup>th</sup> Consolidated Report on "the conflict in Georgia", 29 November 2023, available at <[https://www.eeas.europa.eu/delegations/council-europe/1482nd-meeting-committee-ministers-29-november-2023-eu-statement-secretary-generals-28th\\_en](https://www.eeas.europa.eu/delegations/council-europe/1482nd-meeting-committee-ministers-29-november-2023-eu-statement-secretary-generals-28th_en)>.

<sup>30</sup> See footnotes: 28 and 29.

<sup>31</sup> Vilnius Summit Communiqué, NATO Heads of State and Government participating in the meeting of the North Atlantic Council in Vilnius, 11 July 2023, available at <[https://www.nato.int/cps/en/natohq/official\\_texts\\_217320.htm?fbclid=IwAR200j47CWqK2QL0VfeUICWck5hxtcneLKdf\\_cC0xVE7qIDd9t2JcMukj\\_o](https://www.nato.int/cps/en/natohq/official_texts_217320.htm?fbclid=IwAR200j47CWqK2QL0VfeUICWck5hxtcneLKdf_cC0xVE7qIDd9t2JcMukj_o)>.

35. **Following an AOB on Georgia, the UN Security Council Members (Albania, France, Japan, Malta, United Kingdom, United States) issued Joint Statement** on 10 August 2023. In particular, the UN Security Council Members stressed that “fifteen years have passed since Russia’s full-scale military aggression against and subsequent illegal military presence in 20 percent of Georgia’s sovereign territory” and deplored “the continuous blatant violation of the territorial integrity of Georgia by the Russian Federation.” Furthermore, the UN Security Council Members condemned “Russia’s brutal invasion, continued military presence and exercising of effective control over Abkhazia and Tskhinvali region/South Ossetia, which are integral parts of Georgia, and Russia’s steps toward annexation of these Georgian regions” and “... continued military drills in Georgia’s territory, territorial sea, and airspace.” Moreover, the UN Security Council Members once again called on the Russian Federation “to fully implement its obligations and commitments under the EU-mediated Ceasefire Agreement of 12 August 2008 and withdraw its military and security forces from the territory of Georgia without delay” as well as “to reverse the recognition of the so-called independence of Georgia’s regions of Abkhazia and the Tskhinvali region/South Ossetia.”<sup>32</sup>

36. During the reporting period, number of statements were issued with regard to the situation in the Russia-occupied Abkhazia and Tskhinvali regions of Georgia. For instance, by the **Statement on the “intention of Russia to establish a naval base on Georgia’s internationally recognised territory”** of 6 October 2023, Peter Stano, Lead Spokesperson for Foreign Affairs and Security Policy stressed that the European Union expressed “strong concern about Russia’s reported plans to establish a permanent naval base of its Black Sea Fleet in Georgia’s breakaway region of Abkhazia.” It was also underlined that “the military presence of Russia in Georgia’s breakaway regions of Abkhazia and South Ossetia is illegal, it violates Georgia’s sovereignty and territorial integrity, the principles of international law and international commitments taken by Russia, including the 12 August 2008 agreement and its implementing measures of 8 September 2008.”<sup>33</sup>

37. 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 1 December 2023, delivered at the 30<sup>th</sup> OSCE Ministerial Council Meeting, the GoF of Georgia expressed deep concern over the “continued occupation of Georgia’s regions of Abkhazia and South Ossetia”, condemned “Russia’s military aggression against Georgia in 2008 in blatant violation of international law” and expressed concern that “Georgia has been a target of Russia’s hybrid tactics as well as conventional warfare ever since regaining its independence.” Furthermore, the GoF of Georgia expressed deep concern over “Russia’s ongoing military presence as well as military

<sup>32</sup> Joint Statement of the UN Security Council Members (Albania, France, Japan, Malta, United Kingdom, United States) following an AOB on Georgia, 10 August 2023, available at <<https://webtv.un.org/en/asset/k1r/k1r0tfp2t5>>.

<sup>33</sup> Statement on the “intention of Russia to establish a naval base on Georgia’s internationally recognised territory”, Peter Stano, Lead Spokesperson for Foreign Affairs and Security Policy of the EU, 6 October 2023, available at <[https://www.eeas.europa.eu/eeas/georgia-statement-spokesperson-intention-russia-establish-naval-base-georgia%E2%80%99s-internationally\\_en](https://www.eeas.europa.eu/eeas/georgia-statement-spokesperson-intention-russia-establish-naval-base-georgia%E2%80%99s-internationally_en)>.

exercises and violation of airspace in Georgia's Abkhazia and South Ossetia regions" and in this regard, deep concern was expressed "over the recent statements regarding the establishment of a Russian military naval base in the Ochamchire district of the occupied Abkhazia region, as another provocative attempt to destabilize the already dire situation on the ground and in the wider Black Sea region." Furthermore, the GoF of Georgia condemned "continued attempts at implementation of the so-called integration and alliance treaties between Russia and Georgia's Abkhazia and South Ossetia regions, aiming to incorporate Georgia's regions of Abkhazia and South Ossetia into Russia's military, social, economic, judicial and other spheres, which constitute a clear violation of international law by the Russian Federation and directly contradict OSCE commitments" and therefore urged "Russia to reverse this process." The GoF of Georgia called upon the Russian Federation "to fulfil 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 regions of Abkhazia and South Ossetia ... ." Furthermore, the GoF of Georgia also noted judgment of the ECHR of 21 January 2021 on the case GEORGIA v. RUSSIA (II), as well as the ECHR's judgment on the case Mamasakhlisi and Others v. Georgia and Russia of 7 March 2023 confirming the effective control of the Russian Federation over the occupied Abkhazia region of Georgia even before the war between the Russian Federation and Georgia in August 2008, and its full responsibility for human rights violations therein and herewith recalled another judgment of the ECHR of 28 April 2023 on the case GEORGIA v. RUSSIA (II) (just satisfaction). Hence, the GoF of Georgia called on the Russian Federation "to fully comply with these judgments ... ." In addition, the GoF of Georgia noted the arrest warrants for three individuals – representatives of Russian occupation regime in Tskhinvali region issued on 30 June 2022 by the International Criminal Court (ICC) for the war crimes committed during Russia's military aggression against Georgia in 2008 and called on the Russian Federation "to cooperate with the ICC."<sup>34</sup>

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

38. Notwithstanding the explicit recognition in international law of everyone's right to freedom of movement as an indispensable condition for the free development of a person interacting with several other human rights, guarantees of its protection from interference and arbitrary deprivation,<sup>35</sup> during the reporting period, the Russian occupation forces intensified illegal works of erecting barbed-wire fences and other artificial barriers along the occupation line. Furthermore, the lengthy closure of the occupation line and other numerous restrictions of the freedom of movement have been severely affecting the

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<sup>34</sup> Joint Statement of the Group of Friends of Georgia (GoF of Georgia), 1 December 2023, available at <<https://mfa.gov.ge/pfiles/files/mcdel0019%20joint%20GoF%20of%20Georgia.pdf>>.

<sup>35</sup> Article 13 (1) 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; 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/pdfile/45139c394.pdf>>.



livelihood and entailing negative humanitarian consequences. This policy of isolation has prevented the conflict-affected people from access to the most of the basic necessities, like access to their families, property, agricultural lands, religious sites and cemeteries, as well as to healthcare, emergency services and education.

39. In the **Resolution 52/40 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 along the administrative boundary line in Abkhazia, Georgia and Tskhinvali region/South Ossetia, Georgia and adjacent areas, which continue to have a negative impact on the already poor socioeconomic conditions of the conflict-affected population, their freedom of movement and sense of security ... ." Furthermore, the HRC expressed serious concern also "at the negative consequences of the prolonged closure of the so-called crossing points and the restrictions on freedom of movement ... ." <sup>36</sup>

40. In the **Decision of the Committee of Ministers**, the CoE Member States deeply regretted that, despite constant calls upon the Russian Federation to reverse this process, "it continues to install razor and barbed wire fences and other artificial obstacles along the administrative boundary lines (ABLs), divide families and communities, violate human rights and fundamental freedoms and impede the settlement of the conflict." 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, 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 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) ..." and to "re-open 'crossing points'." <sup>37</sup>

41. By the **Resolution on the "Georgian citizens Tamaz Ginturi killed and Levan Dotiashvili abducted by the Russian occupation forces in the occupied Tskhinvali region of Georgia"**, the European Parliament underlined that Russian Federation blatantly disregards international law and human life by "committing ethnic discrimination, installing barbed wire fences, erecting barriers, conducting illegal military exercises and closing the ABL's 'crossing points', all of which cause suffering and increase the risk of escalation." Moreover, the European Parliament strongly condemned "Russia's illegal occupation of Abkhazia and Tskhinvali Region/South Ossetia and the continued illegal 'borderisation' and 'passportisation' activities in those regions." <sup>38</sup>

42. According to the **27<sup>th</sup> Consolidated Report on "the Conflict in Georgia"** of the CoE SG, "the human rights and humanitarian situation of the conflict-affected communities continued to be impacted by restrictions on freedom of movement, documentation issues,

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<sup>36</sup> See footnote 8.

<sup>37</sup> See footnote 12.

<sup>38</sup> See footnote 19.

and obstacles on access to basic services.”<sup>39</sup> It was also underlined that “the negative effects of the restrictions on freedom of movement continue affecting ethnic Georgian populations in the Georgian region of Abkhazia, in particular with regards to people’s access to basic rights, services and livelihoods in the territory controlled by the Georgian Government.”<sup>40</sup>

43. The **28<sup>th</sup> Consolidated Report on “the Conflict in Georgia”** noted that “from 30 June to 2 July 2023, the Secretary General paid a working visit to Georgia, including to the Occupation Line (OL) in Odzisi and to the village of internally displaced persons (IDPs) in Tserovani.”<sup>41</sup> Accordingly, the CoE SG stressed that “the ‘borderisation’ process and its negative effects on the local population, in particular on freedom of movement and livelihood, continued to raise concern.”<sup>42</sup> Furthermore, the Report noted that “freedom of movement remains significantly restricted due to the closure of the OL ...” (par. 52). It was also stressed that “as a result of the prolonged closures, the populations living on both sides of the OL continue to face obstacles that isolate them from each other, restrict their livelihood opportunities, hinder their family relations, as well as affect their religious practice” and “women, children and the elderly are understood to be particularly affected” (par. 53). Moreover, according to the Report “documentation gaps constitute a recurrent problem which adversely impacts on the status of the ethnic Georgians, primarily in Gali but also Ochamchire and Tkvarcheli, with adverse implications for their daily lives as well as effective enjoyment of their rights, in particular freedom of movement ...” (par. 42).

44. **Report (A/77/870) 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 1 May 2023, 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, “so-called ‘borderization’ measures along the administrative boundary lines with South Ossetia and Abkhazia continued throughout the reporting period” and “further obstacles to freedom of movement, including ‘state border signs’, watch posts and surveillance equipment, continued to be observed along the administrative boundary lines.”<sup>43</sup> Furthermore, the Report stressed that “in South Ossetia, the continued closure of the administrative boundary line and ongoing ‘borderization’ measures continued to restrict the ability of people to cross the administrative boundary line ...” and this also continued to “negatively affect freedom of movement, social and family relations and livelihood opportunities.”<sup>44</sup> The UN Secretary-General underlined that “the issue of freedom of movement across the administrative boundary line has security, humanitarian and human rights dimensions, and remains of utmost importance to the local population” and emphasized that “developments during the reporting period were marked

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<sup>39</sup> See footnote 20, Paragraph 30.

<sup>40</sup> *Ibid*, Paragraph 38.

<sup>41</sup> See footnote 22, Paragraph 4.

<sup>42</sup> *Ibid*, Paragraph 50.

<sup>43</sup> Report (A/77/870) of the UN Secretary-General on “status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia”, 1 May 2023, Paragraph 28, available at <<https://digitallibrary.un.org/record/4012488?ln=en>>.

<sup>44</sup> *Ibid*, Paragraph 29.

by further enhanced control measures and limitations, as well as the formalization of documentation requirements, imposing conditions on the ability to cross the administrative boundary line” (par. 47). While the UN Secretary-General remained concerned “by the persistent security challenges stemming from continued negative trends related to so-called ‘borderization’, restrictions on the freedom of movement and other unilateral actions” (par. 62), he urged “the authorities in control in Abkhazia and South Ossetia to take all measures necessary to facilitate freedom of movement and access to rights and services for the ethnic Georgian population ...” (par. 18).

45. “Impediments to freedom of movement continued in both Abkhazia and South Ossetia, as well as in adjacent areas, in particular along the Administrative Boundary Lines in Tbilisi controlled territory” and “such restrictions continued to have negative consequences for the enjoyment of human rights and to exacerbate the isolation of the communities living on either side of the Lines” – reads the *Report (A/HRC/54/80) of the UNHCHR on “Cooperation with Georgia.”*<sup>45</sup> The Report also noted that “a continued process of so-called ‘borderization’ was enforced along the Administrative Boundary Lines with Abkhazia and South Ossetia” and “these activities have a continuing negative impact on the socioeconomic conditions of the population affected, and on family life ...”<sup>46</sup> Hence, the High Commissioner addressed to “all actors involved” to “lift all undue restrictions on freedom of movement, in order to facilitate the enjoyment of human rights and access to basic services and livelihoods by the affected populations, and refrain from adopting measures leading to discrimination and increased vulnerability” (par. 69).

46. Restriction of the freedom of movement was also assessed in the *“Georgia 2022 Human Rights Report”* by the U.S. Department of State. The Report stressed that “Russian guards restricted the movement” and “Russian ‘borderization’ of the administrative boundary lines continued, further restricting movement and separating residents from their communities and livelihoods.” It was also underlined, that “de facto authorities and Russian forces in the Russian-occupied territories also restricted the movement of the local population across the administrative boundary lines (ABLs).” Moreover, according to the Report “de facto authorities continued to expand and reinforce fencing and other physical barriers along the ABL 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>47</sup>

47. The *Report of the Public Defender of Georgia on “Situation of Protection of Human Rights and Freedoms in Georgia for 2022”* of 3 April 2023, stressed that “... one of the significant challenges in the territories occupied by the Russian Federation is the establishment of artificial barriers to movement, as reviewed in thoroughly also in previous reports of the Public Defender” and “the de facto regime continues to impose unlawful and

<sup>45</sup> See footnote 24, Paragraph 41.

<sup>46</sup> *Ibid*, Paragraph 46.

<sup>47</sup> See footnote 25, pp. 2; 29-30.

discriminatory restrictions on movement permits.”<sup>48</sup>

48. In the *Statement on 2022 Compilation Report on the human rights violations in the Russia-occupied territories of Georgia*, the European Union expressed its deep concern “about the state of play in the Georgian regions of Abkhazia and South Ossetia and the human rights situation there, especially with regard to ... restrictions to the right to freedom of movement.”<sup>49</sup>

49. The EU in both its Statements on *Secretary General’s 27<sup>th</sup> and 28<sup>th</sup> Consolidated Reports on “the conflict in Georgia”* strongly condemned the “borderization” in the Russia-occupied Abkhazia and Tskhinvali regions of Georgia. In both Statements the EU deplored “continued restrictions and violations of the freedom of movement that are detrimental to the security, safety and well-being of the local population.” The EU called for the immediate and full reopening of all so-called “crossing points.”<sup>50</sup>

50. By the *“Vilnius Summit Communiqué”*, NATO Heads of State and Government participating in the meeting of the North Atlantic Council in Vilnius called on the Russian Federation “to end the militarisation” of the Russia-occupied Abkhazia and Tskhinvali regions of Georgia and “continued attempts to forcibly separate them from the rest of Georgia through the construction of border-like obstacles.”<sup>51</sup>

51. In the *Joint Statement following an AOB on Georgia, the UN Security Council Members (Albania, France, Japan, Malta, United Kingdom, United States)* condemned “the enhanced so-called ‘borderisation’ process by erecting barbed wire fences and other artificial barriers” together with “interference with freedom of movement and persistent closures of so-called crossing points.”<sup>52</sup>

52. 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) and the lengthy closure of so-called crossing points, which led to severe humanitarian consequences for the local population” and noted that “the partial and temporary re-opening of the so-called crossing points cannot be viewed as satisfactory”, therefore, it was stressed that “all so-called crossing points in the Georgian regions of Abkhazia and South Ossetia must be reopened for all Georgian citizens residing on both sides of the ABLs.” The GoF of Georgia underlined that “isolation and continuous restrictions on freedom of movement have further destabilised the situation on the ground and severely impacted the security, safety, well-being, and

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<sup>48</sup> Report of the Public Defender of Georgia on “Situation of Protection of Human Rights and Freedoms in Georgia for 2022”, 3 April 2023, p. 21, available at <<https://ombudsman.ge/res/docs/2023120411211781277.pdf>>.

<sup>49</sup> See footnote 27.

<sup>50</sup> See footnotes: 28 and 29.

<sup>51</sup> See footnote 31.

<sup>52</sup> See footnote 32.

humanitarian conditions of civilians in conflict-affected areas, preventing their access to family, property, agricultural lands, religious sites and cemeteries ...”<sup>53</sup>

#### 4. Denial of access

53. Stemming from the continued dire humanitarian and human rights situation in the Russia-occupied Abkhazia and Tskhinvali regions of Georgia and necessity to prevent its further deterioration, there is urgent need for full, unimpeded and immediate access to be granted to international and regional human rights monitoring mechanisms to these regions. However, despite numerous calls by Georgia together with the international community, during the reporting period as in previous years, international and regional human rights monitoring mechanisms, even the European Union Monitoring Mission in Georgia (EUMM in Georgia) in disregard for its mandate,<sup>54</sup> remained deprived of entering these regions of Georgia by the occupying power – the Russian Federation. Moreover, international organizations and INGOs operating in the Russia-occupied Abkhazia region have been subject of increasing pressure with particular attack on confidence-building projects.

54. In the *Resolution 52/40 on “Cooperation with Georgia”*, the UN HRC expressed regret “at the continued refusal of those in control of Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia to grant immediate and unimpeded access to staff members of the Office of the High Commissioner and to United Nations human rights mechanisms to both regions” and noted with concern “the grave situation of human rights in both Georgian regions, particularly owing to growing violations and restrictions on humanitarian access.” Serious concern was also expressed “at the repeated denial of access to international and regional monitors, including the United Nations human rights mechanisms, to both Georgian regions by the authorities exercising effective control in those regions.” Therefore, the 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>55</sup>

55. In the *Decision of the Committee of Ministers* the CoE Member States expressed deep regret 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 called on the Russian Federation “to secure immediate and unrestricted access of the Council of Europe bodies to the Georgian regions.”<sup>56</sup>

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<sup>53</sup> See footnote 34.

<sup>54</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>55</sup> See footnote 8.

<sup>56</sup> See footnote 12.

56. In the *Resolution on the “implementation of the common foreign and security policy – annual report 2022”*, the European Parliament called on the EEAS “to identify and communicate the provisions which have still not been fulfilled by the Russian Federation and submit recommendations, which could induce the Russian Federation to fulfil them, in particular ... allowing the EU unhindered access to the whole territory of Georgia pursuant to its mandate.”<sup>57</sup>

57. In another *Resolution on the “implementation of the common security and defence policy – annual report 2022”*, the European Parliament also called on the EEAS to “identify and communicate clearly the provisions which have still not been fulfilled by the Russian Federation and submit recommendations, which could induce the Russian Federation to fulfil its international obligations, notably to withdraw its military forces from Georgia’s occupied territories ... and to allow the EU Monitoring Mission (EUMM) unhindered access to the whole territory of Georgia, pursuant to its mandate.”<sup>58</sup>

58. In the *Resolution on “promoting governance in public institutions on the basis of political dialogue and institutional cooperation in order to increase efficiency and administrative capacity”*, the Euronest Parliamentary Assembly called on the Russian Federation “... to allow the EU monitoring mission unhindered access to the whole territory of Georgia pursuant to its mandate.”<sup>59</sup>

59. In the *Resolution on the “Georgian citizens Tamaz Ginturi killed and Levan Dotiashvili abducted by the Russian occupation forces in the occupied Tskhinvali region of Georgia”*, the European Parliament underlined that “Russia completely isolates the occupied regions from the rest of Georgia and the international community, making it impossible for UN missions and the EU Monitoring Mission in Georgia (EUMM) to carry out their mandates fully.”<sup>60</sup>

60. The 27<sup>th</sup> *Consolidated Report on “the Conflict in Georgia”* of the CoE SG, noted that “the Secretary General continued to pursue her efforts in view of fact-finding visits to the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia for the preparation of consolidated reports.”<sup>61</sup> The same was stressed in the 28<sup>th</sup> *Consolidated Report on “the Conflict in Georgia”*, however, in both cases “the Secretariat was not given access on this occasion.”<sup>62</sup> Furthermore, “conversely, despite efforts and calls, no progress was made concerning humanitarian access for the international community to the Tskhinvali region/South Ossetia, which remained severely restricted, giving rise to humanitarian and human rights concerns” – reads the 28<sup>th</sup> *Consolidated Report on “the Conflict in Georgia”* of the CoE SG.<sup>63</sup>

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<sup>57</sup> See footnote 13.

<sup>58</sup> See footnote 14.

<sup>59</sup> See footnote 15.

<sup>60</sup> See footnote 19.

<sup>61</sup> See footnote 20, Paragraph 5.

<sup>62</sup> See footnote 20, Paragraph 5 and footnote 22, Paragraph 5.

<sup>63</sup> See footnote 22, Paragraph 25.

61. The issue of access to the Russia-occupied Abkhazia and Tskhinvali regions of Georgia was assessed in the *Report (A/77/870) of the UN Secretary-General on “status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia.”* The document noted 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 assess needs and assist the population, especially the most vulnerable.”<sup>64</sup> The Report also underlined that “humanitarian access to South Ossetia by the international community regrettably remains unavailable ...”<sup>65</sup> The UN Secretary-General called “upon all relevant actors to ensure operational flexibility for project implementation and unimpeded access for all categories of United Nations personnel and international NGO staff members working to support local populations” (par. 54). Moreover, the UN Secretary-General also reiterated his call “upon all relevant stakeholders to engage in a constructive manner and implement conclusions and recommendations from reports of the High Commissioner to the Council, including about unfettered access to assess the human rights protection needs of the affected population” (par. 12).

62. The issue of access to the Russia-occupied Abkhazia and Tskhinvali regions of Georgia was also assessed in the *Report of the Independent Expert on the promotion of a democratic and equitable international order, Livingstone Sewanyana on his visit to Georgia* that was conducted from 26 April to 5 May 2023. In the Report, the Independent Expert noted that “... access to Abkhazia and the Tskhinvali region/South Ossetia is regrettably still restricted.”<sup>66</sup> It was also noted that whereas the European Union Monitoring Mission in Georgia “is mandated to cover the whole territory of Georgia within the country’s internationally recognized borders, the de facto authorities in Abkhazia and the Tskhinvali region/South Ossetia have so far denied the mission access to those areas.”<sup>67</sup> Moreover, the Independent Expert reiterated his support “for an urgent appeal to guarantee access for international organizations, particularly humanitarian organizations, to Abkhazia and the Tskhinvali region/South Ossetia” (par. 20).

63. In the *Report (A/HRC/54/80) 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 52/40.”<sup>68</sup> Accordingly, the Report underlined that “OHCHR sent letters to the authorities in control in Abkhazia and South Ossetia seeking immediate and unimpeded access, in accordance with Human Rights Council resolution 52/40, to gather factual and up-to-date information about the human rights situation in these areas” and “the authorities in control

<sup>64</sup> See footnote 43, Paragraph 23.

<sup>65</sup> *Ibid*, Paragraph 40.

<sup>66</sup> Report (A/HRC/54/28/Add.1) of the Independent Expert on the promotion of a democratic and equitable international order, Livingstone Sewanyana on his visit to Georgia (conducted from 26 April to 5 May 2023), 11 August 2023, Paragraph 4, available at <<https://digitallibrary.un.org/record/4019279?ln=en&v=pdf>>.

<sup>67</sup> *Ibid*, Paragraph 16.

<sup>68</sup> See footnote 24, Paragraph 31.

did not reply to the letters from OHCHR ... .”<sup>69</sup> It was stressed that “the lack of access to effective remedies for violations and abuses of human rights and the absence of regular and independent monitoring and reporting – exacerbated by the lack of international access – continued to hinder human rights protection in Abkhazia and South Ossetia” (par. 37). Therefore, the OHCHR once again reiterated its call for “immediate and unimpeded access for OHCHR and international and regional human rights organizations and mechanisms to Abkhazia and South Ossetia” (par. 68).

64. “**Georgia 2022 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.”<sup>70</sup>

65. In the **Statement on 2022 Compilation Report on the human rights violations in the Russia-occupied territories of Georgia**, the European Union stressed “the need for unhindered access by international humanitarian and human rights mechanisms, including the Council of Europe monitoring bodies and Commissioner for Human Rights, as well as the EU Monitoring Mission (EUMM), to both of these Georgian regions.”<sup>71</sup>

66. In both EU Statements on **Secretary General’s 27<sup>th</sup> and 28<sup>th</sup> Consolidated Reports on “the conflict in Georgia”** regret was expressed that the Council of Europe secretariat, monitoring bodies and Commissioner for Human Rights have not been granted access to the Russia-occupied Abkhazia and Tskhinvali regions of Georgia and the EU called “on the authorities exercising effective control to facilitate their access to these regions.” In addition, the EU stressed that immediate access to the Russia-occupied Abkhazia and Tskhinvali regions of Georgia should be provided to “humanitarian organizations.”<sup>72</sup>

67. On 7 June 2023, at the 77<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 expressed its concern “about human rights violations in the Georgian regions of Abkhazia and Tskhinvali/South Ossetia and the persistent humanitarian challenges faced by their conflict-affected populations” and called for “ensuring full, safe and unhindered humanitarian access to support those populations, in particular in Tskhinvali/South Ossetia.” In this respect, by the Statement the EU reminded the General Assembly that “humanitarian access is stipulated in the 12 August 2008 six-point ceasefire agreement.”<sup>73</sup>

68. In the **Joint Statement following an AOB on Georgia, the UN Security Council Members (Albania, France, Japan, Malta, United Kingdom, United States)** expressed

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<sup>69</sup> *Ibid*, Paragraph 32.

<sup>70</sup> See footnote 25, p. 2.

<sup>71</sup> See footnote 27.

<sup>72</sup> See footnotes: 28 and 29.

<sup>73</sup> UN General Assembly 77<sup>th</sup> Session, official record of the 76<sup>th</sup> Plenary Meeting A/77/PV.76, 7 June 2023, p. 6, available at <<https://digitallibrary.un.org/record/4023331?ln=en>>.



concern that “in the past several years no international human rights monitoring mechanism has been granted access to the regions of Abkhazia and Tskhinvali region/South Ossetia” and therefore called “for immediate unhindered access to be granted to the Office of the High Commissioner of Human Rights and other international and regional human rights mechanisms, as well as to the EU Monitoring Mission.” Hence, the UN Security Council Members reiterated their call on the Russian Federation “to allow access of international human rights and humanitarian organizations to both regions.”<sup>74</sup>

69. By the *Joint Statement, the GoF of Georgia in the OSCE* called upon the Russian Federation to fulfil immediately “its commitments to allow unfettered access for the delivery of humanitarian assistance and not to impede the creation of international security arrangements on the ground.” Furthermore, the GoF of Georgia reaffirmed its unwavering support to the European Union Monitoring Mission in Georgia and called upon the Russian Federation “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 also called on the Russian Federation “to enable full and unhindered access by international human rights organizations to the Georgian regions of Abkhazia and South Ossetia.”<sup>75</sup>

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

70. Notwithstanding the absolute prohibition of torture and ill-treatment and protection of inherent right to life and prohibition of its arbitrary deprivation under international law, these notions are totally neglected by the Russian Federation – the occupying power, which continues gross violations of human rights in Abkhazia and Tskhinvali regions of Georgia.

71. Human rights situation in the Russia-occupied territories of Georgia is critical in terms of ensuring accountability of human rights violators. It remains alarming that the impunity on the cases of deprivation of life of Georgian IDPs continue to further provoke ethnically driven violence. The justice still has not been served for the deprivation of lives of David Basharuli, Giga Otkhзорia, Archil Tatumashvili and death of Irakli Kvaratskhelia.

72. Against this background, on 19 December 2023, the European Court of Human Rights (ECHR) adopted the judgment on the case *Matkava and Others v. Russia*, which confirmed the responsibility of the Russian Federation for the violation of the right to life of Georgian citizen, Giga Otkhзорia, who was killed adjacent to the occupation line near the Russia-occupied Abkhazia region of Georgia on 19 May 2016.<sup>76</sup>

73. Regretfully tragic incidents of the past years were followed by cases of murder of Georgian citizens - Tamaz Ginturi with the firearm by the Russian occupation forces on 6

<sup>74</sup> See footnote 32.

<sup>75</sup> See footnote 34.

<sup>76</sup> Case *Matkava and Others v. Russia*, Judgment of the European Court of Human Rights (ECHR) of 19 December 2023, available at <<https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-229603%22%5D%7D>>.

November 2023, who was going to pray at the Lomisi Church in the village of Kirbali, Gori municipality and Temur Karbaia - beaten to death by the Russian occupation forces on 10 December 2023 at the so-called “police station” in Gali, Abkhazia region.

74. Strong stance and decisive steps of the international community are essential to prevent repetition of the previous incidents and latest tragic cases of Tamaz Ginturi and Temur Karbaia.

75. In the **Resolution 52/40 on “Cooperation with Georgia”**, the UN HRC expressed serious concern “at various forms of reported discrimination against ethnic Georgians, cases of torture and other forms of ill-treatment, infringements of the right to life ... .” Moreover, the HRC expressed serious concern “at the lack of accountability for unlawful killings of Georgian citizens committed in the period from 2014 to 2020, which continues to contribute to impunity in both Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia.”<sup>77</sup>

76. By the **Decision of the Committee of Ministers**, the CoE Member States expressed profound concern over the violations of the right to life in the Russia-occupied Abkhazia and Tskhinvali regions of Georgia. The CoE Member States 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’.” The CoE Member States expressed deep concern “over the death of Genadi Bestaev, who was illegally detained in November 2019 in the Tskhinvali region/South Ossetia and died in a Tbilisi hospital on 16 February 2022, after being released a few months earlier from Tskhinvali in a severe health condition.” Furthermore, the CoE Member States expressed grave concern “over impunity concerning the deaths of Georgian IDPs David Basharuli, Giga Otkhozoria and Archil Tatumashvili” 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.” By the Decision, the CoE Member States recalled “the ‘Otkhozoria-Tatumashvili List’ adopted by the Parliament of Georgia, and the national restrictive measures decided on by the Georgian Government against those responsible for grave human rights abuses in the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia.” Hence, the CoE Member States reiterated their call to 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>78</sup>

77. In the **Resolution on the “Georgian citizens Tamaz Ginturi killed and Levan Dotiashvili abducted by the Russian occupation forces in the occupied Tskhinvali region of Georgia”**, the European Parliament noted that “on 6 November 2023, on the eve of the Commission’s presentation of the enlargement package, Russian occupying forces killed Georgian citizen Tamaz Ginturi ... whereas this happened in the village of Kirbali near the Administrative Boundary Line (ABL).” Furthermore, the European Parliament underlined

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<sup>77</sup> See footnote 8.

<sup>78</sup> See footnote 12.

that “the killing is another instance of Russia’s illegal arrests and kidnappings in Georgia’s occupied regions and represents Russia’s blatant disregard for international law and human life ... .” Moreover, the European Parliament stressed that “the Russian occupiers exercise impunity for the brutal murder of internally displaced Georgian citizens, including Archil Tatumashvili, Giga Otkhozoria and Davit Basharuli, and for the death of Irakli Kvaratskhelia ... .” Therefore, the European Parliament strongly condemned “the murder of Tamaz Ginturi” and called “for a thorough investigation into this and other murders” and demanded that “those responsible be held accountable and brought to justice.” By the Resolution, the European Parliament called “on the Council to create an EU sanctions list, taking into account the Otkhozoria-Tatumashvili List, and to impose targeted sanctions on those responsible for violations of Georgian sovereignty, territorial integrity and human rights.”<sup>79</sup>

78. The CoE SG’s both **27<sup>th</sup> and 28<sup>th</sup> Consolidated Reports on “the Conflict in Georgia”** stressed that justice still has not been served for the deprivation of lives of David Basharuli, Giga Otkhozoria, Archil Tatumashvili and death of Irakli Kvaratskhelia.<sup>80</sup>

79. “No one has been held accountable for the four deaths in Abkhazia and South Ossetia – of David Basharuli (in 2014), Giga Otkhozoria (in 2016), Archil Tatumashvili (in 2018) and Irakli Kvaratskhelia (in 2019)”, reads the **Report (A/HRC/54/80) of the UNHCHR on “Cooperation with Georgia.”**<sup>81</sup> Hence, the OHCHR addressed to “all actors involved” “to promptly and thoroughly investigate all allegations of violation of the right to life, or of torture or ill-treatment, and intensify efforts to establish accountability and provide redress and prevent their recurrence” “in Abkhazia and South Ossetia.”<sup>82</sup>

80. “**Human Right and Democracy Report 2022**” by the United Kingdom’s Foreign, Commonwealth and Development Office stressed that Russian interference in the occupied Abkhazia and Tskhinvali regions of Georgia resulted in a continuing deterioration of human rights situation therein with “reports of torture and ethnic discrimination.”<sup>83</sup>

81. On 27 March 2023, the Amnesty International issued the **Report “2022/23: the state of the world’s human rights.”** The document underlined that the cases of violation of right to life and torture in the Russia-occupied Tskhinvali region of Georgia remained without effective investigation.<sup>84</sup>

82. In the **Statement on 2022 Compilation Report on the human rights violations in the Russia-occupied territories of Georgia**, the European Union expressed its deep concern “about the state of play in the Georgian regions of Abkhazia and South Ossetia and the human rights situation there, especially with regard to ... discrimination of Georgians on the

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<sup>79</sup> See footnote 19.

<sup>80</sup> See footnote 20, paragraph 32 and footnote 22, Paragraph 30.

<sup>81</sup> See footnote 24, Paragraph 39.

<sup>82</sup> *Ibid*, Paragraph 69.

<sup>83</sup> See footnote 26.

<sup>84</sup> Amnesty International Report “2022/23: the state of the world’s human rights”, 27 March 2023, p. 173, available at <<https://www.amnesty.org/en/documents/pol10/5670/2023/en/>>.

grounds of ethnicity, and impunity in the cases of deprivation of life of Georgian citizens.”<sup>85</sup>

83. By the Statement on *Secretary General’s 27<sup>th</sup> Consolidated Report on “the conflict in Georgia”*, the EU expressed deep concern “about the impunity surrounding grave human rights violations in conflict-affected areas, which continue to undermine human security” and reiterated the call “for a proper investigation and for justice to be served in relation to the tragic deaths of Georgian nationals Archil Tatumashvili, Giga Otkhozoria, David Basharuli, Irakli Kvaratskhelia and Inal Jabiev... .”<sup>86</sup> In this context, the EU strongly condemned “the killing of a Georgian citizen, Tamaz Ginturi, by the Russian forces on 6 November 2023” and reiterated the call for a proper investigation and for “justice to be served in relation to the tragic deaths of Georgian nationals” by the Statement on *Secretary General’s 28<sup>th</sup> Consolidated Report on “the conflict in Georgia.”*<sup>87</sup>

84. In the *Joint Statement following an AOB on Georgia, the UN Security Council Members (Albania, France, Japan, Malta, United Kingdom, United States)* condemned “the killings of Georgian citizens Davit Basharuli, Giga Otkhozoria and Archil Tatumashvili, whose perpetrators have not yet been brought to justice and held accountable.”<sup>88</sup>

85. On 7 November 2023, Peter Stano, Lead Spokesperson for Foreign Affairs and Security Policy in the *Statement “on the killing and detention of Georgian citizens in Kirbali”* stressed that the European Union strongly condemned “the use of force by Russian Federation Border Guards against Georgian citizens” and underlined that “Russia’s military presence in Georgia’s occupied breakaway regions of Abkhazia and South Ossetia continues in violation of international law and commitments undertaken by Russia under the 12 August 2008 agreement, mediated by the European Union.”<sup>89</sup>

86. In the *Joint Statement, the GoF of Georgia in the OSCE* strongly condemned “the recent killing of a peaceful civilian - Georgian citizen, Tamaz Ginturi, in the vicinity of the Kirbali village, Gori Municipality, who was shot dead by Russian forces on 6 November 2023.” The GoF of Georgia also condemned “the previous cases of killing of Georgian citizens Archil Tatumashvili, Giga Otkhozoria, and Davit Basharuli” and urged Russian Federation “to remove any obstacles to bringing the perpetrators to justice.” In this context, the GoF of Georgia reiterated “support for Georgia’s preventive steps aimed at eradicating impunity” and noted “the Otkhozoria-Tatumashvili List adopted by the government of Georgia.”<sup>90</sup>

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<sup>85</sup> See footnote 27.

<sup>86</sup> See footnote 28.

<sup>87</sup> See footnote 29.

<sup>88</sup> See footnote 32.

<sup>89</sup> Statement “on the killing and detention of Georgian citizens in Kirbali”, Peter Stano, Lead Spokesperson for Foreign Affairs and Security Policy of the EU, 7 November 2023, available at <[https://www.eeas.europa.eu/eeas/georgia-statement-spokesperson-killing-and-detention-georgian-citizens-kirbali\\_en](https://www.eeas.europa.eu/eeas/georgia-statement-spokesperson-killing-and-detention-georgian-citizens-kirbali_en)>.

<sup>90</sup> See footnote 34.

## 6. Arbitrary detentions

87. International law requires that deprivation of liberty must not be arbitrary and “no one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”<sup>91</sup> Recalling the General comment No. 35 of the International Covenant on Civil and Political Rights adopted by the Human Rights Committee of 16 December 2014, arbitrary detention – as violation of international norms and standards not only impairs the enjoyment of other human rights but “creates risks of torture and ill-treatment ...”<sup>92</sup>

88. Due to the ongoing occupation by the Russian Federation of Abkhazia and Tskhinvali regions of Georgia, any decision by the occupation regimes in these regions is considered null and void and any detention by the Russian occupation forces as illegal.

89. Nevertheless, there has been no improvement in terms of Russia’s record of kidnappings and arbitrary detentions. On the contrary, the Russian occupation regimes continue to arbitrarily arrest even most vulnerable, like women, elderly and children. There are still Georgian citizens in lengthy illegal detention in both Russia-occupied regions, among them Kristine Takalandze, Asmat Tavadze, Irakli Bebuga, who has severe health problems. In number of those cases, the sole reason for illegal imprisonment was the ownership of Georgian passport. This is Russia’s response to the increased demand for Georgian passports among the residents of the occupied Abkhazia and Tskhinvali regions, including ethnic Abkhazians and Ossetians.

90. Regretfully, arbitrary detentions and kidnappings in the Russia-occupied regions of Georgia sometimes end with tragic consequences, as we witnessed numerous before.

91. Against this backdrop, on 19 December 2023, the European Court of Human Rights (ECHR) adopted the judgment on the case *O. J. and J. O. v. Georgia and Russia*, which also confirmed the responsibility of the Russian Federation for the unlawful arrest and detention, and violation of the right to a fair trial of Georgian citizens who were unlawfully detained in the Russia-occupied Abkhazia region of Georgia, on 15 March 2012.<sup>93</sup>

92. In the **Resolution 52/40 on “Cooperation with Georgia”**, the UN HRC expressed serious concern at “various forms of reported discrimination against ethnic Georgians ... infringements of the right to life, the right to liberty and security of person ... kidnappings ...” Moreover, the HRC expressed further serious concern over the “arbitrary detentions and kidnappings, including of women, children and older persons, which in some cases involve shooting, torture and other forms of ill-treatment, and continue to have a negative impact on

<sup>91</sup> Article 9 of the International Covenant on Civil and Political Rights.

<sup>92</sup> General comment No. 35 of the International Covenant on Civil and Political Rights, the Human Rights Committee, 16 December 2014, available at <[https://tinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f35&Lang=en](https://tinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f35&Lang=en)>.

<sup>93</sup> Case *O. J. and J. O. v. Georgia and Russia*, Judgment of the European Court of Human Rights (ECHR) of 19 December 2023, available at <<https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-229601%22%7D%3E>>.

human security and health conditions of conflict-affected people, and restrict their freedom of movement.”<sup>94</sup>

93. By 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)” and noted that “these arbitrary detentions have become lengthier and increasingly involve members of the vulnerable groups.” Furthermore, the CoE Member States expressed grave concern “over the illegal detentions of Georgian citizens among others – Irakli Bebug, Kristine Takalandze and Asmat Tavadze – some of whom suffer from severe health conditions.” Moreover, the CoE Member States reiterated their call on the Russian Federation as the State exercising effective control to “cease arbitrary detentions of persons, including in the context of so-called ‘illegal border crossings’” and “immediately release Irakli Bebug, Kristine Takalandze, Asmat Tavadze and all other illegal detainees.”<sup>95</sup>

94. In the ***Resolution on the “Georgian citizens Tamaz Ginturi killed and Levan Dotiashvili abducted by the Russian occupation forces in the occupied Tskhinvali region of Georgia”***, the European Parliament noted that on 6 November 2023 “Russian occupying forces ... abducted and then released Levan Dotiashvili, following international pressure.” Moreover, the European Parliament demanded the “release of all Georgian citizens in the illegal custody of the occupation regime.”<sup>96</sup>

95. The CoE SG’s ***27<sup>th</sup> and 28<sup>th</sup> Consolidated Reports on “the Conflict in Georgia”*** stressed that incidents of arbitrary detentions continued through the reporting period.<sup>97</sup> “The delegation was informed by interlocutors that those illegally detained were held in conditions which remain below minimum international standards” – reads the CoE SG’s ***27<sup>th</sup> Consolidated Report***.<sup>98</sup> Furthermore, according to the CoE SG’s ***28<sup>th</sup> Consolidated Report*** “the delegation was informed of 28 reported cases of illegal detentions by Ossetian and Russian border guards from the start of the year.”<sup>99</sup>

96. The ***Report (A/77/870) of the UN Secretary-General on “status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia”*** outlined that “increased surveillance by the Russian Federation border guards and strict detention practices were also reported.” The UN Secretary-General also expressed concern “about the continued detention of civilians residing along the Abkhazia and South Ossetia administrative boundary lines for so-called ‘illegal crossings’.”<sup>100</sup>

97. “OHCHR continued to receive reports of arbitrary deprivations of liberty in both Abkhazia and South Ossetia perpetuating a climate of insecurity and mistrust” - reads the

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<sup>94</sup> See footnote 8.

<sup>95</sup> See footnote 12.

<sup>96</sup> See footnote 19.

<sup>97</sup> See footnote 20, Paragraph 52 and footnote 22, Paragraph 38.

<sup>98</sup> See footnote 20, Paragraph 36.

<sup>99</sup> See footnote 22, Paragraph 54.

<sup>100</sup> See footnote 43, Paragraph 28.

**Report (A/HRC/54/80) of the UNHCHR on “Cooperation with Georgia.”**<sup>101</sup> Therefore, the OHCHR addressed to “all actors involved” “to end any practice of arbitrary deprivation of liberty, and address all related allegations, including by conducting a thorough review and promptly resolving alleged or suspected violations, consistent with international human rights law.”<sup>102</sup>

98. According to **“Georgia 2022 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 “credible reports of unlawful detentions.” Furthermore, it was noted that “there were frequent reports of detentions of Georgians along the administrative boundary lines (ABL) of both the Russian-occupied regions of Abkhazia and South Ossetia” and “several individuals remained in detention, including those who were detained in previous years.” Moreover, the Report stressed that “individuals who approached the ABLs or crossings risked detention by members of the Russian Federal Border Service (Russian guards)” and “Russian guards along the Abkhazia ABL typically enforced the boundary-crossing rules imposed by de facto authorities through detentions and fines” therefore, “along the South Ossetia ABL, Russian guards frequently transferred individuals to de facto authorities.” At the same time, it was underlined that “de facto security actors or Russian guards crossed into Tbilisi-administered territory to detain an individual”, “most often, the arrested individuals were accused of violating the ‘state border’” and “according to EUMM, many detainees were obliged to sign documents in Russian that they did not understand.”<sup>103</sup>

99. **“Human Right and Democracy Report 2022”** by the United Kingdom’s Foreign, Commonwealth and Development Office speaks about “illegitimate detentions” stemming from the Russian interference in the occupied Abkhazia and Tskhinvali regions of Georgia.<sup>104</sup>

100. The Amnesty International in its **Report “2022/23: the state of the world’s human rights”** stressed that “Irakli Bebuta, imprisoned ... was reportedly denied access to adequate care for his chronic illnesses.”<sup>105</sup>

101. The **Report of the Public Defender of Georgia on “Situation of Protection of Human Rights and Freedoms in Georgia for 2022”** underlined that “unfortunately, the practice of illegal detention and ill-treatment of citizens persists in the occupied territories” and “on the occupation line, both in the direction of Abkhazia and South Ossetia, the vicious practice of detaining people living in the controlled and occupied territory of Georgia continues.”<sup>106</sup>

102. In the **Statement on 2022 Compilation Report on the human rights violations in the Russia-occupied territories of Georgia**, the European Union expressed its deep concern

<sup>101</sup> See footnote 24, Paragraph 47.

<sup>102</sup> *Ibid*, Paragraph 69.

<sup>103</sup> See footnote 25, pp. 2; 12; 30.

<sup>104</sup> See footnote 26.

<sup>105</sup> See footnote 84, p. 173.

<sup>106</sup> See footnote 48, pp. 13; 253.

“about the state of play in the Georgian regions of Abkhazia and South Ossetia and the human rights situation there, especially with regard to arbitrary detentions ...”<sup>107</sup>

103. By the EU Statement on *Secretary General’s 27<sup>th</sup> Consolidated Report on “the conflict in Georgia”*, the EU reiterated its call “for the immediate release of illegally detained Georgian citizens Irakli Bebuia, Kristine Takalandze, Kakhaber Natadze, Asmat Tavadze, Mamuka Chkhikvadze, and all other illegally detained persons.”<sup>108</sup> The call for “immediate release of illegally detained persons, some of them suffering from severe health conditions” was also reiterated by the EU in the Statement on *Secretary General’s 28<sup>th</sup> Consolidated Report on “the conflict in Georgia.”*<sup>109</sup>

104. By the *“Vilnius Summit Communiqué”*, NATO Heads of State and Government participating in the meeting of the North Atlantic Council in Vilnius called on the Russian Federation “to cease the human rights violations and abuses, including arbitrary detentions, and harassments of Georgian citizens” with regard to the occupied territories of Georgia.<sup>110</sup>

105. “Unlawful detentions and abductions of the local population” was condemned in the *Joint Statement of the UN Security Council Members (Albania, France, Japan, Malta, United Kingdom, United States) following an AOB on Georgia.*<sup>111</sup>

106. In the *Joint Statement the GoF of Georgia in the OSCE* expressed deep concern on the “ongoing arbitrary detentions around the ABLs involving vulnerable groups, and in some cases people with severe health problems” and therefore, called “for the immediate and unconditional release of Irakli Bebuia, Kristine Takalandze, Asmat Tavadze, and all those under arbitrary detention.”<sup>112</sup>

## 7. Violation of right to return

107. Article 13 of the Universal Declaration of Human rights recognizes everyone’s right “to leave any country, including his own, and to return to his country.”<sup>113</sup> The right of refugees to return to their country of origin is fully recognized in international law,<sup>114</sup> as well as in respect to internally displaced persons, who “are to 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

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<sup>107</sup> See footnote 27.

<sup>108</sup> See footnote 28.

<sup>109</sup> See footnote 29.

<sup>110</sup> See footnote 31.

<sup>111</sup> See footnote 32.

<sup>112</sup> See footnote 34.

<sup>113</sup> Article 13 of the Universal Declaration of Human Rights.

<sup>114</sup> UNHCR, *Voluntary Repatriation: International Protection, Handbook*, 1996, Geneva, available at <<https://www.unhcr.org/uk/3bfe68d32.pdf>>.



residence, and should be protected against arbitrary displacement.”<sup>115</sup> However, the right of internally displaced persons to return to their homes or places of habitual residence voluntarily, in safety and with dignity is most specifically enshrined in the key international framework for the protection of internally displaced persons - the UN Guiding Principles on Internal Displacement.<sup>116</sup>

108. In full disregard of the above-mentioned safeguard under international law and against the backdrop of persistently recurring violations, hundreds of thousands of internally displaced persons and refugees from the Russia-occupied Abkhazia and Tskhinvali regions of Georgia remain continuously deprived by the occupying power – the Russian Federation of their fundamental right to return to their homes in safety and dignity.

109. While the responsibility of the Russian Federation over the violation of the right to return was reaffirmed by the judgment of the European Court of Human Rights (ECHR) of 21 January 2021 on the case *GEORGIA v. RUSSIA* (II), violations and abuses of human rights and fundamental freedoms by the occupying power of persons living in the Russia-occupied regions of Georgia create an additional threat of further displacement.

110. In the **Resolution 52/40 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.” Moreover, serious concern was also expressed “that violations and abuses of human rights and fundamental freedoms of persons living therein create an additional threat of further displacement.”<sup>117</sup>

111. The UN General Assembly adopted the **Resolution 77/293 on “status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia”** on 7 June 2023. 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>118</sup>

112. 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

<sup>115</sup> Resolution 78/205 on “Protection of and assistance to internally displaced persons”, UNGA, 19 December 2023, available at <<https://digitallibrary.un.org/record/4032830?ln=en>>.

<sup>116</sup> Principle 28 of the UN Guiding Principles on Internal Displacement.

<sup>117</sup> See footnote 8.

<sup>118</sup> UNGA Resolution (77/293) on “status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia”, 7 June 2023, available at <<https://digitallibrary.un.org/record/4013147?ln=en>>.

to voluntary return to their places of origin in a safe and dignified manner” and reiterated their call to 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>119</sup>

113. “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 – read the CoE SG’s **27<sup>th</sup> and 28<sup>th</sup> Consolidated Reports on “the Conflict in Georgia.”**<sup>120</sup>

114. The UN Secretary-General in his *Report (A/77/870) 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>121</sup> According to the Report “there is a complex balance 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.” Furthermore, it was 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.”<sup>122</sup> Moreover, the UN Secretary-General underlined that “no agreement or timetable for the voluntary return of all refugees and internally displaced persons has been developed” 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.” The UN Secretary-General reiterated his call “upon all participants in the Geneva International Discussions to engage constructively, 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 brought up for discussion in Working Group II” (par. 56).

115. “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 there” reads the **“Georgia 2022 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, Abkhaz de facto authorities continued to prevent the return of those displaced by that war.”<sup>123</sup>

116. The EU in its Statements on *Secretary General’s 27<sup>th</sup> and 28<sup>th</sup> Consolidated Reports on “the conflict in Georgia”* expressed deep regret that “no progress could be reported regarding voluntary, safe, dignified and unhindered return of internally displaced persons

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<sup>119</sup> See footnote 12.

<sup>120</sup> See footnote 20, Paragraph 58 and footnote 22, Paragraph 62.

<sup>121</sup> See footnote 43, Paragraph 16.

<sup>122</sup> *Ibid.*, Paragraph 38.

<sup>123</sup> See footnote 25, pp. 2; 33.

and refugees based on internationally recognized principles.”<sup>124</sup>

117. The *EU in its Statement delivered at the UN General Assembly under the agenda item “protracted conflicts in the GUAM area and their implications for international peace, security and development”*, underlined “the importance of the right of refugees and internally displaced persons (IDPs) to choose a durable solution, including voluntary, safe and dignified return ...”, and expressed regret that so far no progress has been achieved on those issue and recalled that addressing “the issues of refugees and IDPs is a core task of the Geneva International Discussions.”<sup>125</sup>

118. In the *Joint Statement following an AOB on Georgia, the UN Security Council Members (Albania, France, Japan, Malta, United Kingdom, United States)* stressed “the necessity of ensuring the rights of internally displaced persons and refugees, expelled forcibly due to multiple waves of atrocities, and allowing for a safe, voluntary, dignified, and unhindered return to their homes.”<sup>126</sup>

119. By the *Joint Statement, the GoF of Georgia in the OSCE* called upon the Russian Federation “to ensure safe and dignified return of all IDPs and refugees to their homes in a manner consistent with international law.”<sup>127</sup>

## 8. Violation of right to health

120. As clearly expressed by Article 25 of the Universal Declaration of Human Rights, health is an inherent and inviolable universal human right, in particular stressing that “everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”<sup>128</sup>

121. Despite this minimum guarantee, along other human rights violations on the ground, the right to health is being blatantly violated by the Russian Federation in the occupied Abkhazia and Tskhinvali regions of Georgia. It is even worrisome, that dozens of residents of these regions died due to refusal or delay to get emergency treatment on the Georgian Government controlled territory. Further outrageous is the fact that they have been denying medical evacuation on the basis of ethnicity.

122. The UN HRC in the *Resolution 52/40 on “Cooperation with Georgia”* expressed serious concern over the “infringements of ... the right to the enjoyment of the highest attainable standard of health ...” in the Russia-occupied Abkhazia and Tskhinvali regions of Georgia. Moreover, the HRC expressed serious concern particularly at “cases of denial and

<sup>124</sup> See footnotes: 28 and 29.

<sup>125</sup> See footnote 73.

<sup>126</sup> See footnote 32.

<sup>127</sup> See footnote 34.

<sup>128</sup> Article 25 of the Universal Declaration of Human Rights.

obstacles to swift medical evacuations by the authorities exercising effective control in both regions, which has contributed to a number of deaths and the further isolation of the regions, thereby aggravating the humanitarian and socioeconomic situation on the ground, particularly with regard to the full enjoyment of all human rights by all women, girls and older persons.”<sup>129</sup>

123. In the *Decision of the Committee of Ministers*, the CoE Member States expressed profound concern over the violation of the right to health in the Russia-occupied territories of Georgia 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 medical and educational purposes” and to “cease the denial and/or delay of medical evacuations.”<sup>130</sup>

124. “Restrictions on the opening of ‘crossing points’ on the ABL continue to impact the access of residents from the Tskhinvali region/South Ossetia, Georgia, to medical facilities in the Georgian controlled territory” - reads the *27<sup>th</sup> Consolidated Report on “the Conflict in Georgia”* of the CoE SG.<sup>131</sup>

125. The above-mentioned aspect was pointed out in the *28<sup>th</sup> Consolidated Report on “the Conflict in Georgia”* of the CoE SG, further adding that “the prolonged periods of closure of the ‘crossing points’ negatively affect patients suffering from chronic diseases and requiring constant medical care.”<sup>132</sup> Moreover, with regard to emergency medical evacuations, the Report stressed that “... the delegation was informed of isolated cases, including one recent case involving an elderly person, when the permission for the procedure was denied.”<sup>133</sup>

126. The *Report (A/77/870) 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 “prolonged periods of closure of crossing points, related to the COVID-19 pandemic, and the further restrictions on freedom of movement, especially with respect to the South Ossetia administrative boundary line that has been closed since September 2019, had a negative impact on living conditions and access to markets and medical and other essential services.”<sup>134</sup> Furthermore, it was underlined that “the local population in the Gali district ... continued to express concern regarding restrictions on freedom of movement, which impact regular contact with family members and friends residing on the other side of the Inguri River, and access to social infrastructure, including medical facilities and markets in Zugdidi.”<sup>135</sup> The UN Secretary-General called “upon the relevant authorities to ease crossings for family visits, especially in the case of medical or other family emergencies, imminent death or funerals” (par. 48).

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<sup>129</sup> See footnote 8.

<sup>130</sup> See footnote 12.

<sup>131</sup> See footnote 20, Paragraph 54.

<sup>132</sup> See footnote 22, Paragraph 57.

<sup>133</sup> *Ibid*, Paragraph 58.

<sup>134</sup> See footnote 43, Paragraph 10.

<sup>135</sup> *Ibid*, Paragraph 37.

127. “Key issues related to the enjoyment of the right to health mentioned in the previous OHCHR report remain relevant in Abkhazia and South Ossetia” - reads the **Report (A/HRC/54/80) of the UNHCHR on “Cooperation with Georgia.”**<sup>136</sup> Furthermore, the document noted that “according to information received, the quality of health services in Gali and adjacent districts remains poor, and the situation presented in the previous report remains unchanged, including with respect to local hospitals and health-care facilities, water, sanitation and hygiene conditions, medical equipment, qualified personnel, and the provision of first aid assistance to the rural population.”<sup>137</sup> The Report stressed that concerns persisted “over the negative impacts of restrictions on freedom of movement across the Administrative Boundary Line between South Ossetia and Tbilisi-controlled territory, on persons affected by the conflict and their right to health, including their access to health care, critical services and urgent medical evacuations” (par. 51).

128. According to “**Georgia 2022 Human Rights Report**” by the U.S. Department of State, “in several instances during the year, de facto authorities, particularly in South Ossetia, hindered access to medical care in Tbilisi-administered territory for residents in the occupied territories.”<sup>138</sup>

129. According to the “**Human Right and Democracy Report 2022**” by the United Kingdom’s Foreign, Commonwealth and Development Office “continued restrictions on freedom of movement following the closure of unofficial crossing points into South Ossetia prevented residents from accessing ... healthcare, in some cases leading to deaths.”<sup>139</sup>

130. The **Report of the Public Defender of Georgia on “Situation of Protection of Human Rights and Freedoms in Georgia for 2022”** stressed that “the artificial barriers established at the so-called checkpoints are directly related to the availability of the right to health of the population living in the occupied territory” and “a clear example of this is the fact of the death of Elsa Kudukhovia, a one-and-a-half-year-old child from Akhalkalaki in 2023, due to the lack of timely medical assistance.”<sup>140</sup>

131. 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 restriction of the freedom of movement “... have further destabilised the situation on the ground and severely impacted the security, safety, well-being, and humanitarian conditions of civilians in conflict-affected areas, preventing their access to ... Georgian government issued pensions, the free healthcare services and education available in Georgian Government controlled territory.”<sup>141</sup>

<sup>136</sup> See footnote 24, Paragraph 49.

<sup>137</sup> *Ibid*, Paragraph 50.

<sup>138</sup> See footnote 25, p. 29.

<sup>139</sup> See footnote 26.

<sup>140</sup> See footnote 48, p. 259.

<sup>141</sup> See footnote 34.

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

132. The right to education is guaranteed for all without any discrimination under international law. At the same time, according to Article 50 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War “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 adding 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>142</sup> Hence, it is obvious that the element of native language is the essential component for the full enjoyment of the right to education.

133. In contradiction to the above-mentioned safeguards, due to violation of this right by the occupying power – the Russian Federation, regrettably, Georgian language is completely rooted out as a language of instruction in both - Russia-occupied Abkhazia and Tskhinvali regions of Georgia. Moreover, the occupying power is putting pressure and purging ethnic Georgian and in Georgia educated teachers to replace them with ethnic Abkhaz teachers or those educated in occupied Sokhumi or the Russian Federation.

134. In the *Resolution 52/40 on “Cooperation with Georgia”* the UN HRC expressed serious concern at the “restrictions on education in one’s native language in both Georgian regions.”<sup>143</sup>

135. By the *Decision of the Committee of Ministers*, the CoE Member States expressed profound concern with regard to the restrictions on education in native language and reiterated their call to the Russian Federation as the State exercising effective control to “cease violations of the right to education in schools and preschools, including education in the native Georgian language, in both Georgian regions.”<sup>144</sup>

136. According to the *27<sup>th</sup> Consolidated Report on “the Conflict in Georgia”* of the CoE SG, “the situation of education in the Georgian language in schools in Abkhazia, Georgia, saw no progress in the provision of access to education in the native language ...” and it was recalled that “education in the Georgian language has been banned not only at schools but also at kindergartens in the Georgian region of Abkhazia.”<sup>145</sup> Moreover, it was underlined that “no progress has been reported during the reporting period regarding the situation of education in the Georgian language in schools in the Tskhinvali region/South Ossetia, Georgia” and “previously expressed concerns about restrictions on access to education in the native language persist.”<sup>146</sup> The violation of right to education in native language was further outlined in the *28<sup>th</sup> Consolidated Report on “the Conflict in Georgia”* of the CoE

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<sup>142</sup> Article 50 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War.

<sup>143</sup> See footnote 8.

<sup>144</sup> See footnote 12.

<sup>145</sup> See footnote 20, Paragraph 44.

<sup>146</sup> *Ibid*, Paragraph 57.

SG.<sup>147</sup> With regard to Russia-occupied Tskhinvali region it was underlined that “teaching in all schools in the region takes place in Russian forcing those who want to receive an education in the native Georgian language to relocate to territory controlled by the Georgian central government.”<sup>148</sup>

137. “The continued restrictions on the use of Georgian as a language of instruction in Abkhazia and South Ossetia, which particularly affects the ethnic Georgian population in Gali and Akhagori districts, remain of concern” and “... the number of pupils in schools in Gali and Akhagori districts has been decreasing every year” - reads the **Report (A/HRC/54/80) of the UNHCHR on “Cooperation with Georgia.”**<sup>149</sup> The document stressed that “the right to receive education in their native language continues to be one of the main issues for the residents of Gali district” and “... since September 2015, Russian has been gradually replacing Georgian as the language of instruction, becoming the only language of instruction as of September 2022, with a few hours per week of Georgian language and literature classes.” Moreover, the Report noted that “since most teachers do not have adequate Russian-language skills for teaching, the process is associated with serious problems, heavily impacting the quality of education.”<sup>150</sup> Therefore, with respect to the situation of human rights “in Abkhazia and South Ossetia” the OHCHR addressed to “all actors involved” “to ensure access to quality education for all without discrimination and the right to receive instruction in one’s mother tongue” (par. 69).

138. “**Georgia 2022 Human Rights Report**” by the U.S. Department of State noted that “the right to receive education in the native language was extremely restricted for Georgians living in the occupied territories of Georgia” and “this practice was systemic and manifested in actions such as the express prohibition of education in the Georgian language, persistent harassment of Georgian-language teachers, banning Georgian handbooks, and preventing university students from continuing their studies in Georgian higher education institutions through direct restrictions of movement or other direct or indirect pressure.”<sup>151</sup>

139. According to the “**Human Right and Democracy Report 2022**” by the United Kingdom’s Foreign, Commonwealth and Development Office, “continued restrictions on freedom of movement following the closure of unofficial crossing points into South Ossetia prevented residents from accessing education ...”<sup>152</sup>

140. According to the **Report of the Public Defender of Georgia on “Situation of Protection of Human Rights and Freedoms in Georgia for 2022”**, “access to education in the mother language remains one of the most important challenges in the occupied territories of Abkhazia and South Ossetia.” It was also stressed that “all teachers were ordered by the de facto structures to hold their classroom celebration or other type of events in Russian and then post them on social networks.” The document underlined that “...

<sup>147</sup> See footnote 22, Paragraphs: 46; 60.

<sup>148</sup> *Ibid*, Paragraph 60.

<sup>149</sup> See footnote 24, Paragraph 52.

<sup>150</sup> *Ibid*, Paragraph 53.

<sup>151</sup> See footnote 25, pp. 33-34.

<sup>152</sup> See footnote 26.

in the occupied regions, for years, the policy of putting pressure on the ethnically Georgian population and discriminating against them on the basis of ethnicity has been deliberately carried out” and “this is manifested, first of all, in limiting the opportunity to receive education in the native language.” Moreover, it was stressed that “... the arbitrary restrictions imposed by the de facto authorities on receiving education in their native language are aimed at the ethnic cleansing of citizens living in the occupied Gali and Akhgori regions.”<sup>153</sup>

141. In the *Statement on 2022 Compilation Report on the human rights violations in the Russia-occupied territories of Georgia*, the European Union expressed its deep concern “about the state of play in the Georgian regions of Abkhazia and South Ossetia and the human rights situation there, especially with regard to ... violation of ... education in mother tongue ...”<sup>154</sup>

142. The EU in its Statements on *Secretary General's 27<sup>th</sup> and 28<sup>th</sup> Consolidated Reports on “the conflict in Georgia”* expressed deep concern “about various restrictions on ... residence rights ... as well as access to services and education in one’s native language in both entities.”<sup>155</sup>

143. “Discrimination against ethnic Georgians, and prohibition on education in residents’ native language” was condemned in the *Joint Statement of the UN Security Council Members (Albania, France, Japan, Malta, United Kingdom, United States) following an AOB on Georgia*.<sup>156</sup>

144. In the *Joint Statement, the GoF of Georgia in the OSCE* expressed concern over “the continuous discrimination against Georgians on the grounds of ethnicity in the Georgia’s regions of Abkhazia and South Ossetia and abuses, including severe restrictions on rights related to ... education ... .” Moreover, the GoF of Georgia condemned “restriction of education in native Georgian language and its replacement with Russian in schools and kindergartens of the ethnic-Georgian-inhabited Gali and Akhgori districts in the Georgian regions of Abkhazia and South Ossetia.”<sup>157</sup>

## 10. Infringement of right to property

145. International law is explicit that “everyone has the right to own property ...”, “no one shall be arbitrarily deprived of his property”<sup>158</sup> and “every natural or legal person is entitled to the peaceful enjoyment of his possessions.”<sup>159</sup> International humanitarian law adds further meaning to this safeguard and stresses that any destruction by the occupying power

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<sup>153</sup> See footnote 48, pp. 256; 258-259.

<sup>154</sup> See footnote 27.

<sup>155</sup> See footnotes: 28 and 29.

<sup>156</sup> See footnote 32.

<sup>157</sup> See footnote 34.

<sup>158</sup> Article 17 of the Universal Declaration of Human Rights.

<sup>159</sup> Article 1 of the Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms.



“of real or personal property belonging individually or collectively to private persons, or to the State ...” is prohibited.<sup>160</sup>

146. Against the above-mentioned guarantees, the 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 - the occupying power. Moreover, the right to property is grossly violated, including by continued land grabbing practice, creating imminent risk for other Georgians to instantly find their property in the Russia-occupied territory.

147. In the *Resolution 52/40 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 continue to have a negative impact on the already poor socioeconomic conditions of the conflict-affected population, their freedom of movement and sense of security, while also preventing their access to property, grazing and farming lands, religious sites and cemeteries.” Moreover, the HRC expressed serious concern at “infringements of ... the continued practice of demolition of the ruins of houses belonging to internally displaced persons in the Tskhinvali region/South Ossetia, Georgia, and the obliteration and alteration of Georgian features from Georgian cultural heritage monuments in both regions.”<sup>161</sup>

148. By the *Decision of the Committee of Ministers*, the CoE Member States expressed profound concern with regard to 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.” Furthermore, the CoE Member States expressed deep concern “over the obliteration and alteration of Georgian features from the Georgian cultural heritage monuments in both regions.” Moreover, the CoE Member States reiterated their call to the Russian Federation as the State exercising effective control to “prevent further deterioration of monuments belonging to the cultural heritage throughout Georgia’s regions.”<sup>162</sup>

149. In the *Resolution 77/293 on “status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia”*, the UN General Assembly stressed 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>163</sup>

150. In the *“Vancouver Declaration”*, the OSCE Parliamentary Assembly condemned human rights violations in Russia-occupied Abkhazia and Tskhinvali regions of Georgia “as well as the obliteration and alteration of Georgian features from Georgian cultural heritage monuments in both regions ... .”<sup>164</sup>

<sup>160</sup> Article 53 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War.

<sup>161</sup> See footnote 8.

<sup>162</sup> See footnote 12.

<sup>163</sup> See footnote 118.

<sup>164</sup> See footnote 11.

151. According to the *Report (A/77/870) of the UN Secretary-General on “status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia”*, “‘foreign resident permit’ does not grant its holder the full range of political, housing, land and property rights under Abkhazia’s de facto legislation.”<sup>165</sup> By the Report, the UN Secretary-General called “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 noted that “the underlying norms of international law, including international human rights law, as outlined in the report of 20 May 2013 (A/67/869, paras. 58–60) remains valid.” The document underscored that “the Special Rapporteur on the human rights of internally displaced persons noted during his visit to Georgia 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.”<sup>166</sup> The UN 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” (par. 56).

152. The *Report (A/HRC/54/80) of the UNHCHR on “Cooperation with Georgia”* stressed that human rights violations in the Russia-occupied regions of Georgia included restrictions on the right to property.<sup>167</sup> The Report stressed that the so-called “borderization” had “continuing negative impact on ... access to property, grazing and farmlands, religious sites and graveyards.”<sup>168</sup> Therefore, the High Commissioner made an assessment that “there has been no progress reported in regard to challenges associated with restrictions on freedom of movement and barriers to the acquisition of personal documents, which have negative implications for the enjoyment of property rights in Abkhazia and South Ossetia” (par. 55).

153. According to the *28<sup>th</sup> Consolidated Report on “the Conflict in Georgia”* of the CoE SG, “documentation gaps constitute a recurrent problem which adversely impacts on the status of the ethnic Georgians, primarily in Gali but also Ochamchire and Tkvarcheli, with adverse implications for their daily lives as well as effective enjoyment of their rights, in particular ... property rights.”<sup>169</sup>

154. *“Georgia 2022 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

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<sup>165</sup> See footnote 43, Paragraph 21.

<sup>166</sup> *Ibid*, Paragraph 55.

<sup>167</sup> See footnote 24, Paragraph 37.

<sup>168</sup> *Ibid*, Paragraph 46.

<sup>169</sup> See footnote 22, Paragraph 42.

after the 1992-93 war, thereby depriving internally displaced persons of their property rights” and “in 2019 the de facto parliament of Abkhazia passed ‘legislation’ that also deprived family members of those ‘who fought against the sovereignty of Abkhazia, participated in the hostilities against Abkhazia, or assisted occupational forces’ of the right of inheritance.” 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 ABL 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.” Furthermore, it was underlined that “in a 2010 decree, South Ossetian de facto authorities invalidated all real estate documents issued by the Georgian government between 1991 and 2008 relating to property in the Akhagori Region” and “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.”<sup>170</sup>

155. In the *Statement on 2022 Compilation Report on the human rights violations in the Russia-occupied territories of Georgia*, the European Union expressed its deep concern “about the state of play in the Georgian regions of Abkhazia and South Ossetia and the human rights situation there, especially with regard to ... violation of property rights ...”<sup>171</sup>

156. The EU in its Statements on *Secretary General’s 27<sup>th</sup> and 28<sup>th</sup> Consolidated Reports on “the conflict in Georgia”* expressed deep concern “about various restrictions on ... property rights ... in both entities.”<sup>172</sup>

157. In the Statement *delivered at the UN General Assembly under the agenda item “protracted conflicts in the GUAM area and their implications for international peace, security and development”*, the EU underlined the importance “of the right of refugees and internally displaced persons (IDPs) to choose a durable solution, including ... the ability to exercise property rights.”<sup>173</sup>

158. “Deliberate damage to Georgian cultural heritage” was condemned in the *Joint Statement of the UN Security Council Members (Albania, France, Japan, Malta, United Kingdom, United States) following an AOB on Georgia*.<sup>174</sup>

159. In the *Joint Statement, the GoF of Georgia in the OSCE* expressed concern over “the continuous discrimination against Georgians on the grounds of ethnicity in the Georgia’s regions of Abkhazia and South Ossetia and abuses, including severe restrictions on rights related to ... residence and property, particularly in connection with the destruction of the houses of IDPs.” The GoF of Georgia also condemned “the obliteration and alteration of

<sup>170</sup> See footnote 25, pp. 2; 18-19; 33.

<sup>171</sup> See footnote 27.

<sup>172</sup> See footnotes: 28 and 29.

<sup>173</sup> See footnote 73.

<sup>174</sup> See footnote 32.

Georgian features of the Georgian cultural heritage monuments in both regions.” The GoF of Georgia noted that restriction of the freedom of movement “have further destabilised the situation on the ground and severely impacted the security, safety, well-being, and humanitarian conditions of civilians in conflict-affected areas, preventing their access to family, property, agricultural lands, religious sites and cemeteries ...”<sup>175</sup>

## 11. Conclusion

160. Similar to previous years, total disregard of international law and subsequent flagrant violations of human rights and fundamental freedoms of residents of the Russia-occupied Abkhazia and Tskhinvali regions of Georgia also continued during the reporting period. Massive violations of human rights in these regions include and are not limited to violation of right to life;<sup>176</sup> torture and ill-treatment;<sup>177</sup> arbitrary detention;<sup>178</sup> violations of the right to freedom of movement,<sup>179</sup> right to return,<sup>180</sup> right to health,<sup>181</sup> right to property<sup>182</sup> and right to education in one’s native language.<sup>183</sup>

## 12. Appeal to the international community

161. 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 end the occupation of the Georgian territories;
- to implement the EU-mediated Ceasefire Agreement of 12 August 2008 and withdraw its illegally stationed troops from the occupied territories of Georgia;

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<sup>175</sup> See footnote 34.

<sup>176</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>177</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>178</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>179</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>180</sup> UN Guiding Principles on Internal Displacement.

<sup>181</sup> Article 12 of the International Covenant on Economic, Social and Cultural Rights.

<sup>182</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>183</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 stop violations of human rights in the occupied territories of Georgia;
- 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;
- 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;
- 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 and regional 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.