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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Technical assistance and capacity-building

Report of the United Nations High Commissioner for Human Rights on cooperation with Georgia*

Summary

The present report, submitted pursuant to Human Rights Council resolution 43/37, outlines the technical assistance provided by the Office of the United Nations High Commissioner for Human Rights between 1 June 2019 and 31 May 2020 to strengthen the promotion and protection of human rights in Georgia. The report highlights human rights developments during this period and challenges to be addressed. It also provides an update on the main human rights issues in Abkhazia, Georgia, the Tskhinvali region/South Ossetia, Georgia, and adjacent areas.

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I. Introduction

1. In its resolution 43/37, the Human Rights Council requested the United Nations High Commissioner for Human Rights to present an oral update at its forty-fourth session on follow-up to the resolution,¹ and a written report at its forty-fifth session on developments relating to the resolution and its implementation. In the resolution, the Council also requested the High Commissioner to continue to provide technical assistance through her office in Tbilisi, Georgia, and called for immediate and unimpeded access for the Office of the United Nations High Commissioner for Human Rights (OHCHR) and international and regional human rights mechanisms to Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia.²
2. Pursuant to resolution 43/37, the present report gives an update on the technical assistance provided by OHCHR in Georgia and on key human rights developments between 1 June 2019 and 31 May 2020. Guided by concerns highlighted in the preamble to the resolution, the report also describes the main human rights issues in and around Abkhazia and South Ossetia.
3. OHCHR applied the same methodology used for the preparation of the previous reports of the High Commissioner on cooperation with Georgia.³ In addition to reaching out to relevant stakeholders, OHCHR issued a public call⁴ for written submissions pursuant to resolution 43/37.
4. This report is based on information available to OHCHR, including submissions from the Government of Georgia, the Public Defender of Georgia (an “A” status national human rights institution), international and regional organizations, non-governmental organizations, and desk research. As the previous reports, this report does not present a comprehensive account of the human rights situation in Abkhazia and South Ossetia due to lack of access.
5. OHCHR wishes to bring again to the attention of the Human Rights Council the continued absence of a dedicated budget to support the reporting mandate on Georgia,⁵ which continually constrains the effectiveness of OHCHR in implementing the resolution. OHCHR encourages Member States to provide an adequate programme budget implication for future requests.

II. Context

6. On 20 June 2019, in Tbilisi, protests erupted outside Parliament after a Russian parliamentarian had chaired a session of the Interparliamentary Assembly on Orthodoxy from the seat of the Speaker of Parliament of Georgia. The protest proceeded peacefully until some participants attempted to force their way into Parliament. While the majority of law enforcement officers held their positions, some fired rubber bullets at protesters at close range, seriously injuring some, including two individuals who lost an eye. According to the Public Defender, more than 200 people were injured during these clashes, which lasted until the morning of 21 June.⁶ These events had a significant impact on the political environment, generating mutual recriminations between the ruling party and the opposition, and a consequent polarization.

¹ A recording of the oral update is available at <http://webtv.un.org/search/hc-oral-update-on-georgia-26th-meeting-44th-regular-session-human-rights-council-6172106912001/?term=&lan=english&cat=Human%20Rights%20Council&sort=date&page=3>.

² Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia, are hereinafter referred to as Abkhazia and South Ossetia.

³ A/HRC/36/65, paras. 3–5; A/HRC/39/44, paras. 4–5; and A/HRC/42/34, paras. 3–4.

⁴ See www.ohchr.org/EN/Countries/ENACARegion/Pages/GeorgiaRes43L7.aspx.

⁵ A/HRC/42/34, para. 4.

⁶ Report of the Public Defender of Georgia on the situation of protection of human rights and freedoms in Georgia, available at <http://ombudsman.ge/res/docs/2020070407523954521.pdf>, p. 184.

7. The first case of coronavirus disease (COVID-19) in Georgia was confirmed on 26 February 2020. The President of Georgia declared a state of emergency on 21 March 2020, which was then extended on 21 April until 23 May. The Government promptly notified the Secretary-General of the United Nations of the declaration and extension of the state of emergency and of consequent derogations from certain obligations of Georgia under articles 9, 12, 17 and 21 of the International Covenant on Civil and Political Rights.⁷ The President of Georgia explicitly committed to guaranteeing freedom of the media and freedom of expression during the state of emergency. In view of the measures adopted in a timely manner by the authorities and the tireless efforts of health professionals, Georgia recorded one of the lowest per capita rates of infection in the regions of Europe and Central Asia.⁸

III. Technical assistance by the Office of the United Nations High Commissioner for Human Rights and human rights developments

8. The OHCHR Senior Human Rights Adviser, deployed in Tbilisi since 2007, continued to provide technical assistance to the Government and institutions of Georgia, civil society organizations and other actors.

A. Support for the implementation of the National Human Rights Action Plan

9. The Senior Human Rights Adviser continued to focus on supporting the compliance of legislation, policies and practices with international human rights norms and standards, and on the implementation of the National Human Rights Strategy (2014–2020) and the National Human Rights Action Plan (2018–2020). Along with other United Nations entities, OHCHR provided support for the ongoing implementation of the National Human Rights Action Plan, including under the framework of the Human Rights for All programme.⁹ Such support involved building the capacity of various national counterparts, including the Human Rights Secretariat in the Administration of the Government of Georgia,¹⁰ the Offices of the Public Defender and the State Inspector, judges and court staff, police officers, legal professionals, journalists and civil society (including students and youth groups). OHCHR is also supporting the Human Rights Secretariat in developing the next National Human Rights Strategy, tentatively for 2021–2030.

10. During the reporting period, OHCHR conducted 19 capacity-building activities in Georgia and developed materials on the following issues: obligations of State authorities in investigating allegations of crimes related to the deprivation of life, and torture and other forms of ill-treatment; effective protection of human rights during investigative actions such as secret surveillance and communication tapping; gender identity and the obligations of State authorities; and specific measures for the execution of decisions/judgments delivered by bodies of the United Nations and the Council of Europe on cases related to effective investigations in Georgia.

⁷ Notification No. 19/9860 (of 21 March 2020) and notification No. 19/11359 (of 22 April 2020), available at <https://treaties.un.org/doc/Publication/CN/2020/CN.125.2020-Eng.pdf> and <https://treaties.un.org/doc/Publication/CN/2020/CN.142.2020-Eng.pdf> respectively.

⁸ See, for example, World Health Organization Regional Office for Europe, “COVID-19 weekly surveillance report: data for the week of 25–31 May 2020”, available at www.euro.who.int/__data/assets/pdf_file/0006/445920/Week-22-COVID-19-surveillancer-eport-eng.pdf.

⁹ A joint United Nations initiative funded by the European Union and, more recently, by the Government of Norway.

¹⁰ To ensure continuity of operations and day-to-day support for the Inter-Agency Council for Human Rights, the Human Rights Secretariat is established as a structural unit at the Administration of the Government of Georgia. The Council is responsible for developing and implementing a uniform State policy of the Government of Georgia in the field of human rights protection.

11. There were noteworthy changes to the internal regulations of the Inter-Agency Council for Human Rights and the Human Rights Secretariat. OHCHR and the United Nations Development Programme assisted in drafting amendments to the statute of the Inter-Agency Council for Human Rights, which were approved by the Government of Georgia in February 2020. The number of non-governmental organizations participating in the meetings of this body consequently doubled, from 6 to 12. Support by OHCHR also made it possible to clarify and transform the mandate and functions of the Inter-Agency Council for Human Rights and the Human Rights Secretariat.

12. In February 2020, the long-delayed chapter on sexual orientation and gender identity of the National Human Rights Action Plan was completed, following consultations with non-governmental organizations representing LGBTIQI+ persons. The National Human Rights Action Plan became the first governmental document in Georgia to include State activities to combat discrimination based on sexual orientation and gender identity.

13. OHCHR – as well as other international actors and civil society organizations – routinely participated in hearings of parliamentary committees on human rights-related legislation before the declaration of the state of emergency. The parliamentary Committee on Human Rights and Civil Integration played a leading role in developing – with the assistance of the United Nations Children’s Fund (UNICEF) – the Code on the Rights of the Child. The adoption of the Code by Parliament, on 20 September 2019, was a major step forward in meeting the legal obligations of Georgia under the Convention on the Rights of the Child.

14. During the reporting period, the Government submitted the fifth periodic report of Georgia to the Human Rights Committee.¹¹ On 11 and 12 June 2019, prior to the submission of the report, OHCHR held a meeting for ministries and State bodies involved in drafting the report. Civil society organizations took part in the meeting and provided comments and inputs for the report. According to the Government of Georgia, this report was also presented to the Public Defender, non-governmental organizations and international organizations for their suggestions and recommendations. In line with the amendments of 2016 to the rules of procedure of Parliament, Parliament reviewed and approved the report. Georgia has yet to submit its next periodic reports to the Committee on Economic, Social and Cultural Rights and the Committee against Torture, which are both overdue.¹²

B. Administration of justice and law enforcement

15. OHCHR continued to support the justice sector, focusing on building awareness and the capacity of judges and court staff, especially of the Supreme Court, to apply international human rights norms and standards. OHCHR provided the judiciary with pieces of research on jurisprudence and case law of international and regional human rights bodies on various issues, including gender identity and the role of authorities in ensuring effective protection of the human rights of transgender people, and standards related to the protection of minorities.

16. In her submission, the Public Defender stated that her observation of the selection of candidates for vacant positions of Supreme Court judges¹³ had revealed several concerns, including procedural shortcomings.¹⁴ The Public Defender had appealed to the

¹¹ CCPR/C/GEO/5.

¹² The most recent reviews of Georgia before these Committees took place in 2002 and 2006, respectively. See www.ohchr.org/EN/Countries/ENACARegion/Pages/GEIndex.aspx.

¹³ The process of interviewing candidates began on 17 July 2019 and ended with their selection on 4 September 2019 and the subsequent vote by Parliament on 12 December 2019.

¹⁴ According to the Public Defender, although the hearings for the nominees in Parliament’s Legal Committee were open and transparent, the preceding “process in the High Council of Justice failed to convince an objective observer that ultimately the most competent and conscientious candidates were submitted to the Parliament of Georgia” as required under domestic law. See Public Defender of

Constitutional Court against the law regulating the selection of candidates for positions as Supreme Court judges. The decision remained pending at the time of finalizing the present report.

17. OHCHR pursued its cooperation with the Georgian Bar Association. The OHCHR training on international human rights standards relating to the administration of justice continued to be integrated into professional courses for practising lawyers. During the state of emergency, OHCHR sustained capacity-building activities, via videoconference.

18. On 24 June 2019 the Prosecutor General's Office announced that it had launched an investigation into the events of 20–21 June 2019, which was ongoing at the time of finalizing the present report. The Office of the Public Defender noted in its submission that the investigation into abuse of power by law enforcement personnel during the protest had tended to focus solely on identification of criminal acts by individual law enforcement officers, but was not aimed at determining the scope of responsibility of superior officials and did not establish or exclude the possibility that a crime had been committed by inaction or omission. The Public Defender stated that several steps that were necessary for an effective investigation had not been undertaken, such as seizure of records of handheld transceivers. According to the Government of Georgia, as a result of the investigation, criminal prosecution had been commenced against three officials of the Ministry of Internal Affairs.

19. Regarding the cases highlighted in the 2018 and 2019 reports of the High Commissioner to the Human Rights Council,¹⁵ OHCHR received information that on 31 October 2019, the Holy Synod of the Patriarchate of the Georgian Orthodox Church requested the President of Georgia to pardon archpriest Giorgi Mamaladze, who had been convicted and imprisoned for attempted murder. This request was not granted and Mr. Mamaladze remains incarcerated. OHCHR also received information that the Azerbaijani journalist Afgan Mukhtarli had been released from prison in Azerbaijan in March 2020. Mr. Mukhtarli continues to allege that he was arbitrarily detained in Tbilisi in March 2017 and transported across the border to Azerbaijan with the involvement of high-level Georgian officials. According to the Government of Georgia, the Prosecutor General's Office of Georgia communicated with Mr. Mukhtarli and expressed its readiness to interview him in person and conduct all relevant investigative actions in case he appears in Georgia.

C. Combating torture and other forms of ill-treatment

20. Georgia continued to make progress in combating torture and other forms of ill-treatment. After delays due to budgetary issues, the investigative mandate of the State Inspector came into force on 1 November 2019.¹⁶ OHCHR assisted in organizing the launching event. On that occasion, the Prime Minister of Georgia and the Minister of Justice, among others, emphasized that the creation of this service reflected the commitment of Georgia to addressing the long-standing issue of ineffective investigations into human rights violations committed by the police, the Prosecutor General's Office and penitentiary officers, which had generated a sense of impunity and undermined public trust in law enforcement agencies. In a special report presented on 21 January 2020 to Parliament, the Public Defender expressed concerns over the existence of "informal

Georgia, "Monitoring report on the selection of Supreme Court judicial candidates by the High Council of Justice of Georgia", available at <https://bit.ly/2Ytowz1>.

¹⁵ A/HRC/39/44, paras. 15–16; and A/HRC/42/34, para. 16.

¹⁶ The Law on the State Inspector Service, adopted on 21 July 2018, entrusted that Service with the mandate of the abolished Office of the Data Protection Inspector. It further mandates the State Inspector Service to investigate allegations of serious human rights violations involving law enforcement officers. OHCHR had been advocating for the establishment of this entity since 2014.

governance” by inmates, allowed by some prison administrations, noting that this increased the risk of violence and ill-treatment.¹⁷

21. During the reporting period, OHCHR supported the State Inspector’s Office in developing a strategy and action plan to operationalize its investigative mandate. OHCHR conducted capacity-building activities for the investigators of the State Inspector, and provided assistance in developing draft legislative amendments to ensure the independence of the State Inspector’s Office from the Prosecutor General’s Office and to improve the effectiveness of its investigations.

22. In cooperation with the inter-agency coordinating council against torture and other cruel, inhuman or degrading treatment or punishment – a body that is led by the Ministry of Justice – OHCHR provided assistance for the development of new services on the rehabilitation and reintegration of victims of torture, and is actively involved in elaborating the new action plan for 2021–2022 to operationalize the above-mentioned services.

D. Combating discrimination

23. The Public Defender stated in her submission that discrimination in Georgia often arose from stereotypes and misconceptions, and that the State was failing to take appropriate measures to overcome them. According to her, the LGBTQI+ community remained the most vulnerable group in Georgia. She noted that allegations of discrimination based on gender constituted the majority of the 155 cases of discrimination submitted to and examined by the institution in 2019.¹⁸

24. As mentioned above, the chapter on sexual orientation and gender identity was included in the National Human Rights Action Plan. From 18 to 23 June 2019, a pride week was held in Tbilisi,¹⁹ which included a conference on the situation of sexual minorities in Georgia, attended by OHCHR. On 8 July, a brief and small Pride March of Dignity was held in the outskirts of Tbilisi, due to concerns that violence may be incited by homophobic groups. According to the Government of Georgia, in the first five months of 2020 the Prosecutor General’s Office commenced criminal prosecutions against four persons for sexual orientation and gender identity-based hate crimes.

25. Despite these developments, submissions by civil society actors highlighted continued concerns about the vulnerability of LGBTQI+ persons in Georgia and about the high rate of violence they were subjected to. The Public Defender underlined that while abuses were committed by private persons, in most cases, the State did not take the measures necessary to protect individuals and redress such abuses.

26. In a joint statement issued on International Day against Homophobia, Transphobia and Biphobia, on 17 May 2020, the United Nations and other members of the international community in Georgia welcomed the efforts undertaken by the Government, through the Inter-Agency Council for Human Rights and the Prime Minister’s Adviser on Human Rights and Gender Equality, to help the LGBTQI+ community and other vulnerable and marginalized groups during the pandemic. The statement also urged the authorities at all levels to work with resolve to create enabling conditions for LGBTQI+ persons to exercise their rights, including to express their identities without risk or fear.²⁰

27. In its previous reports, OHCHR highlighted the situation of Muslims in Batumi, who had no other choice than to pray in the open air due to the small-sized mosque there. It also

¹⁷ The management of prisons by prisoners has been identified by several human rights mechanisms as the main factor contributing to violence among prisoners; see A/HRC/42/20, para. 20.

¹⁸ Special report of the Public Defender of Georgia on combating and preventing discrimination and the state of equality, pp. 30–31, available at <https://bit.ly/3drmVOp>.

¹⁹ A/HRC/42/34, para. 22.

²⁰ The statement, available at <https://georgia.un.org/en/46430-lgbtqi-rights-need-attention-during-covid-19-crisis-and-beyond>, also recalled recommendations to Georgia by the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, following his visit to the country from 25 September to 5 October 2018 (see A/HRC/41/45/Add.1).

provided updates on the appeal proceedings launched on behalf of the New Mosque Building Foundation in Batumi, which had been denied authorization to construct a new mosque.²¹ On 30 September 2019, Batumi City Court upheld part of the claim of the New Mosque Building Foundation and established that the decision by Batumi City Hall to deny the application for construction was discriminatory. The Court returned the case to Batumi City Hall for reconsideration. The latter appealed against the Court's decision to Kutaisi Court of Appeals. On 4 December 2019, the New Mosque Building Foundation also lodged an appeal demanding that Batumi City Hall be instructed to issue a construction permit for the first stage of construction. The first hearing at Kutaisi Court of Appeals was held on 18 February 2020 and the subsequent session was postponed due to COVID-19.

28. As mentioned in the 2019 report of the High Commissioner on cooperation with Georgia, on 3 July 2018 the Constitutional Court upheld claims filed by two non-governmental organizations that certain provisions of the Tax Code and the Law on State Property, providing exclusive tax exemptions to the Georgian Orthodox Church and enabling it to receive State property free of charge, were unconstitutional because they were discriminatory *vis-à-vis* other religious organizations.²² Although the Court required its decision to be executed by 31 December 2018, Parliament had not initiated legislative amendments to implement it at the time of finalizing the present report, notwithstanding discussions on this topic by the parliamentary Committee on Human Rights and Civil Integration.

29. In her annual report to Parliament for 2019,²³ the Public Defender noted that no significant steps had been taken to implement the Convention on the Rights of Persons with Disabilities. The State body responsible for coordinating this process (the coordination mechanism referred to in article 33 of the Convention) has not yet been designated, nor has the Optional Protocol to the Convention been ratified. The Public Defender observed that the State was unable to ensure access by adults with disabilities to rehabilitation and that the measures taken in the field of mental health care were insufficient to protect the rights of people with mental health impairments. She added that the number and geographical coverage of community services were not adequate. The Public Defender stated that the situation had not improved concerning the realization of the right of persons with disabilities to participate in political and public life. OHCHR actively participated in the process to establish the State body responsible for coordinating the implementation of the Convention on the Rights of Persons with Disabilities. With the assistance of OHCHR, the Human Rights Secretariat developed a draft decree on the creation of an inter-agency commission on the rights of persons with disabilities which would serve as the coordination mechanism. The finalization of the decree was pending at the time that the present report was being concluded. The Public Defender welcomed the process of revising legislation regulating the arrangement of space for persons with disabilities and harmonizing it with the Convention on the Rights of Persons with Disabilities, notably with regard to amendments to the Law on Psychiatric Assistance, drafted in 2019.

E. Promoting gender equality and combating domestic violence

30. OHCHR continued to support efforts by the United Nations country team to promote gender equality and combat domestic violence.

31. The Prosecutor General's Office determined that there were 19 cases of femicide in 2019. With the support of the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), the Public Defender conducted a comprehensive analysis of the gender-related killings of women that occurred from 2014 to 2018. The report, finalized in May 2020,²⁴ documented persistent gaps in addressing cases of gender-based violence, such as deficiencies in identifying the gender motives. It emphasized the

²¹ A/HRC/36/65, para. 22; A/HRC/39/44, para. 25; and A/HRC/42/34, para. 23.

²² A/HRC/42/34, para. 24.

²³ Available at <http://ombudsman.ge/res/docs/2020070407523954521.pdf>.

²⁴ Available at <http://ombudsman.ge/res/docs/2020070314085774956.pdf>.

need to reinforce mechanisms for the prevention of violence against women. At the same time, it noted the application of increasingly proportional sanctions based on the introduction of identification of patterns of systemic violence.

F. Business and human rights

32. The Working Group on the issue of human rights and transnational corporations and other business enterprises visited Georgia from 3 to 12 April 2019, and presented its report to the forty-fourth session of the Human Rights Council.²⁵ In response to the high level of interest by youth in this subject, the Senior Human Rights Adviser's team has been preparing a one-week online course for summer 2020 for advanced university students on business and human rights.

33. The occurrence of deaths and injuries at work remains of serious concern, with data from the Ministry of Internal Affairs reporting 49 deaths and 142 injuries in 2019. However, the Public Defender noted a slight decline in workplace accidents in 2019 compared to the previous year.²⁶

IV. Situation of human rights in and around Abkhazia and South Ossetia

A. Access to Abkhazia and South Ossetia

34. During the reporting period, there was no progress in relation to granting OHCHR access to Abkhazia and South Ossetia pursuant to Human Rights Council resolution 43/37.

35. On 23 June 2020, OHCHR sent letters to the authorities in control in Abkhazia and South Ossetia, seeking immediate and unimpeded access, in accordance with the resolution, to gather factual and up-to-date information about the human rights situation. On 26 June 2020, OHCHR received a response from the authorities in control in Abkhazia stating, *inter alia*, that they were ready to consider the request for access after they would have been given an opportunity to participate in the upcoming session of the Human Rights Council. The authorities in control in South Ossetia had not replied to the letter from OHCHR at the time of finalization of the present report.

36. In his report to the seventy-fourth session of the General Assembly on the status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia,²⁷ the Secretary-General of the United Nations reiterated his previous calls to grant OHCHR unfettered access to assess the human rights protection needs of the affected population.²⁸

37. Several United Nations entities continued to have operational access to Abkhazia. Since the onset of the COVID-19 outbreak, the authorities in control in Abkhazia have cooperated with the international community on measures to contain the spread of the virus. OHCHR was informed, however, that lengthy clearance procedures and restrictions on entry to Abkhazia have limited operational flexibility and pose additional obstacles for international organizations to implement ongoing programmes, especially those addressing needs related to COVID-19. The Secretary-General of the United Nations called for all relevant impediments to be lifted as soon as possible, including the new passport-stamping requirements for United Nations and other international representatives to access Abkhazia.²⁹ The international community does not have access to South Ossetia to provide similar assistance.

²⁵ A/HRC/44/43/Add.1.

²⁶ Annual report of the Public Defender of Georgia for 2019, available at <http://ombudsman.ge/res/docs/2020070407523954521.pdf>, p. 209.

²⁷ A/74/878.

²⁸ *Ibid.*, para. 11.

²⁹ *Ibid.*, paras. 55 and 61.

38. During the reporting period, the secretariat of the Council of Europe did not obtain authorization to visit Abkhazia and South Ossetia for the preparation of its consolidated reports of the Secretary-General of the Council of Europe on Georgia. Meanwhile, the secretariat and experts of the Council of Europe continued to have access to Abkhazia to implement confidence-building measures, but not to South Ossetia.³⁰

39. No progress was reported in relation to amendments to Georgia's Law on Occupied Territories, despite the continued plea from international interlocutors for the relaxation of its provisions, with a view to allowing a more direct, unhindered and effective operational access for international and local organizations to Abkhazia and South Ossetia.³¹

B. Main human rights issues in and around Abkhazia and South Ossetia

40. Independently of questions regarding the status of these territories and their entities, the authorities in control in Abkhazia and South Ossetia are responsible for protecting the human rights of all people residing under their control as well as for addressing any conduct that violates their human rights. The international human rights framework and standards, as underscored in the first report of the High Commissioner on cooperation with Georgia, remain valid.³² Information received by OHCHR continued to point to activities of civil society and of local mechanisms of relevance for human rights protection in Abkhazia and South Ossetia. OHCHR encourages them to assume an active role in promoting and protecting human rights in these regions.

41. The 2017 report by Thomas Hammarberg and Magdalena Grono remains the latest reliable reference on human rights in Abkhazia.³³ OHCHR continues to encourage the implementation of their recommendations, and highlights the need to provide an updated independent and comprehensive assessment of the situation in view of new developments over the past three years, including in relation to COVID-19. In its submission, the Argentine ombudsman's office (an "A" status national human rights institution) underlined the importance of promoting measures in Abkhazia in line with the above-mentioned report of 2017. OHCHR reiterates the need for a similar independent human rights assessment of the situation in South Ossetia and remains available to support such a process.

42. OHCHR received reports indicating persistent human rights challenges throughout the reporting period in Abkhazia, South Ossetia, and adjacent areas. These included allegations of human rights violations resulting from discrimination based on ethnic grounds, particularly affecting ethnic Georgians, such as restrictions on freedom of movement, access to personal documentation and the rights to education and property. In the absence of access to Abkhazia and South Ossetia, the challenge of COVID-19 has heightened concerns about the human rights and humanitarian situations in both regions, although authorities in control in these regions reported a low number of infections.

43. The continued absence of political solutions, slow progress in confidence-building and growing restrictions on freedom of movement have exacerbated the isolation and vulnerability of the populations in these regions. OHCHR echoes the recommendation made by credible experts that some human rights issues could be addressed before a comprehensive political agreement is reached.³⁴

1. Right to life

44. According to information available, no one has been held accountable for the four cases of arbitrary deprivation of life that occurred between 2014 and 2019 in Abkhazia and

³⁰ Council of Europe consolidated reports on the conflict in Georgia: SG/Inf(2019)32, paras. 5 and 68; and SG/Inf(2020)10, paras. 5 and 67.

³¹ Council of Europe consolidated reports on the conflict in Georgia: SG/Inf(2019)32, para. 26; and SG/Inf(2020)10, para. 24.

³² A/HRC/36/65, in particular paras. 46, 48, 51, 61, 66–67, 71–72 and 80.

³³ Thomas Hammarberg and Magdalena Grono, *Human Rights in Abkhazia Today* (Stockholm, Olof Palme International Center, July 2017).

³⁴ *Ibid.*, p. 76.

South Ossetia.³⁵ This contributes to a climate of impunity, which could lead to further tensions and violence. OHCHR calls upon all relevant actors to ensure independent, impartial and thorough investigations into these cases to deliver justice, and to take all measures necessary to prevent the occurrence of similar incidents.

45. Information available to OHCHR indicates that the death penalty introduced in Abkhazia in April 2019 for drug-related offences became applicable in March 2020. This runs counter to the growing trend towards the progressive abolition of the death penalty worldwide, and to international human rights law which specifies *inter alia* that in situations where the death penalty has not been abolished, it can only be imposed for the “most serious crimes”, namely crimes of extreme gravity involving intentional killing,³⁶ and under specific safeguards.

2. Right to freedom of movement

46. During the reporting period, unnecessary and disproportionate restrictions on freedom of movement remained of primary concern in both Abkhazia and South Ossetia and adjacent areas, in particular along the Administrative Boundary Lines. Such restrictions have negative consequences on various human rights, including the rights to health, family life, education, property, an adequate standard of living and non-discrimination, affecting the overall well-being of the communities concerned. Restrictions on freedom of movement also impede humanitarian assistance and development, and undermine confidence-building.

47. Over the past year, a continued process of the so-called “borderization” was enforced periodically along the Administrative Boundary Lines concerning Abkhazia and South Ossetia, including during the COVID-19 crisis. It involved, among other measures, the installation of barbed wire fences, “border signs” and trenches, combined with surveillance and strict controls. According to the Government of Georgia, since July 2019, this process has affected around 50 villages in and around the two regions, which has exacerbated tensions and worsened the already poor socioeconomic conditions of the hundreds of households in the villages concerned. Indeed, due to this process, many have been unable to access their main sources of livelihood, including their agricultural lands, water supplies and markets. In addition to mobility restrictions, “borderization” has also affected the rights to family life, culture and freedom of religion, prohibiting people from crossing the Administrative Boundary Lines to visit relatives, religious sites or graveyards. Various submissions to OHCHR showed that the entire village of Gugutiantkari had been affected by “borderization” activities in August 2019, notably compelling two families residing in that village to abandon their houses, and forcing them into displacement as barriers were being placed that cut through their properties. The two families were reportedly given three days to move to Tbilisi-controlled territory.

48. The frequent and prolonged closure of crossing points in Abkhazia and South Ossetia by the authorities in control – including in early 2020 as part of measures purportedly to contain the spread of COVID-19 – limited the access of local residents to education, health care, pensions, markets and other services available in the Tbilisi-controlled territory, as elaborated below. Authorities in control in South Ossetia reportedly completely closed the Administrative Boundary Line in September 2019 for an indefinite period, following the opening of a police guard post in the village of Chorchana. According to the Government of Georgia, the restrictions have particularly aggravated the humanitarian situation in Akhagori, where the local residents were already confronted with a shortage of food, medicine and other basic necessities.

49. OHCHR also received information underscoring the continued negative implications of measures and practices imposed by the authorities in control in Abkhazia and South Ossetia for the acquisition of personal documents. Residents in Abkhazia were reportedly required to renew the *de facto* Abkhaz “passports” from February 2020, and crossing was

³⁵ The victims were David Basharuli (in 2014), Giga Otkhozoria (in 2016), Archil Tatunashvili (in 2018) and Irakli Kvaratskhelia (in 2019). See A/HRC/36/65, paras. 46–47; A/HRC/39/44, paras. 54–55; and A/HRC/42/34, paras. 47–49.

³⁶ A/67/275, para. 66; A/73/260, para. 63; and Human Rights Council resolution 42/24, para. 4.

not allowed anymore with “form No. 9” unless the person had applied for the “foreign residence permit”. An overwhelming majority of ethnic Georgians are not eligible to acquire the de facto “passport” due to their Georgian citizenship. According to information available, as of April 2020, almost 27,000 persons in Gali and adjacent districts had applied for the “foreign residence permit”. The residents affected reportedly remained concerned at their “foreigner” status after having resided in Abkhazia for generations, and also that the “permit” did not entitle them to a range of human rights, including civil, political and property-related rights. The restrictive and unclear eligibility criteria exclude a considerable number of people from obtaining the “permit”, including potential future returnees, while the grounds for rejection are broad and open to potential arbitrary interpretation. In South Ossetia, the requirement introduced in February 2019 for inhabitants of Akhagori to apply for an additional “permit” to cross the Administrative Boundary Line – without which the persons concerned could not cross – remained in place during the reporting period.

3. Deprivation of liberty and allegations of torture and other forms of ill-treatment

50. OHCHR continued to receive reports of alleged deprivation of liberty, including arbitrary detention, in both Abkhazia and South Ossetia, in connection with “unauthorized illegal crossings”. People were apprehended or detained mainly for allegedly attempting to cross the Administrative Boundary Lines without carrying the necessary “documents”, or for crossing outside the formal crossing points. According to submissions received by OHCHR, due to lack of information and uncertainties about where the lines actually lay, the individuals were not aware that they were close to or had violated these lines.

51. The Government of Georgia registered the detention of 86 persons in South Ossetia and 26 persons in Abkhazia in 2019, and of 6 persons in South Ossetia and 24 persons in Abkhazia in the first half of 2020. Women, elderly persons and children were reportedly among those detained. The number of registered detentions on the other side of the Administrative Boundary Lines – in Abkhazia and South Ossetia – is reportedly higher.

52. Various reports underscored the emblematic cases of the detention of Vazha Gaprindashvili, a well-known Georgian doctor, by the authorities in control in South Ossetia on allegations of “illegal crossing”, on 9 November 2019, and the detention of Aleksandre Kapanadze, in July 2019, in Abkhazia, despite his mental illness. Dr. Gaprindashvili was released in December 2019 after active engagement by civil society, the Government of Georgia and international organizations. Mr. Kapanadze remained in a detention facility in Abkhazia until December 2019.

53. On 22 October 2019, information and video footage of the beating and other ill-treatment of prisoners at a temporary detention facility in South Ossetia was disseminated on social media,³⁷ raising concerns about conditions in detention facilities and the treatment of detainees.³⁸

4. Right to health

54. According to information available, there is a lack of qualified specialists and general practitioners, inadequate hospital equipment and capacity, and limited supplies of medicines, in Abkhazia and South Ossetia. Given the lack of access, the COVID-19 pandemic has exacerbated concerns about the human rights and humanitarian situations in the two regions. Various submissions to OHCHR highlighted how the frequent and lengthy closures of crossing points – in some cases imposed in the context of the COVID-19 pandemic – affected the local community, particularly individuals with chronic medical conditions or suffering from acute diseases, who needed prompt and/or regular medical assistance that was only available in Tbilisi-controlled territory.

55. Since the beginning of the COVID-19 outbreak, the Government of Georgia and international, regional and national organizations and entities have delivered medical

³⁷ Statement of the Public Defender, 25 October 2019, available at <http://bit.do/fygsa>.

³⁸ In her submission, the Public Defender recalled the death of Archil Tatumashvili in a detention facility in South Ossetia, in 2018, as a result of alleged torture.

equipment and supplies, personal protective equipment, sanitizer and communication materials to Abkhazia, reaching the most vulnerable communities. They also facilitated online consultations, including with Georgia's National Centre for Disease Control and Public Health, and the training of medical and laboratory personnel to strengthen the response to COVID-19. Rukhi hospital, a field hospital, was opened near Enguri Bridge, in Tbilisi-controlled territory, to provide medical assistance (including for COVID-19) to people transferred from Abkhazia. The Government of Georgia also made information on COVID-19 available in the Abkhazian and Ossetian languages to facilitate access to information by the populations in the two regions. From 18 to 20 March 2020, representatives and experts from the World Health Organization and the United Nations visited Abkhazia, where they examined laboratories and health-care facilities and discussed with the authorities in control preventative and mitigation measures to tackle the pandemic. Two follow-up visits were conducted to Abkhazia to monitor progress in the response to COVID-19 and to address gaps.

56. Submissions to OHCHR also underlined critical challenges in Gali in the context of the COVID-19 response, namely lack of information, inadequate protection of medical personnel, insufficient distribution of humanitarian aid, and delayed emergency responses. OHCHR was also informed that, particularly in rural areas in Abkhazia, where the medical facilities are less well equipped, populations reportedly faced delayed first-aid responses due to poor road conditions or old ambulances, and no health-care facilities were equipped to treat people with special needs.

57. The Public Defender expressed concerns over the lack of access to sexual and reproductive health services in Abkhazia and the continuing negative consequences of the complete ban on abortion introduced in 2016. According to her, this situation contributed to illegal abortions, which endangered women's health and lives.

58. At the time of finalizing the present report, the international community had no access to South Ossetia to provide assistance to the population. According to the Government of Georgia, the authorities in control in South Ossetia removed Georgian-produced medicines from pharmacies, and patients and medical emergency vehicles from Akhagori continued to experience difficulties in crossing the Administrative Boundary Line.

5. Right to education

59. Various submissions to OHCHR indicated continued restrictions on the use of Georgian as a language of instruction in Abkhazia and South Ossetia, particularly affecting the ethnic Georgian population living in Gali, Abkhazia, as well as in Akhagori, Znauri and Sinaguri, South Ossetia.

60. According to the Public Defender, teaching in Georgian at the primary grades is fully banned in Gali and Akhagori, while Georgian is taught as a foreign language in some schools in these districts. OHCHR also received information stating that the criteria for recruiting schoolteachers in Abkhazia are not based on their qualifications or experience, but on their level of Russian language. The Government of Georgia estimates that, each year, up to 5,000 schoolchildren are affected by this practice in both regions. It considers that this undermines the quality of education and may create a poorly educated generation, which would have a negative socioeconomic impact.

61. According to information available, some families chose to send their children to schools located in the Tbilisi-controlled territory so that they could receive education in their native language. Restrictions on freedom of movement and frequent closures of crossing points, however, reportedly further hampered access to education by children who had to regularly cross the Administrative Boundary Lines. Various submissions to OHCHR stated that in July 2019, schoolchildren who wanted to receive higher education in the Tbilisi-controlled territory were unable to take part in the Unified National Examinations due to the closure of Enguri Bridge. A decision was therefore rendered, according to the Government of Georgia, to enrol all registered students without any examinations and for free. In its submission, the Government of Georgia mentioned that in 2020, authorities in control in Abkhazia and South Ossetia discouraged school graduates from ethnic Georgian

backgrounds from considering studying at universities in Tbilisi-controlled territory, threatening that otherwise they would not be able to return to these regions.

6. Property issues

62. No progress was reported with respect to the restitution of, or compensation for, property lost or left behind by displaced persons. The continued so-called “borderization” and restrictions on freedom of movement, as well as the risk of arbitrary detention in connection to crossing, further hindered access to property situated on the other side of the Administrative Boundary Lines.

63. In Abkhazia, the continued absence of a sustainable solution to questions related to personal documents has resulted in infringements on the right to property, as the “foreign residence permit” does not confer the right to property. The Government of Georgia stressed that once the initiative introduced in Abkhazia in 2019³⁹ had entered into force, it would deprive the relatives of those who had fought on the Georgian side during the past conflicts of the right to claim property.

64. The practice of demolishing property belonging to internally displaced persons and building landfills on the site of demolished houses reportedly continued in the Akhagori district of South Ossetia. In its submission to OHCHR, the Government of Georgia expressed concerns over public statements by representatives of South Ossetia in December 2019, and the plan of the “administration” of Akhagori to distribute the flats belonging to displaced persons to people in the region in need of housing.

7. Gender-based violence

65. According to UN-Women, sociocultural norms upholding gender inequality and discrimination are the root causes of violence against women and girls, including domestic violence, which remains a major concern in Abkhazia. The low participation of women in decision-making processes, the high rate of gender-based crime and economic hardships contribute to the vulnerability of women, which is further aggravated by the absence of capacity to promote and protect their rights.

8. Civil society

66. Civil society in both Abkhazia and South Ossetia reported facing a continued difficult operating environment, notably restrictions to freedom of expression and to the rights to freedom of peaceful assembly and freedom of association. Civil society also continued to face pressure, especially when participating in meetings involving international organizations. Consequently, local activists often worked individually. OHCHR was informed that the “criminal proceedings” against Tamar Mearakishvili were still ongoing, and that she continued to face intimidation and restrictions to freedom of movement in South Ossetia.⁴⁰

9. Accountability

67. The International Criminal Court continued to investigate crimes allegedly committed in the context of an international armed conflict between 1 July and 10 October 2008 in and around South Ossetia.⁴¹

68. Regarding inter-State application No. 38263/08 submitted by the Government of Georgia concerning the armed conflict in August 2008 and its aftermath, the decision of the European Court of Human Rights remained pending at the time of finalization of the

³⁹ A/HRC/42/34, para. 74.

⁴⁰ Ms. Mearakishvili is an ethnic Georgian and civil society activist in Akhagori who had been cooperating with the international community and reporting on human rights violations. Since 2017, she had been “unlawfully detained” and/or interrogated on several occasions and deprived of her identity documents. Her case was mentioned in previous reports to the Human Rights Council; see A/HRC/39/44, para. 85; and A/HRC/42/34, para. 78.

⁴¹ See www.icc-cpi.int/georgia.

present report. Procedures were also ongoing regarding almost 600 individual applications related to the conflict, against Georgia, against the Russian Federation, and against both States. In parallel, consideration was continuing with respect to inter-State application No. 39611/18, which the Government of Georgia lodged in August 2018 concerning the alleged deterioration of the human rights situation along the Administrative Boundary Lines between Tbilisi-controlled territory and Abkhazia and South Ossetia.⁴²

10. Missing persons

69. The International Committee of the Red Cross (ICRC) reported on progress under its coordination mechanisms established to clarify the fate of persons missing in relation to the armed conflicts of the 1990s and 2008 and their aftermath. According to ICRC, as of June 2020, more than 2,300 persons remained unaccounted for, including 2,200 in connection with the armed conflict in Abkhazia in the 1990s.

70. On 24 October 2019, the Government of Georgia established an inter-agency commission to coordinate the search for and transfer of the remains of persons missing as a result of armed conflicts, as well as support for their families. The commission held its first meeting in February 2020.⁴³

11. Geneva International Discussions

71. During the reporting period, the forty-ninth and fiftieth rounds of the Geneva International Discussions took place, in October and December 2019 respectively. The fifty-first round, planned for 31 March and 1 April 2020, was postponed due to COVID-19.⁴⁴

72. OHCHR regrets the suspension of the Gali and Ergneti Incident Prevention and Response Mechanisms, which offered a platform for joint discussions of various issues, incidents and individual cases. While the ninety-fourth and ninety-fifth mechanism meetings took place in Ergneti in July and August 2019, the Gali mechanism has remained suspended since June 2018.

C. Situation of internally displaced persons and refugees

73. Pursuant to General Assembly resolution 73/298, the Secretary-General submitted his annual report to the General Assembly at its seventy-fourth session, on the status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia (A/74/878), covering the period from 1 April 2019 to 31 March 2020. The information contained therein was still relevant at the time of finalization of the present report.

V. Conclusions and recommendations

74. **The United Nations High Commissioner for Human Rights appreciates the continuous cooperation between the Government of Georgia and OHCHR, and welcomes the Government's commitment to the promotion and protection of human rights. The High Commissioner commends the efforts made by Georgia in the fight against COVID-19 and the attention paid to human rights protection during the state of emergency. OHCHR remains committed to supporting the Government and other national stakeholders to further the promotion and protection of human rights in Georgia.**

⁴² See www.echr.coe.int/Documents/CP_Georgia_ENG.pdf.

⁴³ See <https://matsne.gov.ge/ka/document/view/4687847>.

⁴⁴ See the press communiqué of the co-Chairs of the Geneva International Discussions, 16 March 2020, available at <https://dppa.un.org/en/press-statement-co-chairs-of-geneva-international-discussions>.

75. OHCHR welcomes some key achievements during the reporting period, including the launch of the investigative mandate of the State Inspector, progress in combating ill-treatment and domestic violence, and the inclusion in the National Human Rights Action Plan of references to address discrimination on the ground of sexual orientation and gender identity.

76. In addition to the recommendations made in the previous report,⁴⁵ which remain valid to tackle the ongoing human rights gaps and challenges identified in the present report, OHCHR addresses the following recommendations to the Government of Georgia:

(a) Pursue the reform of the judiciary to enhance its independence; and implement recommendations of regional organizations to ensure that the legislative framework and procedures governing the appointment of judges of the Supreme Court comply with international human rights standards.

(b) Continue placing human rights at the centre of the COVID-19 response.

(c) Ensure implementation of the new Code on the Rights of the Child.

(d) Finalize the National Human Rights Strategy (2021–2030) on the basis of a transparent and participatory process involving civil society.

(e) Intensify efforts to combat gender-based violence, including domestic violence and femicide.

(f) Implement the recommendations of the Public Defender concerning the investigations into the events of 20–21 June 2019 in Tbilisi.

(g) Strengthen cooperation with United Nations human rights mechanisms, including the treaty bodies.

77. The High Commissioner regrets the continued lack of access for OHCHR and United Nations human rights mechanisms to Abkhazia and South Ossetia, while noting that the authorities in control in Abkhazia have been providing access to some United Nations development and humanitarian actors, including in the context of COVID-19.

78. The absence of a political solution continues to adversely affect the rights of the population in Abkhazia and South Ossetia. Information available to OHCHR points to persistent human rights challenges in both regions, with allegations of human rights violations resulting from discrimination based on ethnic grounds and restrictions of freedom of movement affecting access to other rights. OHCHR reiterates the call for immediate and unimpeded access for OHCHR and international and regional human rights mechanisms to Abkhazia and South Ossetia to be able to objectively assess the human rights situation and assist all actors concerned in addressing any issues, including to contribute to confidence-building measures.

79. OHCHR supports efforts within the framework of the Geneva International Discussions, as well as under the Incident Prevention and Response Mechanisms in Gali and Ergneti, to create the necessary conditions to address outstanding issues and to improve the human rights situation of all people in Abkhazia and South Ossetia and adjacent areas.

80. In addition to recommendations put forward in the previous report⁴⁶ and relevant recommendations on property-related issues contained in the 2017 report of the Special Rapporteur on the human rights of internally displaced persons on his mission to Georgia,⁴⁷ the High Commissioner addresses the following recommendations to all relevant parties:

⁴⁵ A/HRC/42/34, para. 91.

⁴⁶ Ibid., para. 94.

⁴⁷ A/HRC/35/27/Add.2, paras. 38–39.

(a) Concerning the situation of human rights in and around Abkhazia and South Ossetia:

(i) Promptly and thoroughly investigate all allegations of torture and ill-treatment and related deaths, and intensify efforts in establishing accountability, eradicating impunity and preventing the occurrence of similar acts.

(ii) Take all measures necessary to identify sustainable solutions regarding “personal identity” and “crossing” documentation to ensure equality among all residents in both regions in fully exercising and enjoying all human rights.

(iii) Follow recent appeals of the Secretary-General of the United Nations to put aside differences amid the COVID-19 pandemic, and join forces in unity and solidarity to protect the right to health of all people in the area.

(b) Concerning the situation of human rights in and around Abkhazia:

Lift restrictions that limit operational flexibility and impede the implementation of programmes by international organizations, including in the context of the COVID-19 crisis.

(c) Concerning the situation of human rights in and around South Ossetia:

Facilitate access by the international community, including humanitarian and development actors, to allow delivery of assistance, not least in the context of the COVID-19 pandemic, and guarantee prompt medical assistance and emergency evacuations for all people.
