

UNIVERSAL PERIODIC REVIEW FOR GEORGIA

Provisional

UNHCR input to the preparation of a consolidated

UN BACKGROUND PAPER

as related to the chapter on

Internally displaced persons, refugees and asylum seekers

A) Internally displaced persons

1. Following the disintegration of the Soviet Union and Georgia's declaration of independence in 1991, secessionist conflicts broke out in two of Georgia's regions: South Ossetia (1991-92) and Abkhazia (1992- 93) which displaced over 360,000 people. The vast majority of IDPs are ethnic Georgians from Abkhazia, while about 60,000 are Ossets and ethnic Georgians who fled South Ossetia. Smaller-scale displacement took place in May 1998 (Abkhazia) and July-August 2004 (South Ossetia).

2. According to information provided by the Ministry for IDPs from the Occupied Territories, Accommodation and Refugees¹ dated 31 December 2009, there are 249,365 internally displaced people in Georgia of whom 233,453 (93.6%) were displaced during and following the Georgian-Abkhaz conflict in the 1990s with the remainder from South Ossetia. This displacement represents around 6% of Georgia's total population. In addition, there were some 14,000 IDPs and returned IDPs in South Ossetia however, since August 2008 conflict there has been no humanitarian access into South Ossetia for UNHCR Georgia and its partners, therefore little is known about this population of concern. Within Georgia around 44 % of these IDPs live in collective centres (former hospitals, factories, schools etc.) which were originally intended as temporary shelter but have turned into permanent shelter that does not necessarily meet minimum international standards, whilst the rest live in the private sector.

3. In August 2008, a five-day war between Georgia and Russia over South Ossetia temporarily displaced over 138,000 individuals. Two months later, with the withdrawal of Russian troops from all regions of Georgia other than South Ossetia and Abkhazia, the majority returned home leaving behind nearly 25,000 IDPs who are expected to remain in protracted displacement. A further 30,000 returned to live in their villages in areas adjacent to South Ossetia but they continue to live in an IDP-like situation due to the volatile security situation there and they

¹ Formerly the Ministry of Refugees and Accommodation (MRA), Prime Minister's Decree #185 of 30 June 2010 approved the new name – hereinafter called MRA until such time as the new acronym has been agreed by the Government

remain in need of humanitarian support such as housing assistance, income-generating support, and community mobilization. In this so-called 'adjacent area', many returned IDP families suffer from lack of access arable land, pastures and forests (for firewood), and movement near / across the administrative boundary line (ABL) often results in arrests / detention by Russian / Ossetian guards. UNHCR and its partners do not have access to IDPs who have returned to a number of insecure villages close to the South Ossetia / Georgia ABL. Perceived insecurity and inadequate provision of protection by authorities are some of the reasons cited by IDPs from South Ossetia and Akhagori valley for their unwillingness to return home.

4. Authorities in control in Abkhazia have only allowed IDPs to return to a defined area in the south east part of Abkhazia: Gali, Ochamchira, and Tkvarchali, and not beyond and some 50,000 IDPs (who still enjoy IDP status under Georgian national legislation) have spontaneously returned to their villages of origin in these areas. However, this area remains volatile affected by serious crime with local law enforcement bodies either unable or unwilling to take effective measures. Moreover, conditions of life (schools, hospitals, access to public services, infrastructure, employment / income opportunities, etc.) are considerably worse than the rest of Abkhazia. A lack of a reliable state structure and social welfare in Abkhazia has resulted in inadequate social protection for vulnerable people, especially the elderly and disabled. This, together with limited access to social rights, general insecurity, lack of source of income and poor infrastructure, has created extremely difficult living conditions especially for IDPs in the process of return and is hampering their sustained reintegration. Consequently international actors, including UNHCR, acting within their respective mandates, continue to provide protection and humanitarian assistance to the extent possible. In Abkhazia, returned IDPs have access to education but conditions of premises, distance and affordability are ongoing concerns. The current curriculum, adopted by the authorities in control in Abkhazia, even for schools using Georgian language, dictates that four subjects are taught in Russian: history, geography and culture of Abkhazia and Russian language. The NGO community in Abkhazia is relatively developed, but regional isolation and lack of donor support (pre-August 2008) negatively affects capacity building and protection.

5. More precise comprehensive data on the number and profiles of these returned IDPs – or other conflict-affected population residing in the area – would greatly facilitate an assessment of the needs of these people. However, an initial agreement by both Abkhaz and Georgian authorities to conduct a verification and profiling exercise (supported by the UN Security Council in its resolutions 1752 (2007), 1781 (2007) and 1808 (2008)) has since failed to achieve consensus.

6. The population in the Gali district, including spontaneous returnees and persons in the process of return, are concerned about recent developments related to movement across the Inguri river and the impact they have on freedom of movement. Access to social infrastructure, including medical facilities in Zugdidi district, together with the possibility of maintaining family contracts and accessing markets, remain important to them. Then need for some form of managed,

mutually accepted ‘crossing regime’ is crucial for the improving of living conditions for the Gali population, the advancement of a reintegration process for returnees, and the prevention of renewed displacement. The issue is now addressed at the Geneva Discussion process and at the Gali Incident Prevention Mechanism. A protection challenge linked to this is the need to find solutions for documentation which conforms to international law, including human rights law, and general principles governing the prevention and reduction of statelessness.

7. After armed conflict in the ‘90s and although not internationally recognized (except by four states in 2008-09), Abkhaz people took a control of all key administrative and law enforcement functions including within the area of return by ethnic Georgians (Megrelians). The authorities in control in Abkhazia exercise control by their own structures, including courts and police force, and *de facto* Constitution, referring to the supremacy of human rights and containing direct reference to ICCPR and ICESCR. The unresolved issue of the status of Abkhazia (presently recognized only by the Russian Federation, Nicaragua, Venezuela and Nauru) raises complex questions over the legitimacy of various decrees and legislations in Abkhazia and constricts means of protection provided by international actors working in Abkhazia. Although Abkhaz account for less than half the total population (according to unofficial statistics around 70,000 Abkhaz, 50,000 Georgians and 30,000 Armenians reside in Abkhazia), Abkhaz people now dominate the region’s formal political and economic system, e.g. 25 of 35 parliamentary deputies are Abkhaz. Ethnic Armenians and Russians hold three seats each and ethnic Georgians from Gali region have two seats. Returned IDPs are under-represented at all levels including at the local level, e.g. in many Georgian (Megrelian) villages in the area of return, heads of villages are Abkhaz appointed by Gali administration.

8. Abkhaz *de facto* law on citizenship (October 2005) discriminates against almost all non-Abkhaz population who left during or after the conflict ended (1993), e.g. granting Abkhaz ‘citizenship’ is conditional upon residence during a period coinciding with a time when many had fled the region. Abkhaz election legislation was amended (October 2009) to include a stipulation that only Abkhaz passport holders may vote. Applicants are required to denounce Georgian citizenship before receiving an Abkhaz passport. Abkhaz ID is required for activities such as opening a bank account and obtaining a driving license or a school certificate, whilst only “Abkhaz citizens” are currently allowed to buy and sell real estate property in Abkhazia.

9. IDP protection in Georgia is governed by the Law of Georgia on Forcibly Displaced Persons - Persecuted (June 1996, amended June 2006) which foresees formal granting of IDP status, issuance of IDP cards and introduces privileges and specific protections including a monthly cash allowance. This status-based assistance approach ultimately results in insufficient support for vulnerable IDPs with the most pressing needs. However following on from UNHCR advocacy efforts, the Government is now considering shifting from status to vulnerability based support. MRA is the key governmental body for IDPs, but it lacks infrastructure / resources to adequately respond to IDP needs.

10. The Georgian Government's pro-active response to shelter needs of people displaced by the 2008 conflict received strong donor support and public sympathy. According to information provided by the Ministry for Foreign Affairs in May 2010, durable housing solutions were provided for 20,800 people displaced during the August 2008 conflict, and 10,911 families displaced from earlier conflicts. Furthermore, the Government's focus on IDP return as the only durable solution, shifted to local integration for IDPs in protracted displacement and, following strong advocacy and lobbying by UNHCR, in May 2009 (with further amendments in May 2010) the Government adopted its IDP Action Plan to implement Objective 2 – local integration, of the State Strategy for IDPs-persecuted which serves as accountability framework and coordination platform for all IDP related projects and activities implemented in Georgia.

11. IDPs freely engage in public and political life in Georgia with an unimpeded right to participate in elections or be elected. They are not subject to systematic exclusion or discrimination, however their accommodation (often in remote locations with few economic opportunities) or lack of access to land, has prevented many from engaging in economic activities or benefiting from a former period of economic boom – although there are some very successful businessmen with a history of displacement who are exceptions to the rule. Nevertheless IDPs still face discrimination with regard to some specific sectors of legislation, e.g. they cannot participate in privatization of arable land on the same terms as the local population. A comprehensive review of Georgian legislation governing the treatment of or indirectly impacting on IDPs is desirable. Georgia has vibrant active NGO community devoted to work for IDPs, with well functioning IDP committees in collective centres. Key IDP NGOs have easy access to political leaders.

12. Georgia considers all Russian troops present in Abkhazia and South Ossetia as occupational forces, and has regulated access to and economic activities in these regions through a strict Law on Occupied Territories (October 2008). Although subsequently amended in 2009 to address concerns raised by the Venice Commission and other members of the international community, several provisions under this legislation remain vague and might negatively impact on humanitarian access and space.

13. In Georgia, a conservative society with deeply rooted religious and patriarchal traditions, there still exist patterns of discrimination against women and widespread acceptance of gender based violence (GBV) in different forms. UNHCR and partners continue to systematically lobby for an improvement of the 2009 Law on Domestic Violence and an implementation of its Action Plan.

Refugees /Asylum seekers

14. As of January 2010, Georgia was hosting 870 refugees (primarily ethnic Chechen/Kist refugees from Chechnya, Russian Federation) who reside mainly in Pankisi Valley in eastern

Georgia; and 26 asylum seekers were registered in Georgia (primarily from RF, Sri-Lanka, Uzbekistan, Iran). Chechens have been granted refugee status by the Georgian government on *prima facie* basis since 1999 when they arrived in the country *en masse* fleeing from the second Chechen war.

15. Georgia is party to 1951 Convention and 1967 Protocol since 9 August 1999 although Georgia made a reservation to article 40(1) of the Convention, stating that pending "...the full restoration of the territorial integrity of Georgia, this Convention is applicable only to the territory where the jurisdiction of Georgia is exercised.". The National Law on Refugees dates from 1998. Following ongoing advocacy and lobbying by UNHCR, and further amendments to national legislation, registered refugees received three year Temporary Residence Permits in 2007, and Convention Travel Documents as of April 2009. During a national consultation process, a number of inconsistencies were identified (largely acknowledged by GoG), between the present national asylum legislation and international refugee law and standards, including (i) definition of a refugee including exclusion clauses; (ii) scope of protection against refoulement; (iii) admissibility of asylum applications; (iv) economic and social rights. A new draft law on refugees and humanitarian status was drafted by the Ministry for IDPs from the Occupied Territories, Accommodation and Refugees in close cooperation with UNHCR. It is expected that this draft will be presented to the Parliament at its autumn 2010 session. If adopted, the new Law, will establish effective and efficient national asylum procedures in full respect for the principle of non-refoulement and introduction of the humanitarian status as a form of complementary form of protection.

16. A permanent Reception Centre for asylum seekers was established (June 2010) on the outskirts of Tbilisi to replace the provisional reception centre presently operated by MRA with UNHCR support. The quality of government refugee status determination (RSD) improved following implementation of an agreement with MRA that UNHCR 'shadows' Government RSD.

17. In autumn 2009, UNHCR conducted a profiling exercise, combined with the annual MRA re-registration, to assess the overall development of the situation in Pankisi Valley, and obtain general perceptions and attitudes of refugees towards local integration prospects in Georgia. The majority of refugees indicated an interest in settling down in Pankisi Valley as naturalized citizens, as long as socio economic and housing issues are timely and properly addressed to support their local integration. Basic concerns related to (1) an increase in the level of education provided, (2) support for their self-reliance through income generating activities and (3) solutions to their durable housing problems.

18. The Law on Refugees does not provide refugees with the right to medical care. UNHCR implementing partner, Technical Assistance in Georgia (TAG), provides primary health care services, however rising cost of health services and the need to cover costs for elderly refugees,

accidents and serious diseases have been a heavy burden on UNHCR's budget. Therefore there is an ongoing need to lobby for the integration of refugees into public health care services, not just for specific programmes but also for services available under the Targeted Social Assistance Programme of the Ministry of Health and Social Affairs.

19. There are 1,679 stateless persons in Georgia who are mainly between 18-59 years of age and live in Tbilisi, including Meskhetians, former Muslim inhabitants from Meskheta deported to Central Asia in 1944 by Stalin. Georgia is not a party to the 1954 Stateless Persons Convention or to the 1961 Reduction of Statelessness Convention. The Government of Georgia together with UNHCR is analysing gaps and grey areas in Georgian citizenship legal framework to prepare a package of possible amendments to bring citizenship legislation in conformity with UN and European Conventions on statelessness, including a recommendation to abolish the need to renounce one citizenship before being in possession or guaranty of receiving another one. It is hoped these amendments will be presented formally to Parliament by end 2010 and accession to the Conventions will take place in 2011.

UNHCR Tbilisi
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