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## Human Rights Council

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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

## Cooperation with Georgia

### Report of the United Nations High Commissioner for Human Rights

#### *Summary*

The present report, submitted pursuant to Human Rights Council resolution 46/30, outlines the technical assistance provided by the Office of the United Nations High Commissioner for Human Rights between 1 June 2020 and 31 May 2021 to strengthen the promotion and protection of human rights in Georgia. The report highlights human rights developments during the period and the 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 46/30, the Human Rights Council requested the United Nations High Commissioner for Human Rights to present an oral update at its forty-seventh session on follow-up to the resolution and a written report at its forty-eighth session on developments relating to the resolution and its implementation. In the same resolution, the Council also requested the High Commissioner to continue to provide technical assistance through the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Tbilisi and demanded that immediate and unimpeded access be given to OHCHR and international and regional human rights mechanisms to Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia.<sup>1</sup>
2. Pursuant to resolution 46/30, the present report provides an update on the technical assistance provided by OHCHR in Georgia and on key human rights developments during the period from 1 June 2020 to 31 May 2021. 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.<sup>2</sup> In addition to reaching out to relevant stakeholders, OHCHR issued a public call<sup>3</sup> for written submissions pursuant to resolution 46/30.
4. The report is based on information made 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 and non-governmental organizations (NGOs), and on desk research. As in the previous reports, the report does not present a comprehensive account of the human rights situation in Abkhazia and South Ossetia owing to lack of access.
5. OHCHR once again draws the attention of the Council to the continued absence of a dedicated budget to support the reporting mandate on Georgia,<sup>4</sup> which continues to constrain the effectiveness of OHCHR in implementing its reporting obligations under resolution 46/30. It encourages Member States to approve an adequate programme budget implication for future requests.

## II. Context

6. On 31 October 2020, the first round of parliamentary elections took place in Georgia. On 1 November 2020, the International Election Observation Mission (IEOM),<sup>5</sup> in its statement of preliminary findings and conclusions, stated that the elections “were competitive and, overall, fundamental freedoms were respected. Nevertheless, pervasive allegations of pressure on voters and blurring of the line between the ruling party and the state reduced public confidence in some aspects of the process”.<sup>6</sup> Shortly after the preliminary results were announced, the eight opposition parties that surpassed the parliamentary threshold rejected the election results, alleging widespread electoral fraud. The parties boycotted the second round of elections and threatened not to take part in the newly formed Parliament, calling for new elections. After months of boycott of the Parliament by opposition parties and political polarization, a majority of the opposition parties agreed in April 2021 to enter the Parliament

<sup>1</sup> Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia, are hereinafter referred to as Abkhazia and South Ossetia.

<sup>2</sup> A/HRC/36/65, paras. 3–5; A/HRC/39/44, paras. 4–5; and A/HRC/42/34, paras. 3–4.

<sup>3</sup> See [www.ohchr.org/EN/Countries/ENACARRegion/Pages/GeorgiaRes46L26.aspx](http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/GeorgiaRes46L26.aspx).

<sup>4</sup> A/HRC/42/34, para. 4.

<sup>5</sup> Comprising observers from the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE), the OSCE Parliamentary Assembly, the Parliamentary Assembly of the Council of Europe and the NATO Parliamentary Assembly.

<sup>6</sup> See [www.osce.org/files/f/documents/a/d/469005.pdf](http://www.osce.org/files/f/documents/a/d/469005.pdf).

after weeks of mediation by diplomats from the European Union and the United States of America.

7. Georgia experienced several waves of the coronavirus disease (COVID-19) during the reporting period, including successive periods of restriction on certain kinds of business activities. A curfew from 9 p.m. to 5 a.m. has been in effect throughout most of the reporting period. Vaccination of priority groups, including medical workers and the elderly, began on 15 March 2021. According to the submission by the Public Defender of Georgia, there were cases of delayed hospitalization and treatment in October and November 2020. The Public Defender also reported on the results of a survey revealing that medical staff had received no overtime pay for working over 40 hours a week.

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

8. An OHCHR Senior Human Rights Adviser has been posted in Tbilisi since 2007. The Adviser has the full cooperation of the Government of Georgia and is supported by national staff in both Georgia and Azerbaijan. The Adviser, who works with the United Nations country team, has continued to advise and 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 efforts 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 continued to support the ongoing implementation of the National Human Rights Action Plan, including under the framework of the Human Rights for All programme (phases 1 and 2).<sup>7</sup> Support involved strengthening the capacity of various national counterparts, including the National Human Rights Secretariat,<sup>8</sup> the Inter-Agency Coordinating Council against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Office of the Public Defender and the Office of the State Inspector, judges and court staff, police officers, legal professionals, journalists and representatives of civil society (including students and youth groups).

10. During the reporting period, OHCHR conducted 17 capacity-building activities (6 online and 11 in person) in Georgia. OHCHR also prepared a number of papers for partners in the Government, providing, inter alia, recommendations for bringing national legislation in the criminal justice sphere into line with international standards.

11. The United Nations Development Programme (UNDP) and OHCHR are supporting the National Human Rights Secretariat in developing the next National Human Rights Strategy for 2021–2030, the main national human rights policy document. The strategic priorities and goals of the upcoming strategy have already been determined: its adoption is planned for the summer of 2021.

12. Notwithstanding pandemic-related restrictions, work on important human rights legislation continued. On 14 July 2020, Parliament adopted the Law on the Rights of Persons with Disabilities, based on principles of the Convention on the Rights of Persons with

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<sup>7</sup> A joint United Nations initiative funded by the Government of Norway (in 2020) and the European Union (in 2021).

<sup>8</sup> To ensure continuity of operations and day-to-day support for the Inter-Agency Council for Human Rights, the National Human Rights Secretariat is established as a structural unit of the Government of Georgia. The Council is responsible for developing and implementing a uniform State policy in the field of human rights protection.

Disabilities. The law defines the responsibilities of various State bodies with regard to its implementation and requires that the Government develop and approve a unified strategy and action plan on the rights of persons with disabilities and establish a body responsible for the implementation of the Convention on the Rights of Persons with Disabilities. In a move commended by the United Nations country team in Georgia, on 5 March 2021, Parliament ratified the Optional Protocol to the Convention on the Rights of Persons with Disabilities;<sup>9</sup> the Optional Protocol entered into force on 12 May 2021. Prior to these developments, OHCHR, in cooperation with other international actors and civil society organizations, including disabled persons organizations, held a number of consultations, mostly online, with members of Parliament and government officials working on the rights of persons with disabilities. During the reporting period, OHCHR conducted in-person capacity-building activities for the leadership of the State Legal Aid Service and a series of capacity-building activities for governmental and non-governmental partners, focusing on the use of the Optional Protocol. In addition, OHCHR and other international actors assisted the Government in coordinating and facilitating the drafting of the action plan envisaged by the Law on the Rights of Persons with Disabilities.

13. On 26 January 2021, Georgia presented its national report for the third cycle of the universal periodic review. During the second cycle, OHCHR organized informational sessions for civil society and, at the request of the Government, it also organized a meeting in June 2019 at which the Government consulted with civil society organizations on the national report. In November 2020, OHCHR, in close cooperation with two civil society organizations, UPR Info and the Open Society Georgia Foundation, organized an online national pre-session on the third-cycle report. During the online meeting, Georgian NGOs presented their recommendations on the national report for the third cycle to representatives of the diplomatic community. On 30 June 2020, Georgia submitted its combined ninth and tenth periodic reports to the Committee on the Elimination of Racial Discrimination.<sup>10</sup> On 23 November 2020, Georgia submitted its sixth periodic report to the Committee on the Elimination of Discrimination against Women.<sup>11</sup> 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 overdue.<sup>12</sup>

## **B. Administration of justice and law enforcement**

14. OHCHR pursued its cooperation with the Georgian Bar Association, including the provision of training on international human rights standards relating to the administration of justice, which continued to be integrated into professional courses for practising lawyers. In addition, a number of training activities for lawyers focused specifically on human rights during the state of emergency declared in 2020.

15. In her submission, the Public Defender stated that, based on the examination of several criminal law cases, her Office had reported significant shortcomings in the administration of justice. Among the cases reported as problematic by the Public Defender was the beating of the former Auditor General by the former Chief Prosecutor; the case was initially delayed, and subsequently, according to the Public Defender, conducted under an improper article of law.<sup>13</sup> Significant deficiencies, namely the violation of the principle of legality and the risk

<sup>9</sup> See <https://georgia.un.org/en/114986-un-commends-ratification-optional-protocol-convention-rights-persons-disabilities>.

<sup>10</sup> CERD/C/GEO/9-10.

<sup>11</sup> CEDAW/C/GEO/6.

<sup>12</sup> 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](http://www.ohchr.org/EN/Countries/ENACARegion/Pages/GEIndex.aspx)).

<sup>13</sup> Former Chief Prosecutor Otar Partskhaladze, who was accused of physically assaulting then Chief Auditor Lasha Tordia in May 2017.

of using justice for political or other purposes, were identified by the Public Defender in another high profile emblematic case, the so-called cartographers' case.<sup>14</sup>

16. According to the submission by the Georgian Young Lawyers Association with regard to the investigation into the protests in Tbilisi on 20 and 21 June 2019,<sup>15</sup> in which some 200 persons were injured, including two individuals who lost an eye, there has been no systematic analysis of the events nor identification of those responsible. The Georgian Young Lawyers Association stated that investigative bodies have not yet carried out the actions necessary to establish a full picture of the events, nor has relevant information been provided to the Prosecutor's Office. Furthermore, the case materials examined by the Georgian Young Lawyers Association confirm that the Prosecutor's Office is focused on identifying the criminal actions of ordinary law enforcement officials rather than identifying those who were in charge of issuing the orders in June 2019.

17. With regard to the cases highlighted in the 2018, 2019 and 2020 reports of the High Commissioner to the Human Rights Council,<sup>16</sup> OHCHR has received no information on progress or new developments in the case of archpriest Giorgi Mamaladze, who remains incarcerated for attempted murder. OHCHR received information that the Azerbaijani journalist Afgan Mukhtarli, who was released from an Azerbaijani prison in March 2020,<sup>17</sup> was in Georgia in April 2021 to give his testimony to the Office of the Prosecutor General regarding his arbitrary detention in Tbilisi in March 2017 and his transportation, against his will, across the border to Azerbaijan. On 20 April 2021, Mr. Mukhtarli was given victim status by the Prosecutor's Office as part of its criminal investigation. The investigation, initially launched under article 143-1 of the Criminal Code on unlawful imprisonment, was reclassified as an aggravated act committed "with a prior agreement by a group of persons". The decision of the prosecution was preceded by the questioning of Mr. Mukhtarli at the Prosecutor's Office on 9 April 2021 and an investigative experiment at the crime scene conducted on 15 April 2021. The Prosecutor's Office has yet to bring charges against any individual in the Mukhtarli case.

### C. Combating torture and other forms of ill-treatment

18. In her submission, the Public Defender pointed out the worsening treatment of citizens by the police during administrative detentions. She reported that in 34.3 per cent of the cases examined by her Office where ill-treatment was suspected, bodily injuries were reported during or after detention: the figures were 26.8 per cent in 2018 and 31.8 per cent in 2019.

19. The Public Defender's Office published a special report in 2020 describing the informal hierarchy that exists among the prison population, by which privileged inmates, so-called "prison watchers", were used by prison administrations to maintain order. The report led to public verbal attacks on the Public Defender by the Minister of Justice and by prison administrations. The Public Defender reported that, as a result, it has become not only difficult but also dangerous for the representatives of the Office to carry out monitoring at penitentiary establishments. In particular, starting from October 2020, certain prisoners have been systematically making verbal attacks and threats against the representatives. Faced with real threats from a number of inmates, in January 2021 the Office suspended monitoring by its national preventive mechanism for security purposes until such time as appropriate assurances of safety are provided.

20. During the reporting period, OHCHR provided support to the Office of the State Inspector in developing a strategy and action plan to operationalize its investigative mandate and conducted capacity-building activities for the investigators working in the Office. OHCHR also provided support for the efforts of the Office to identify key obstacles to the

<sup>14</sup> Former officials in the high-profile Georgia-Azerbaijan border case have been accused of withholding materials on a border agreement with Azerbaijan, which, according to the Chief Prosecutor's Office, led to the forfeit of about 3,500 hectares of land against the interests of Georgia (see <https://civil.ge/archives/414702>).

<sup>15</sup> A/HRC/45/54, para. 6.

<sup>16</sup> A/HRC/39/44, paras. 15–16; A/HRC/42/34, para. 16; and A/HRC/45/54, para. 19.

<sup>17</sup> A/HRC/45/54, para. 19.

effective investigation of allegations of ill-treatment and assisted in drafting recommendations aimed at addressing existing legislative gaps.

21. In cooperation with the Inter-Agency Coordinating Council against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, a body led by the Ministry of Justice, OHCHR assisted with the development of a State policy on the rehabilitation and reintegration of victims of torture and was actively involved in elaborating the Government action plan on combating torture and other cruel, inhuman or degrading treatment or punishment for 2021–2022, which was adopted in February 2021.

#### **D. Combating discrimination**

22. The Public Defender provided a positive assessment of legislative changes (described in paras. 12 and 29) made during 2020 affecting the right to equality. According to the submission by the Equality Movement, the Ministry of Internal Affairs, the Office of the Prosecutor General, the Supreme Court and the National Statistics Office of Georgia signed a joint memorandum in 2020 on the production of statistics on crimes committed on the grounds of intolerance and discrimination: the first joint report, covering the last quarter of 2020, was published in March 2021. OHCHR assisted the Government in strengthening efforts to combat hate-motivated crimes. In its support to the Department of Human Rights Protection and Quality Monitoring of the Ministry of Internal Affairs, OHCHR concentrated on the human rights-related aspects of the investigation of hate crimes. In October 2020, in close cooperation with the International Organization for Migration (IOM) and the Office of the United Nations High Commissioner for Refugees (UNHCR), OHCHR conducted a two-day training session for the staff of the Department of Human Rights Protection and Quality Monitoring of the Ministry of Internal Affairs. The training aimed at developing the capacity of newly recruited victim and witness coordinators within the Department.

23. In its previous reports, OHCHR highlighted the situation of Muslims in Batumi, who had to pray in the open air because of the small size of their local mosque. It also 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.<sup>18</sup> On 13 April 2021, the Kutaisi Court of Appeals rejected the appeal by the Batumi City Hall and upheld the decision of the Batumi City Court of 30 September 2019, which stated that the refusal in 2017 of the Batumi City Hall to authorize the first stage of construction of the new mosque was illegal and discriminated against the applicants on the grounds of religion.

24. As mentioned in previous reports,<sup>19</sup> on 3 July 2018 the Constitutional Court upheld claims filed by two NGOs 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. During the reporting period, this decision went into effect: no religious organizations in Georgia are now tax exempt, according to the law.<sup>20</sup>

#### **E. Promoting gender equality and combating gender-based discrimination and violence**

25. The Public Defender welcomed the introduction in 2020 of gender quotas for parliamentary elections. These quotas require that at least 25 per cent of candidates from any party running for parliamentary elections must be women. The Public Defender reported in her submission that Parliament did not support amendments to the flawed definition of rape in the Criminal Code of Georgia. The Public Defender also expressed concern that, during the pandemic, women had to continue to live with abusive partners, which increased their risks of being exposed to violence while reducing the detection of such acts.

<sup>18</sup> A/HRC/36/65, para. 22; A/HRC/39/44, para. 25; A/HRC/42/34, para. 23; and A/HRC/45/54, para. 27.

<sup>19</sup> A/HRC/42/34, para. 24; and A/HRC/45/54, para. 28.

<sup>20</sup> *Ibid.*

26. According to the submission by the NGO International Partnership for Human Rights, women and girls with disabilities face challenges with regard to enjoyment of human rights, including sexual and reproductive health, stereotypes, education, violence and their right to private and family life. The NGO also reported that women with disabilities, including mental health disabilities, do not have access to disability-sensitive services, including reproductive and sexual health services. According to the Government, standard operating procedures for family planning for women of reproductive age were approved in January 2021 by the relevant Ministry to ensure quality care for women with disabilities during family planning, pregnancy and delivery and in the postpartum period.

27. According to the submission by the Georgian Young Lawyers Association, lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI+) individuals are among the most vulnerable persons in the country. They do not have adequate enjoyment of freedom of assembly, are usually subject to the grave instances of discrimination, particularly in labour relations, and their physical integrity, especially that of transgender people, is under constant threat. According to the submission of UNDP, this community continued to experience systemic violence, oppression, abuse, intolerance and discrimination during the reporting period. Starting in May and continuing through the summer of 2020, there were numerous instances of vandalism, attacks and demonstrations against people who identify as LGBTQI+ at the office of the civil society organization Tbilisi Pride. UNDP stated that the growing tendency towards homophobic violence was also evident in April 2021, when two different lesbian couples were attacked in Tbilisi by individuals with alleged gender and homophobic motives. According to the Government, two separate investigations were launched, and in one case a person was charged on several counts, including for the issuance of threats motivated by intolerance based on sexual orientation. Another case remains under investigation.

28. In its submission, the Equality Movement stated that according to a 2020 study of lives of LGBTQI+ individuals, 52 per cent of respondents had been victims of violence at least once in their lives because of their sexual orientation and/or gender identity. The Government stated that 11 persons were charged with crimes motivated by intolerance based on sexual orientation and 11 persons were charged with crimes motivated by intolerance based on gender identity in 2020.

29. In a joint statement issued on the International Day against Homophobia, Transphobia and Biphobia, on 17 May 2021, the United Nations and other members of the international community in Georgia commended the governmental authorities for issuing the first legal recognition for a transgender person in 2021. In the statement, they also welcomed the steps taken by the Georgian law enforcement agencies to improve institutional capacity to investigate hate crimes and urged the Government and political, civic and religious leaders to give priority to fighting discrimination and stigma, including by vigorously preventing violence, adopting and embracing respectful and compassionate public discourse, investigating attacks and prosecuting offenders and ensuring a proper legal response to and protection from violent acts that hinder LGBTQI+ organizations from operating freely.<sup>21</sup>

## F. Business and human rights

30. In response to high levels of interest from youth,<sup>22</sup> OHCHR conducted a one-week online course for advanced university students on business and human rights in June and July 2020. In addition, information on business and human rights has been introduced as part of the training activities for lawyers mentioned above (para. 14).

31. As in previous years, the occurrence of deaths and injuries at work remains of serious concern, with the Ministry of Internal Affairs reporting 39 deaths and 249 injuries during the reporting period.<sup>23</sup> According to the submission by the Georgian Young Lawyers

<sup>21</sup> See <https://georgia.un.org/en/126933-time-stand-equal-rights-and-fair-treatment-lgbtq-persons-georgia>.

<sup>22</sup> A/HRC/45/54, para. 32.

<sup>23</sup> Parliamentary Report of the Public Defender of Georgia on the "Situation of Human Rights and Freedoms in Georgia" (2020) (in Georgian).



Association, on 1 January 2021, the Labour Inspection Service under the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia began functioning; the powers of the Labour Inspection Service cover safe labour guarantees as well as the protection of labour rights.

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

### **A. Access to Abkhazia and South Ossetia**

32. During the reporting period, no progress was made in granting OHCHR access to Abkhazia and South Ossetia pursuant to Human Rights Council resolution 46/30.

33. On 8 April 2021, OHCHR sent letters to the authorities in control in Abkhazia and South Ossetia seeking immediate and unimpeded access, in accordance with resolution 46/30, to gather factual and up-to-date information about the human rights situation. On 22 April 2021, OHCHR received a response from the authorities in control in Abkhazia, reiterating, *inter alia*, their readiness to consider the request of OHCHR for access once they were given an invitation to participate in the forty-eighth 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.

34. Several United Nations entities continued to have operational access to Abkhazia. Nonetheless, OHCHR was informed that since the authorities in control had closed the Administrative Boundary Line on 14 March 2020, reportedly in an effort to prevent the spread of COVID-19 in Abkhazia, the travel of international personnel based in Abkhazia was restricted. The authorities in control in Abkhazia apply clearance procedures to international personnel for every exit from and return to Abkhazia, contrary to the previous practice that required clearance for multiple crossings over a period of several months. United Nations entities do not have access to South Ossetia to provide such assistance.

35. 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 the consolidated reports of the Secretary-General of the Council in Georgia. Given the restrictions caused by the COVID-19 pandemic, activities related to some confidence-building measures facilitated by the Council continued online; others had to be postponed. The Council continued its efforts to launch confidence-building measures in the context of the situation in South Ossetia.<sup>24</sup>

36. No progress was reported in relation to amendments to Georgia's Law on Occupied Territories to allow a more operational access for international and local organizations to Abkhazia and South Ossetia.

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

37. Regardless of the questions related to 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 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.<sup>25</sup>

38. OHCHR reiterates the need to provide an updated independent and comprehensive assessment of the human rights situation in Abkhazia in view of new developments over the

<sup>24</sup> Council of Europe consolidated report on the conflict in Georgia: SG/Inf (2021)10, paras. 70 and 74 (see [www.coe.int/en/web/cm/latest-documents](http://www.coe.int/en/web/cm/latest-documents)).

<sup>25</sup> A/HRC/36/65, in particular paras. 46, 48, 51, 61, 66–67, 71–72 and 80.

past four years, including in relation to the COVID-19 pandemic.<sup>26</sup> According to the submission by the European Union, in June 2020, Asida Shakryl, head of a local mechanism of relevance for human rights protection in Abkhazia, published her first report on the human rights situation and presented it to the authorities in control in Abkhazia. OHCHR underscores the need for an initial independent human rights assessment of the situation in South Ossetia and remains available to support such a process.

39. The COVID-19 pandemic has heightened concerns about the human rights and humanitarian situations in Abkhazia and South Ossetia. Allegations of human rights violations persist, resulting from discrimination based on ethnic grounds, particularly affecting ethnic Georgians, including restrictions on freedom of movement, access to personal documentation and the rights to education and property. The continued absence of political solutions, persistent restrictions on freedom of movement and the lack of monitoring and reporting mechanisms and effective remedies, aggravated by the impact of the COVID-19 pandemic, have increased gaps in human rights protections as well as the isolation and vulnerability of the populations in those regions.

## 1. Right to life

40. According to available information, no one has been held accountable for the four deaths that occurred between 2014 and 2019 in Abkhazia and South Ossetia that were mentioned in previous reports.<sup>27</sup> Such a lack of accountability contributes to a climate of impunity, which could lead to further tensions and insecurity. Various submissions to OHCHR highlighted the case of Inal Jabiev, an ethnic Ossetian, who died on 28 August 2020, allegedly from injuries sustained while he was in custody in Tskhinvali.

41. OHCHR reiterates its call upon all relevant actors to ensure independent, impartial and thorough investigations into these cases.

## 2. Right to freedom of movement

42. During the reporting period restrictions on freedom of movement persisted in both Abkhazia and South Ossetia and adjacent areas, in particular along the Administrative Boundary Lines. Such restrictions continued to have negative consequences on human rights.

43. Over the same period of time, a continued process of the so-called “borderization” was enforced along the Administrative Boundary Lines with Abkhazia and South Ossetia, including during the COVID-19 crisis. Between July 2020 and April 2021, the Government of Georgia recorded 13 cases of installation of razor and barbed-wire fences as well as “border signs” in Abkhazia and 51 such cases in South Ossetia. According to submissions received by OHCHR, those activities have a continuing negative impact on the already poor socioeconomic conditions of the affected population, as well as on their sense of security, preventing their access to property, grazing and farming lands, religious sites and graveyards.

44. The prolonged closure of crossing points in Abkhazia and South Ossetia by the authorities in control, with some rare exceptions – including as part of measures purportedly to contain the spread of COVID-19 – aggravated the already limited access of local residents to education, health care, pensions, markets and other services available in the Tbilisi-controlled territory.

45. In March 2020, the authorities in control in Abkhazia imposed movement restrictions at the main crossing points with the Tbilisi-controlled territory in order to contain the spread of COVID-19. The closure of crossing points, which continued throughout the reporting period, had a significant impact on the lives and livelihoods of the affected people. The affected population was unable to cross over to the Tbilisi-controlled territory to receive pensions or allowances for internally displaced people. This has put additional pressure on the most vulnerable segments of the society, including, in particular, the elderly, the disabled and persons with chronic medical conditions, who were prevented from accessing assistance

<sup>26</sup> A/HRC/45/54, para. 41.

<sup>27</sup> The victims were David Basharuli (in 2014), Giga Otkhozoria (in 2016), Archil Tatumashvili (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.

and services in the Tbilisi-controlled territory. Following full closure of the Administrative Boundary Lines on 14 March 2020, individuals crossing to access emergency health care was permitted, and access for the international community was extended for the transport of urgently needed COVID-related supplies to Abkhazia.

46. According to information available, since the closure of the Inguri crossing point in March 2020, the authorities in control organized several “humanitarian corridors” to allow Gali residents to return to their places of residence, irrespective of how they left Abkhazia. In order to cross into Abkhazia, people were requested to present *de facto* Abkhaz “passports”, “foreign residence permits”, form No. 9<sup>28</sup> or birth certificates. It was reported that individuals whose form No. 9 had expired on or after the date of closure of the Administrative Boundary Lines were also allowed to cross. In October 2020, with engagement and support from the Tbilisi-administered territory of Georgia and the authorities in control in Abkhazia, a “humanitarian corridor” was opened at the Inguri crossing point for some of the most vulnerable groups in the Gali district, including pensioners, persons with disabilities and families with children. As a result, over 4,500 vulnerable persons were able to gain access to their pensions, allowances and essential medicines at a mobile bank and pharmacy across the bridge, avoiding the quarantine otherwise required for further passage into the Tbilisi-administered territory. UNHCR has resumed its shuttle bus service, which serves vulnerable individuals crossing the Inguri Bridge.

47. The Public Defender raised concerns about the negative impacts of restrictions imposed by the authorities in control in Abkhazia in combination with the mandatory quarantine in Tbilisi-controlled territory. It is reported that people continued to pursue unsafe movements, at risk to their lives and health and to possible detention for “illegal crossings”. Several submissions reported that, on 7 April 2021, four people died from drowning in the Inguri river in an attempt to cross from Abkhazia to Tbilisi-controlled territory. On 16 March 2021, Nargiza Abutidze, a nurse, died in a quarantine hotel after crossing from Abkhazia to Tbilisi-controlled territory to seek urgent medical care. After these events, it was reported that Georgian authorities completely abolished the mandatory quarantine requirement, which had previously been reduced from 12 to 5 days.

48. According to various submissions, the closure of the Administrative Boundary Line in September 2019 by authorities in control in South Ossetia for an indefinite period of time following the opening of a police guard post in the village of Chorchana, located at Tbilisi-controlled territory, has aggravated the humanitarian situation in the Akhlagori district. The COVID-19 pandemic has also aggravated the situation of the local residents, who were already facing shortages of food and medicines as well as difficulties in receiving pensions and accessing education and health care. The Government of Georgia raised concerns that residents of the Akhlagori district were unable to receive Georgian pensions, underscoring their financial dependency on that source of income. According to submissions, ethnic Georgians have been leaving the district as a result of the worsening living conditions.

49. According to available information, the negative implications of measures and practices imposed by the authorities in control in Abkhazia and South Ossetia for the acquisition of personal documents are ongoing.

50. According to available information, as of April 2021, almost 27,830 persons in the Gali and adjacent districts had applied for, and over 22,000 individuals had obtained, “foreign residence permits”. There were reports of the imposition of cumbersome procedures for some ethnic Georgians in obtaining the “foreign residence permit” as a result of a more rigid enforcement of requirements to prove long-term residence, including a high processing fee, which was not affordable for many applicants. Affected residents were reportedly concerned by their “foreigner” status, given that they had resided in Abkhazia for generations, and also by the fact that the “permit” did not entitle them to a range of human rights, including political, housing, land and property rights. Individuals not holding any valid identity

<sup>28</sup> Form No. 9 is a temporary identity document that allows residents to cross the Administrative Boundary Line but does not give access to pensions or benefits in Abkhazia. Since 2017, the issuance of the document has been conditioned on the application for the “foreign residence permit” or Abkhaz “passport” (2016 version). In practice, form No. 9 is accepted as an identity document for the purpose of education and health care but does not provide access to formal employment.

documents were not able to access the social allowance for internally displaced people, the labour market, health care and other services on the Tbilisi-administered territory, including but not limited to, banking services, pensions and other allowances in Abkhazia.

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

51. OHCHR continued to receive reports of alleged deprivation of liberty, including arbitrary detention, in both Abkhazia and South Ossetia.<sup>29</sup>

52. The Government of Georgia registered the detention of 51 persons in South Ossetia and 15 persons in Abkhazia during the period from 1 June 2020 to 31 May 2021. The Public Defender reported that the authorities in control in both regions had changed their practice with regard to the deprivation of liberty of Georgian citizens attempting to cross the Administrative Boundary Lines. Previously, as reported, such situations were more likely to be qualified as “administrative offences” and detainees used to be released after paying a fine; however, increasingly, the authorities in control have been launching “criminal proceedings” against affected individuals. Various submissions underscored the increase in the number of emblematic cases of the deprivation of liberty and the imposition of harsh punishments, including Zaza Gakheladze<sup>30</sup> and Genadi Bestaev<sup>31</sup> in South Ossetia and Irakli Bebuga<sup>32</sup> in Abkhazia. The Public Defender raised concerns about ill-treatment and torture in detention facilities in South Ossetia. According to the same source, on 3 July 2020, Khvicha Mghebrishvili, a resident of the village of Mejriskhevi, was arrested. Following his release, after 86 days in custody, on 25 September 2020, there have been reports of ill-treatment and torture in a temporary detention isolation facility in Tskhinvali.

### 4. Right to health

53. According to available information, the COVID-19 pandemic has deepened concerns about low-quality medical services and infrastructure, lack of qualified medical personnel and complications in the movement of patients across the Administrative Boundary Lines. These factors, combined, have had a negative impact on the right to access to health, especially for individuals in need of prompt and/or regular medical assistance that is only available in Tbilisi-controlled territory.

54. The closure of the Administrative Boundary Line at the Inguri bridge has reportedly placed a particular burden on the residents of eastern areas of Abkhazia. Accustomed to crossing the Administrative Boundary Line with Abkhazia to access health-care services, buy medicines and collect their pensions, this population has become increasingly isolated. While medical evacuations continue, some people have been denied permission to cross or have missed their appointments or medical interventions as the result of cumbersome bureaucratic procedures.

55. Various submissions raised concerns about the severe impact of the closure of the crossing point and the arbitrary restrictions in the context of the issuance of movement permits by the authorities in control in South Ossetia on access to health care for the ethnic Georgian population living in the Akhgori district. According to the Government of Georgia, people in the district suffer from an insufficient supply of food and lack of access to health care and medicine, in particular because of the deliberate withdrawal of medicines

<sup>29</sup> A/HRC/45/54, para. 38.

<sup>30</sup> According to the Government of Georgia, Zaza Gakheladze was shot, wounded and detained by the authorities in control on 11 July 2020 and in February 2021 his illegal detention was prolonged to 12 years and 6 months. Zaza Gakheladze was “charged” in South Ossetia with a threat to the life and safety of service members and illegal crossing.

<sup>31</sup> According to the Government of Georgia, Genadi Bestaev was illegally arrested on 12 November 2019 and in March 2021 his illegal detention was prolonged to 3 years. Genadi Bestaev was “charged” in South Ossetia with illegally crossing the dividing line and illicit drug smuggling.

<sup>32</sup> According to information available, Irakli Bebuga, a citizen of Georgia was detained on 30 September 2020 in Gali on a “charge” of burning the Abkhazian flag and in December 2020 he was “sentenced” to 9 years of imprisonment, including for illegal possession of weapons and for deliberate destruction or damage to property. According to the Government of Georgia, Irakli Bebuga was persecuted because of his views and ethnicity.

produced in Georgia from the pharmacies in South Ossetia. The Government of Georgia also claimed that patients from the Akhagori district continued to experience difficulties in getting permission to cross the Administrative Boundary Line. According to the same source, several dozen people had died as a result of the denial of emergency medical evacuation to the Tbilisi-controlled territory to receive required medical treatment. If confirmed, this would raise concerns with regards to the right to life.

56. In several submissions concerns were reiterated 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 the Public Defender, health-care provisions do not envisage induced abortion even in cases when there is a medical indication. The absence of abortion services has resulted in various illegal practices and a majority of affected women are obliged to seek medical assistance outside Abkhazia.

57. According to its submission, the Government of Georgia continued to provide humanitarian assistance to vulnerable communities in Abkhazia in the context of the COVID-19 pandemic, while the authorities in control in South Ossetia refused such assistance.

## 5. Right to education

58. Various submissions to OHCHR reiterated that there were continued restrictions on the use of Georgian as a language of instruction in Abkhazia and South Ossetia, particularly affecting the ethnic Georgian population living in Gali, Abkhazia, as well as in Akhagori, Znauri and Sinaguri, South Ossetia.<sup>33</sup> Restrictions on mother-tongue education continued to affect the quality of education, to marginalize communities and to create the risk of a poorly educated generation of people in those regions, including the associated negative socioeconomic impacts.

59. According to available information, the COVID-19 pandemic led to long-term closures of preschool institutions, schools, colleges and universities. In Abkhazia, access to water, sanitation and hygiene in schools, including school health stations, which provide primary health-care services to rural communities, is reportedly poor. The authorities in control in Abkhazia and international organizations discussed the possibility of initiating distance education. Online learning platforms were launched in some instances, although a digital divide is further marginalizing the most vulnerable, especially children from rural areas who experience financial difficulties that preclude access to personal computers or access to the Internet. According to information received, children in Gali district were completely left out of the education process for the most part of 2020 and beginning of 2021.

60. According to the Public Defender, teaching in Georgian in the primary grades is fully banned in Gali and Akhagori, with an annual decrease in the number of pupils, while Georgian is taught as a foreign language in some schools in those districts. Concern persists that the criteria for recruiting schoolteachers in Abkhazia are not based on their qualifications or experience, but on their level of fluency in the Russian language. The Government of Georgia raised its concern that, by 2022–2023, the Georgian language will be completely rooted out as a language of instruction. It considers this practice to be a form of linguistic discrimination, as a result of which, annually, more than 4,000 schoolchildren and around 600 kindergarten children would be affected in both regions.

61. According to available information, restrictions on freedom of movement and frequent closures of crossing points continued to hamper access to education for children who have to cross the Administrative Boundary Line. In its submission, the Government of Georgia stated that authorities in control in 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 South Ossetia. The Government of Georgia enrolled 400 university applicants without entry exams who previously had been denied permission to cross the Administrative Boundary Line to attend university entrance exams in Tbilisi-controlled territory.

<sup>33</sup> A/HRC/45/54, paras. 59–60.

## 6. Property issues

62. According to various submissions, information on property issues contained in the previous report remained valid.<sup>34</sup> The Government of Georgia reported that the authorities in control in Abkhazia and South Ossetia continued to violate the right to property, including through the practice of demolishing the ruins of houses belonging to ethnic Georgians in the Akhagori district.

## 7. Gender equality and gender-based discrimination and violence

63. Information on gender-based violence presented in the previous report<sup>35</sup> remained valid during the reporting period. According to information received in the current reporting period, there has been an increase in the number of instances of domestic violence in Abkhazia and an absence of regulation, which has prevented women's access to appropriate services and legal aid. According to the NGO Women's Information Centre, women's participation in relevant political negotiation formats on both sides remains low. The organization called for an alternative women's platform to address the needs of the population on all sides of the Administrative Boundary Lines.

## 8. Civil society

64. Observations presented in the previous report<sup>36</sup> require continued attention. According to available information, there is a lack of local civil society organizations and women's organizations in Abkhazia, and the situation is even less favourable in South Ossetia. Insufficient communication between civil society organizations across the Administrative Boundary Lines had been exacerbated by shrinking space for civil society and the absence of in-person meetings during the COVID-19 pandemic.

65. OHCHR was informed that the "criminal proceedings" against Tamar Mearakishvili<sup>37</sup> were renewed and ongoing. According to information available, she continued to face intimidation and restrictions to freedom of movement in South Ossetia, including restrictions on crossing the Administrative Boundary Line to visit her family members and receive medical treatment in Tbilisi-controlled territory.

## 9. Accountability

66. 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.<sup>38</sup>

67. On 21 January 2021, the Grand Chamber of the European Court of Human Rights delivered its judgment<sup>39</sup> in respect of inter-State application (II) No. 38263/08 lodged by Georgia against the Russian Federation concerning the conflict in August 2008 and its aftermath. In inter-State application (IV) No. 39611/18, which the Government of Georgia lodged in August 2018, the case was communicated to the respondent Government and subsequently adjourned pending the delivery of the judgment in inter-State application (II).<sup>40</sup>

<sup>34</sup> Ibid., paras. 62–64.

<sup>35</sup> Ibid., para. 65.

<sup>36</sup> Ibid., para. 66.

<sup>37</sup> Ms. Mearakishvili is an ethnic Georgian and civil society activist in the Akhagori district 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; A/HRC/42/34, para. 78; and A/HRC/45/54, para. 66).

<sup>38</sup> See [www.icc-cpi.int/Georgia](http://www.icc-cpi.int/Georgia).

<sup>39</sup> See [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-207757%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-207757%22]}).

<sup>40</sup> Council of Europe consolidated report on the conflict in Georgia: SG/Inf (2021)10, para. 15 (see [www.coe.int/en/web/cm/latest-documents](http://www.coe.int/en/web/cm/latest-documents)).

## 10. Missing persons

68. The International Committee of the Red Cross (ICRC) continued its work despite the pandemic and 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 in their aftermath. According to ICRC, as of April 2021, a total of 206 human remains had been recovered, identified and returned to families since the start of its work; 2,355 persons remained unaccounted for.

## 11. Geneva international discussions

69. During the reporting period, despite the difficulties caused by the COVID-19 pandemic, the fifty-first and fifty-second in-person rounds of the Geneva international discussions took place in December 2020 and March 2021. OHCHR regrets the continued suspension, since June 2018, of the Incident Prevention and Response Mechanisms in Gali.

## C. Situation of internally displaced persons and refugees

70. Pursuant to General Assembly resolution 74/300, the Secretary-General submitted to the General Assembly, at its seventy-fifth session, a comprehensive annual report on the status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia, covering the period from 1 April 2020 to 31 March 2021.<sup>41</sup> The information contained therein was still relevant at the time of finalization of the present report.

## V. Conclusions and recommendations

71. **The United Nations High Commissioner for Human Rights appreciates the continued 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 encourages putting human rights at the centre of the response to and recovery from the COVID-19 pandemic. OHCHR remains committed to supporting the Government and other national stakeholders to further the promotion and protection of human rights in Georgia.**

72. **OHCHR welcomes key achievements during the reporting period, including passing of the Law on the Rights of Persons with Disabilities, the further development of the investigative mandate of the State Inspector and issuance of the first legal recognition for a transgender person in 2021.**

73. **In addition to the recommendations made in previous reports,<sup>42</sup> which remain valid in order 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) **Ensure unimpeded access for the national preventive mechanism to all places where people are deprived of their liberty, in order that it may fulfil its mandate to carry out independent monitoring to prevent torture and other cruel, inhuman or degrading treatment or punishment;**

(b) **Ensure implementation of the new Law on the Rights of Persons with Disabilities;**

(c) **Finalize the National Human Rights Strategy (2021–2030) through a transparent and participatory process involving civil society;**

(d) **Intensify efforts to combat gender-based discrimination and violence;**

<sup>41</sup> A/75/891.

<sup>42</sup> A/HRC/42/34, para. 91; and A/HRC/45/54, para. 76.

(e) **Implement the recommendations of the Public Defender concerning the investigations into the events of 20 and 21 June 2019 in Tbilisi;**

(f) **Strengthen cooperation with United Nations human rights mechanisms, including submitting overdue reports to the treaty bodies.**

74. **The High Commissioner regrets the continued lack of access for international and regional human rights mechanisms to Abkhazia and South Ossetia, while noting that the authorities in control in Abkhazia continued to provide access to some United Nations development and humanitarian actors, including in the context of the COVID-19 pandemic. OHCHR reiterates its call for immediate and unimpeded access for OHCHR and international and regional human rights mechanisms to Abkhazia and South Ossetia so that they may objectively assess the human rights situation and assist all actors concerned.**

75. **OHCHR reiterates its support for efforts made within the framework of the Geneva international discussions to create the necessary conditions to address outstanding issues and improve the human rights situation of all people in Abkhazia and South Ossetia and adjacent areas.**

76. **The High Commissioner addresses the following recommendations to all relevant parties:**

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

(i) **Promptly and thoroughly investigate all allegations of torture, ill-treatment and related deaths, and intensify efforts to establish accountability, eradicate impunity, provide redress and prevent the occurrence of similar acts;**

(ii) **Put an end to the practice of detention in connection with the crossing of the Administrative Boundary Lines and conduct a thorough individual review of pertinent cases, in line with international standards;**

(iii) **Take all measures necessary to identify sustainable solutions regarding necessary documentation to ensure equality among all residents in both regions in fully exercising and enjoying all human rights;**

(iv) **Put human rights-sensitive approaches at the centre of responses to the COVID-19 pandemic;**

(v) **Lift all restrictions to freedom of movement in order to facilitate the enjoyment of human rights and services by the affected populations and avoid measures leading to their increased vulnerability and isolation;**

(vi) **Encourage the effective and meaningful participation of women in all processes of conflict prevention and resolution, including in high-level meetings, by strengthening such efforts with complementary measures against gender inequality, gender-based discrimination and violence and gender stereotypes regarding women and men's roles and responsibilities in the family and society;**

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

(i) **Simplify exit and entry clearance procedures for international personnel working in Abkhazia, including in the context of the COVID-19 pandemic;**

(ii) **Ease conditions for the issuance of necessary documentation to the ethnic Georgian population residing in eastern Abkhazia in order to facilitate freedom of movement, access to rights and avoidance of any discriminatory treatment or curtailment of rights;**

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

(i) **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;**



(ii) **Guarantee prompt medical assistance and emergency evacuations for all people in South Ossetia.**

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