



PUBLIC DEFENDER
(OMBUDSMAN) OF GEORGIA

THE HUMAN RIGHTS SITUATION OF THE CONFLICT-AFFECTED POPULATION IN GEORGIA

2016



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(OMBUDSMAN) OF GEORGIA

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INTRODUCTION

2016 was consistently difficult for the conflict-affected communities residing both on Georgian-controlled and Russian-occupied territories. However, unlike the previous year, 2016 was marked by a series of murders, detentions and disappearances. Meanwhile, the futility of negotiations on these issues is a clear indication of the absence of effective cooperation between the interested parties. This, in turn, hinders investigation and the collection of facts about the situation on the ground.

Unresolved conflicts and the routine politicization of humanitarian issues severely affect children and youth. Detentions of children, including infants, and their parents on the Administrative Boundary Line (ABL) with Abkhazia have raised serious concerns. In 2016, the Public Defender of Georgia was informed about numerous cases involving inappropriate and degrading treatment—including verbal abuse and restriction of access to food and water—of detainees at Russian military bases.

Difficulties associated with access to the occupied territories by human rights watchdog organizations, coupled with a scarcity of international donors and non-governmental organizations able to contribute to capacity building in Abkhazian and Ossetian civil societies, further complicate the situation. This, in turn, negatively affects the rights of communities residing in the conflict-affected regions.

In spite of the fact that the Georgian authorities have no effective control over Abkhazia or South Ossetia, the Government still has responsibilities to use political, legal, and diplomatic instruments to improve the situation regarding the rights of conflict-affected communities. Therefore, the Public Defender of Georgia believes that state policy must maximize efforts to protect the rights and freedoms of communities living on the occupied territories and along the ABL, improve their social and economic standing, provide access to quality health and education services, and facilitate their inclusion in economic activities in Georgia. To achieve this goal, the Government should develop coordinated and flexible mechanisms at the legislative and administrative levels tailored to the needs of conflict-affected communities. The following chapters highlight important recommendations developed by the Public Defender in 2016.

RIGHTS OF THE COMMUNITIES RESIDING ALONG THE ABL

SOCIO-ECONOMIC ISSUES

The Office of the Public Defender regularly observes the situation regarding the rights of communities residing along the ABLs in Shida Kartli and Samegrelo, respectively. General observations suggest the situation remains consistently difficult. In spite of a series of government-supported social and infrastructure projects, the local communities still suffer from the consequences of war. This goes especially for villages in Shida Kartli near the ABL which had been directly targeted by military actions in 2008. These communities have been further affected by the installation of barbed wire fencing since the war, restricting access to agricultural land and irrigation water which are critical for the livelihoods of local subsistence farmers. For example, according to information provided by the Kareli municipality Gamgeoba, all except for one out of 15 municipality villages along the ABL suffer from lack of access to irrigation water. Importantly, between 2014 and 2016 the problem was partially addressed in four villages.¹

In March 2016, Russian soldiers allegedly started implementing road works in the vicinity of the village of Jariasheni, Gori municipality. Local residents argued that the road cuts off 30-40 hectares of farmland, leaving 32 households with little or no access to their land. They also reported that the ABL has been moved forward 70 meters into Georgian-controlled territory. Although these lands can no longer be accessed by locals because of the occupation, local residents had continued to pasture cattle. Even that opportunity has been lost, however, due to road construction.² Since the war, 60 families out of 138 residing in the village have lost access to their farmland.

In places where access to farmland and irrigation water are not problems, local communities complain about high costs of farming and of difficulties related to selling their products. A conversation with residents of Jariasheni revealed that fruit production is the major source of income for the villagers. However, they find it difficult to sell their harvest. They are also concerned with the poor quality of fertilizers, because of which they have to spray their orchards several times per year. That incurs additional costs and lowers the quality of the harvest. Moreover, although the gasification process had been completed, local residents still use firewood for heating; for which, they have to occasionally cut down their orchards.³

The above suggests that income generation is the most pressing problem for the local population. In his parliamentary report from 2015, the Public Defender stated that the Interim Governmental Commission for Responding to the Needs of the Population Residing alongside the Diving Line (hereafter referred to as the “Governmental Commission”) should consider implementing agriculture and entrepreneurship projects adjusted to

1 Letter # 2646/17 dated 22 February 2017 of the Kareli municipality Gamgebeli.

2 Visits of the Office of the Public Defender to Jariasheni in March 2016 and February 2017. *Armed people shown up alongside the village of Jariasheni*. InterpressNews. Available at: <http://www.interpressnews.ge/en/archive/2016/3.html?day=12&enddate=2016-3-12> [Last accessed 15.02.2017].

3 A visit of the Office of the Public Defender to Jariasheni on 16 February 2017.

local needs and capacities.⁴ However, as of today, the Governmental Commission has not held discussions about any such programs.⁵ It should be noted that in 2016 the LEPL Entrepreneurship Development Agency at the Georgian Ministry of Economy and Sustainable Development funded 147 beneficiaries from villages along the ABL as part of micro and small business programs, at a total sum of 655,649 GEL. However, in addition to being insufficient for effectively spurring entrepreneurship (an average of 4,460 GEL per beneficiary), the program is not designed to target conflict-affected communities.

The Public Defender welcomes the fact that 23 out of 57 villages along the ABL received the status of High Mountainous Settlement, a program expected to improve social and economic standing of the respective communities.⁶ From 2014 to 2016, an additional 200 GEL to cover heating costs was allocated to registered customers in the villages where gasification had been completed, while in those places where the process is still ongoing, the same sum was allocated to households.⁷

Importantly, a series of activities were undertaken to improve access to higher education for communities living along the ABL. In 2016, high school students from areas of Samegrelo and Shida Kartli near the ABL participated in a vocational training program, while inclusive education was introduced to 25 schools in villages in the proximity of the ABL. For the 2016-2017 academic year, 166 students from such communities were awarded social grants to pursue higher education. In total, 846 students received funding by the first semester of the 2016-2017 academic year further to a decision made by the Governmental Commission.⁸

The construction and rehabilitation of drinking water wells, irrigation systems, schools and public centers have also contributed to improved infrastructure, which, in turn, is vital for protecting the rights of local communities. The construction of an emergency medical center in the village of Tkviavi, Gori municipality, and a multi-profile university hospital in the village Rukhi in Zugdidi municipality are currently underway.

As for villages in the vicinity of the ABL in Samegrelo-Zemo Svaneti,⁹ residents of the village of Khurcha in Zugdidi municipality have reported improved access to certain services over the past three years. That includes gasification (completed in 2015), rehabilitation of a

4 The situation of the Rights of the Conflict-affected Population in Georgia, Public Defender of Georgia, 2015. p. 6

5 A draft progress report for 2016 of the Interim Governmental Commission for Responding to the Needs of Population Residing alongside the Division Line.

6 The villages include: Ergneti, Ditsi, Kordi, Arbo, Mereti, Zardiaantkari, Gugutiantkari, Kirbali and Zemo Nikozi in Gori municipality; Satskihuri, Koda, Atotsi and Abano in Kareli municipality; Vake, Sakorintlo, Pantiani, Goraka, Bozhami, Tvaurebi and Kodistskaro in Kaspi municipality; Chorohana, Tsakhvli and Kobi in Khashuri municipality. Source: letter #515 dated 8 March 2017 of the Office of the State Minister for Reconciliation and Civic Equality.

7 The number of beneficiaries of the gasification program residing along the ABL in Gori, Khashuri, Kaspi, Kareli, Sachkhere and Oni municipalities totaled 11,891. Source: A draft progress report for 2016 of the Interim Governmental Commission for Responding to the Needs of the Population Residing alongside the Division Line.

8 Letter 3614/17 dated 14 March 2017 of the Ministry of Education and Science.

9 Detailed information pertaining to these villages is provided in the Public Defender's special report for 2016 on the rights of residents in the villages along the dividing line in Samegrelo-Zemo Svaneti. Available at: <http://www.ombudsman.ge/uploads/other/3/3898.pdf>.

four-kilometer section of road leading to the village and construction of a kindergarten in 2015 with the joint support of the Japanese Embassy and Zugdidi municipality. Notably, children with disabilities are included among 29 students attending the kindergarten. As of today, the villagers also have access to emergency medical services, something which was not the case in the aftermath the 2008 war when ambulances would not enter the village due to security considerations. However, the local community still complains about delays in the provision of emergency services. Although there are two general medical practitioners serving the local population, the absence of an adequately-equipped primary healthcare center hampers the delivery of primary medical assistance.

The absence of a primary healthcare center is a problem for the community living in the village of Pakhulani, Tsalenjikha municipality, where the socio-economic situation is further aggravated by the absence of a bridge over the Olori River—which, if constructed, would connect several sections of the village (Lekuke and Kagaldi districts). As of today, dozens of households are cut off from the surrounding areas during flood conditions. The riverbanks also need to be reinforced to prevent the erosion of arable land. Construction of the bridge and reinforcement of the riverbanks are projected to foster economic development by ensuring access to heretofore uncultivated lands. As communicated by the local municipality to the Public Defender, because of insufficient public funds, the works are yet to be undertaken.¹⁰

In 2015, the Office of the Public Defender examined the issue of a broken water system, which, according to local residents, denied half the population of the village access to clean, potable water. The Public Defender welcomes the initiative launched in 2016 by Tsalenjika municipality to rehabilitate watermains and pipes.¹¹ In addition, the Municipal Development Fund supported by The World Bank completed a full rehabilitation, including street lighting, of a four-kilometer section of road leading from the village center to the ABL. The rehabilitated road will considerably improve the daily lives of local community members.

Poor electricity infrastructure and provision is an acute problem for residents of village Khurcha, which was underlined in the special report of the Public Defender.¹² Further to a query from the Public Defender, the Ministry of Energy communicated that, as a result of rehabilitation work undertaken by Energo-pro Georgia, those customers who have agreed to move to the company's distribution network now enjoy unrestricted electricity provision.¹³

The village of Ganmukhuri in Zugdidi municipality suffers from a lack of access to natural gas. The villagers reported that the construction of gas infrastructure in the village was suspended four years ago.¹⁴ According to information provided by the Zugdidi municipality Gamgebeli, gasification work will be resumed in the village in 2017.¹⁵ Zugdidi municipality

10 Letter #43 dated 12 January 2017 of the Tsalnejikha municipality Gamgebeli.

11 Letter #43 dated 12 January 2017 of the Tsalnejikha municipality Gamgebeli.

12 Special report of the Public Defender of Georgia for 2016 on the Human Rights Situation of Residents of Villages along the Dividing Line in Samegrelo-Zemo Svaneti. p.8.

13 Letter #03/95 dated 9 January 2017 of the Ministry of Energy of Georgia.

14 A statement of citizen T.Sh. #12459/16 of 26 September 2016.

15 Letter #02/743 dated 14 February 2017 of the Zugdidi municipality Gamgebeli.

allocated to socially vulnerable families three cubic meters of firewood or a sum in the amount of 100 GEL to cover heating costs, based on each family's vulnerability score.¹⁶

Yet another problem highlighted by the Public Defender is the lack of responsiveness of the Governmental Commission to problems faced by communities living along the ABL in Samegrelo. These communities have been affected by the installation of barbed wire fencing. More specifically, the gasification process has not yet been completed in Ganmukhuri or Pakhulani, nor have local communities received winter assistance to cover heating costs. Municipal Gamebelis have also been absent from discussions held by the Governmental Commission. In response to the Public Defender's recommendation that the ministries participating in the Governmental Commission provide 200-GEL vouchers for winter to the communities in Samegrelo along the ABL, in particular the villages of Khurcha, Ganmukhuri and Pakhulani, the Governmental Commission notified the Office of the Public Defender that the matter would be discussed at the Commission's upcoming session.¹⁷

PROPERTY RIGHTS OF CONFLICT AFFECTED PERSONS

Nine years after the war, the Public Defender is still regularly approached by citizens who have appealed to the authorities, to no avail, for compensation or for help rehabilitating residential buildings damaged by military actions. In addition, individuals still residing in damaged houses face risks of becoming homeless. This risk particularly affects individuals residing in the village Zardiaantkari, Gori municipality and village of Khurcha in Zugdidi municipality. The issue has been highlighted by the Public Defender in numerous reports (e.g. the reports for 2014 and 2015).¹⁸

On 11 February 2016, the Public Defender received a letter (registered #1837/16) from G. Kh., a resident of the village of Chvrinisi, Kareli municipality. The house of G. Kh. was damaged as a result of military actions in 2008. In spite of the fact that since 2009 the claimant has repeatedly requested assistance from the local municipal Gamegeoba, there have not been sufficient funds available in the local budget for rehabilitation of the damaged property. On 7 July 2016, the Public Defender re-issued a recommendation (#01-7/7424) to the co-chairs of the Governmental Commission to review the case and allocate funds for the rehabilitation of G.Kh.'s house under an accelerated procedure.

However, the problem extends further than compensation for damage sustained as a result of the armed conflict in 2008. It also includes those affected by military conflicts in Abkhazia during the 1990s, who have long awaited due reimbursement. The Public Defender of Georgia closely studied the situation in the village of Khurcha, Zugdidi municipality, where the local community affected by three different instances of conflict

16 Letter #02/743 dated 14 February 2017 of the Zugdidi municipality Gamebeli.

17 Letter #515 dated 6 March 2017 of the Office of the State Minister for Reconciliation and Civic Equality.

18 For more information please refer to the special report of the Public Defender: Zardiaantkari: Consequences of War and Burden of Existence (2014). Available at: <http://www.ombudsman.ge/uploads/other/2/2244.pdf>; the special report of the Public Defender for 2016 on the Human Rights Situation of Residents of Villages along the Dividing Line in Samegrelo-Zemo Svaneti. Available at: <http://www.ombudsman.ge/uploads/other/3/3898.pdf>

(in 1992-1993, 1998 and 2008) have requested compensation to no avail. Local residents reported that in 2007 some households were reimbursed for damage sustained during the conflicts, while others did not receive any assistance at all.¹⁹

The Public Defender's Office is aware that local municipalities have already assessed the condition of houses damaged by war. Although cost estimates have been prepared, the requested sum is too large to be covered by local municipal budgets. As a response to respective recommendations, the Ministry of Infrastructure and Regional Development and the State Ministry of Reconciliation and State Equality notified the Office of the Public Defender that they have already started seeking financial assistance from potential donors.²⁰

As the condition of houses damaged during the war in 2008 worsen from year to year, the costs of rehabilitation increase. Moreover, because individuals and families living in such houses face the risk of being left homeless, the Public Defender recommends the Governmental Commission to allocate compensation money from the state budget.

The right to property is enshrined in Article 21 of the Constitution of Georgia and guaranteed by Article 1 of the first optional protocol to the European Convention on Human Rights. In addition, the right to adequate housing is recognized by a number of international conventions including the International Covenant on Economic, Social and Cultural Rights (Article 11). Importantly, the lack of available resources does not exempt the state from its obligation to protect the rights of its citizens to adequate housing guaranteed by the International Covenant on Economic, Social and Cultural Rights.

LAND REGISTRATION

Issues related to land registration, especially in the villages along the ABL, were highlighted in the Public Defender's parliamentary reports for 2014 and 2015. As early as 2014 the Public Defender's parliamentary report included a recommendation to the Ministry of Justice to accelerate the land registration process in villages along the ABL.²¹ Results of a pilot land registration process run by the National Agency of Public Registry in the village of Ditsi were highlighted in the Public Defender's report for 2015. The pilot research included recommendations on the need to legalize documents issued in violation of legal requirements, and *inter alia*, exempting the population residing near the ABL from land registration fees. Information about a draft law developed by the Ministry of Justice was released in the beginning of 2016, which envisaged simplification of the land registration process.²²

19 See the special report of the Public Defender for 2016 on the Human Rights Situation of Residents of Villages along the Dividing Line in Samegrelo-Zemo Svaneti. Available at: <http://www.ombudsman.ge/uploads/other/3/3898.pdf>.

20 Letter #01/3895 dated 20 December 2016 of the Ministry of Regional Development and Infrastructure.

21 The Human Rights Situation of the Conflict-affected Population in Georgia, Public Defender of Georgia, 2014, p. 61. Available at: <http://www.ombudsman.ge/uploads/other/3/3387.pdf>.

22 The Situation of the Rights of Conflict-affected Population in Georgia, Public Defender of Georgia, 2015. p. 61. Available at: <http://www.ombudsman.ge/uploads/other/3/3768.pdf>.

According to information provided by the National Agency of Public Registry,²³ on 31 July 2016 the Law of Georgia on Improvement of Cadastral Data and the Procedure for Systemic and Sporadic Registration of Rights to Plots of Land within the Framework of the State Project took effect. The law simplified the process of registering property rights over land and made the process free of charge. Pursuant to the law, the National Agency of Public Registry can search for and obtain entitlement documents from various bodies using its own resources. In addition, it allows for the recognition by a relevant commission of property rights over a plot of land occupied illegally. Local municipalities have also been granted certain authorities. The law permits the use of a mediation mechanism to resolve disputes, as well as establishes a legal framework for the legalization of registration documents for agricultural land.

According to information provided by the National Agency of Public Registry, 287 applications from areas along the ABL (a 500-meter section) have been filed since the opening of registration on 1 August 2016. Of those applications, 204 have already been successfully approved and finalized, while proceedings are still ongoing with respect to the remaining 83 applications. However, existing legislation does not establish a special legal framework for applicants residing along the ABL, meaning that the established registration rule covers the whole territory of Georgia in a uniform manner.

The Public Defender welcomes initiatives of the Ministry of Justice to thoroughly analyze the problem and further improve relevant legislation. However, he believes that pressing problems resulting from the occupation require close attention and the local communities affected by the installation of barbed wire fencing should be able to register their lands as soon as possible under accelerated procedures. Therefore, the Public Defender considers the recommendation to be partially implemented.

SECURITY PROBLEMS

The rights of conflict-affected communities to private and family life, health, education, housing and property are violated on a regular basis, due mostly to restrictions imposed on local residents' ability to move freely across the ABL. Since 2009, border guards serving under the Russian Security Forces (FSB) have been in total control of the ABL demarcating Abkhazia and South Ossetia. Therefore, the Russian Federation must be held responsible for the above-mentioned violations.

Illegal detentions remain a key security challenge facing local communities. However, unlike in 2015, in 2016 cases of disappearance and killings further aggravated security issues along the ABL.

The murder of citizen G.O. at the Khurcha checkpoint in Zugdidi municipality on 19 May 2016 was a clear indication of the vulnerability of communities near the ABL. According to the information available to the Public Defender, G.O. was attempting to bring food through the Khurcha-Nabakevi checkpoint when he became engaged in an altercation

23 Letter #58143 dated 20 February 2017 of the National Agency of the Public Registry at the Ministry of Justice of Georgia.

with an Abkhazian border guard. The armed border guard followed G.O., who had already returned to Georgian-controlled territory, and fired at him several times, killing him. Soon after the incident, a video recorded by a CCTV camera was released to the public.

On 26 May 2016, N.S. disappeared from the village of Kordi, Gori municipality. His family reported that he had gone up to lock an irrigation water collector located near the ABL. Since then, N.S. has been missing without a trace.²⁴

These issues have been repeatedly raised at meetings of the Incident Prevention and Response Mechanism. However, lack of cooperation has hampered effective action and the apprehension of perpetrators.

The table below lists official statistics on detentions:

	2011	2012	2013	2014	2015	2016
Total number of detainees	224	300	532	517	504	327
Involving minors	7	8	16	14	22	21
Involving women	15	62	111	98	57	32

Source: State Security Agency of Georgia

Considering the inability of the Georgian central authorities to document each and every case of detention on the occupied territories, the statistics are therefore incomplete. When it comes to detentions at the ABL with Abkhazia, the official statistics available to the State Security Agency reportedly constitute only 5-10% of the total number of detentions.

Since 2014, the Public Defender of Georgia has regularly raised questions related to Georgian, Abkhazian and Ossetian prisoners, with a special report dedicated to this issue.²⁵ The report included the Public Defender’s recommendation that all parties to the negotiations “find ways to release detainees and prisoners possibly release ‘all for all’, amnesty or pardon.”

On 10 March 2016, information about an agreement between the Georgian Government and de-facto Abkhazian and Ossetian authorities for an all-for-all release of prisoners was released to the public. Overall, 18 prisoners had been released, including four by the Georgian side, 10 by the *de facto* government in Sukhumi, and four by the *de facto* government in Tskhinvali. The Public Defender released a special statement and welcomed a dialogue launched by Georgia and the *de facto* authorities about prisoners’ issues. He

24 Information provided to the Public Defender’s Office on 16 February 2017. ‘State Security Agency reports that Nika Saghirashvili is not kept in Tskhinvali detention facility’, Trialeti. Available at: <https://www.youtube.com/watch?v=NwFSKT0sTQo> [Last accessed 15.02.2017].

25 A special bulletin of the Public Defender on Detentions across the Dividing Line and Situation of Prisoners, 2014. Available in Georgian at: <http://www.ombudsman.ge/uploads/other/1/1771.pdf> [Last accessed 24.02.17].

also called on the parties to reach consensus on a mechanism to prevent detentions along the ABL and to effectively protect the rights and security of local communities.²⁶

However, it should be noted that a prisoner, G.L., serving a 20-year sentence in Abkhazia, was not included in the prisoner exchange. Another citizen of Georgia, G.G., was detained near the ABL in Shida Kartli in June 2016 and sentenced to 20 years' imprisonment by a *de facto* court in Tskhinvali.²⁷ The Georgian authorities have repeatedly raised the issue of their release for more than six months, but to no avail. Keeping both prisoners in illegal detention threatens the success of the prisoner release agreement reached by the parties. Protection of freedom of movement on both sides of the ABL is of crucial importance and requires an end to the practice of illegal detention.

Although anyone, regardless of sex or age, can be detained, the practice more severely affects the rights of women and children. This is particularly true in Gali district, where detainees are often released in the late hours without any public transport to take them to their places of their residence, thus exposing them to danger.

UN Security Council Resolution 1325 (2000) on Women, Peace and Security highlights the importance of considering the special needs of women in negotiations between conflicting parties. However, the equal participation of women in conflict resolution mechanisms and the full consideration of their needs in negotiations remains a problem on the entirety of Georgia's territory.

Women are underrepresented in two official dialogue formats – the Geneva International Discussions (GID) and the Incident Prevention and Response Mechanism (IPRM). The number of women included in the ten-member Georgian delegation to the Geneva International Discussions has ranged from three to four, while from the five members of the Abkhazian and Ossetian delegation, only one woman is included. One or two women participate in the IPRM meetings on behalf of Georgia (the delegation usually consists of six members) while there are usually no women among the Abkhazian and Ossetian participants. Media reports and images show that even when there are female participants at the IPRM, they are seated at the back of the room rather than at the negotiating table. Furthermore, meeting agendas do not include discussion items on the special needs of women.

26 'Public Defender welcomes the release of prisoners in the conflict zone'. 10 March 2016. Available at: <http://www.ombudsman.ge/en/news/public-defender-welcomes-release-of-prisoners-in-conflict-zone.page> [Last accessed 24.02.17]

27 The Public Defender also released a statement calling on the Georgian authorities as well as South Ossetian *de facto* bodies to take effective measures for G.G.'s release. 'A statement of the Public Defender on Detainees on the Dividing Line', 7 February 2017. Available in Georgian at: <http://www.ombudsman.ge/ge/news/saxalxo-damcvelis-gancxadeba-gamyof-xazze-dakavebulebtan-dakavshirebit.page> [Last accessed 15.02.2017].

RIGHTS OF INDIVIDUALS RESIDING ON THE OCCUPIED TERRITORIES

THE RIGHT TO THE HEALTHCARE ON THE OCCUPIED TERRITORIES

Poor health services and underdeveloped infrastructure, low level of qualification of medical staff, high medical costs and restrictions on movement across the ABL are all factors that negatively affect the health status of local communities and their access to healthcare at an acceptable standard.

Abkhazia's medical facilities suffer from a lack of qualified specialists, damaged infrastructure and inadequate equipment. For instance, in 2016, Abkhazian media reported on disorder in maternity hospitals and the deaths of infants and newborns.²⁸ When tested for bacteria and infection, some of the samples taken from Abkhazian hospitals turned up positive.²⁹

Conditions in healthcare facilities in Gali District are particularly severe. The district has no neonatal care service, and the absence of obstetricians and gynecologists exposes newborns to life-threatening conditions. The situation is further complicated by the absence of a children's emergency unit in Zugdidi, which means that children in need of intensive care need to be transported to Kutaisi. Considering the fact that there is no children's emergency transportation available in Kutaisi, the delivery of medical services may be considerably delayed while one waits for transport to arrive from Kutaisi or Tbilisi.

According to the information released by the Ministry of Health of Abkhazia in exile, the lack of sanitary and anti-epidemic control procedures exposes residents of Gali district to infectious diseases. Tuberculosis and cancer are prevalent in the district, while the lack of specialized treatment facilities hampers timely and effective treatment. Drug addiction and suicide are also prevalent among youth.³⁰

In addition, the Public Defender believes that the lack of training and retraining programs for medical professionals is also a problem. According to the information provided by the Georgian Ministry of Labor, Health and Social Affairs, medical staff in the village of Saberio in Gali district have not participated in any retraining programs since 2014.³¹ More specifically, medical practitioners working for Gali's emergency medical service are yet to participate in a retraining program launched in 2016 for all emergency medical workers throughout the country.³²

28 'What is going on in Sukhumi maternity hospital?' Vitali Sharia, 26 October, 2016, Radio 'Ekho Kavkaza'. Available in Russian at: <http://www.ekhokavkaza.com/a/28076804.html> [Last accessed 16.11.2016]; 'Sukhumi maternity hospital in pictures', 15.11.2016, 'Nuzhnaya Gazeta'. Available in Russian at: <https://abh-n.ru/suxumskij-roddom-v-kartinkax-slabonervnym-ne-smotret/> [Last accessed 24.02.2017].

29 For more information, see the Special Report of the Public Defender of Georgia on the Rights of Women and Children in Conflict-affected Regions for 2016. p.14. Available at: <http://www.ombudsman.ge/uploads/other/4/4319.pdf>.

30 A speech delivered by the Minister of Health and Social Affairs of the Abkhazian Autonomous Republic to the Parliamentary Committee for Health and Social Affairs on 6 February 2017.

31 Letter 1955/17 dated 9 February 2017 of the Ministry of Labor, Health and Social Affairs.

32 Information provided to the Public Defender's Office by a source in January 2017.

The Public Defender is deeply concerned with the fact that around 10,000 residents of the so-called Upper Gali zone had no access to emergency medical service for a span of three months, from December 2016 to 10 March 2017. A UAZ ambulance vehicle which was donated to the local service in 2002 broke down in December 2016 without any possibility of repair.³³ According to a letter from the Georgian Ministry of Labor, Health and Social Affairs, the Ministry plans to include a relevant line in the state budget for 2017 that would remedy the problem.³⁴

The Public Defender has raised the issue of including residents of the occupied territories in the State Referral Program numerous times over many years. In his parliamentary reports for 2014 and 2015, the Public Defender called on the Prime Minister of Georgia to develop a relevant mechanism to ensure the inclusion of residents of the occupied territories in the State Referral Program. Sadly, the recommendation remains unfulfilled and the unresolved problem continues to severely affect conflict-affected communities.

International organizations such as World Vision and the UN Children’s Fund have contributed greatly to improving healthcare provision for children, particularly in Abkhazia. These organizations have donated medical equipment and materials to medical facilities, supported children’s vaccinations and provided training for doctors, nurses and psychologists.³⁵

Conditions of persons with disabilities residing in the occupied territories beg close attention. Although the Georgian authorities offer certain social and healthcare programs to persons with disabilities, often the latter are not able to cross the ABL in order to access these services. International NGOs and organizations (including World Vision and UNICEF) have been supporting three rehabilitation centers for children in Abkhazia—at Ochamchire, Tkvarcheli and Gali, respectively. The centers provide beneficiaries with physiotherapy, psychological support, speech therapy and other services. There is also a rehabilitation center in Sukhumi that was built in 2015 and supported by the Russian Federation.³⁶ However, the lack of medical-hygienic means and adequate equipment as well as the general scarcity and poor quality of rehabilitation services remain challenges in the region.³⁷

Restrictions on the movement of patients across the ABL was particularly challenging in 2016. Since the movement of ambulances across the Enguri bridge was banned by the Abkhazian *de facto* administration in 2011, patients are often forced to take bypass routes in order to cross the ABL. From 8 PM to 7 AM each day the checkpoint is closed and, therefore, patients must use the EUMM-operated hotline or get consent from the Gali security service in order to cross the ABL. If the relevant persons cannot be contacted, taking a bypass route or paying a bribe remain the only means of crossing the ABL.³⁸

33 Information provided to the Public Defender’s Office by a source in January 2017.

34 Letter 1955/17 dated 9 February 2017 of the Ministry of Labor, Health and Social Affairs.

35 Special Report of the Public Defender of Georgia on the Rights of Women and Children in Conflict-affected Regions, 2016, p.14.

36 Special Report of the Public Defender of Georgia on the Rights of Women and Children in Conflict-affected Regions, p.21.

37 A speech delivered by the Minister of Health and Social Affairs of the Abkhazian Autonomous Republic to the Parliamentary Committee for Health and Social Affairs on 6 February 2017.

38 Information provided to the Public Defender’s Office by a source in November-December 2016.

Gali residents who have no proper documents as well as those from elsewhere in Abkhazia who don't hold a special permit also have to take a bypass, meaning in some cases they have to stay in a nearby village for several days waiting for suitable time to cross over to the Georgian-controlled side. Therefore, because of restrictions on movement, patients, including minors, suffer the consequences of delayed treatment.

As for South Ossetia, recent years have seen several hospitals rehabilitated and refurbished. However, these hospitals tend to be used only for primary medical purposes by local residents because of a lack of qualified medical personnel. For instance, unofficial data suggest that 99% of women in South Ossetia prefer to travel to Vladikavkaz to deliver babies.³⁹ In addition to offering better conditions and medical equipment, the Russian Federation provides financial aid for every newborn.

Because the ABL with South Ossetia is completely closed (except for at Akhagori district⁴⁰), patients requiring emergency medical attention are transferred to medical facilities on the Georgian-controlled territory with the support of the International Committee of the Red Cross. However, the Public Defender is aware of several cases of death of patients because of delayed consent by the Tskhinvali hospital management and the *de facto* authorities.⁴¹ For pre-planned examinations and treatment, South Ossetians often enter Georgia through the Upper Larsi checkpoint (Georgia-Russia border), taking a route which is 8-10 hours longer.

The prevalence of incidents involving domestic violence in Abkhazia and South Ossetia remain high. Although there are no accurate statistics on incidents of domestic violence, a Gali based non-governmental organization reported that there were 107 cases of domestic violence in Ochamchire, Tkvarcheli and Gali districts in 2016.⁴² In addition to the failure of law enforcement agencies to effectively respond to such incidents, the situation is further aggravated by the absence of shelters and crisis centers to provide temporary safe shelter to victims of domestic violence. Nor is there a shelter for domestic violence victims in Zugdidi, which would be the nearest location to seek shelter for those who cross the ABL from Abkhazia. Domestic violence also represents an acute problem in South Ossetia, where local police have been ineffective in dealing with domestic violence cases. This problem was also highlighted in the Public Defender's parliamentary report for 2015.⁴³

In addition, in the beginning of 2016, the Public Defender proposed the Prime Minister to amend Article 2 of Resolution #169 of the Government of Georgia issued on 20 April 2015 on the *State Program for Provision of Measures under the First Stage of Hepatitis C Management*, which identifies individuals with Georgian ID documents as beneficiaries of the program. The Public Defender recommended that persons holding neutral ID documents also be able to benefit from the program.

39 Information provided to the Public Defender's Office by a source in November 2016.

40 A checkpoint at Akhmaji-Mosabruni in Akhagori district is used by only residents of Akhagori while the local population of Znauri, Java and Tskhinvali cannot access it.

41 2016 Information provided to the Public Defender's Office by patients' family members, 2016.

42 Information provided to the Public Defender's Office in March 2017.

43 The Human Rights Situation of the Conflict-affected Population in Georgia, 2015, p.72. For more information on domestic violence on the occupied territories, see the Special Report of the Public Defender of Georgia on the Rights of Women and Children in Conflict-affected Regions, 2017. p.5-7.

An initial letter from the Ministry of Labor, Health and Social Affairs suggested that such an amendment could not be made, because of the program's security requirements. Medicaments are donated free of charge to the Georgian authorities from a pharmaceutical company.⁴⁴ However, the Public Defender's Office received a letter from the Prime Minister's Office informing him that an agreement had been reached between the Ministry Labor, Health and Social Affairs and the pharmaceutical company Gilead to include holders of neutral document in the program. At the time of receipt of the letter, the relevant bodies were elaborating relevant legal documents.⁴⁵

Early in 2017 the Public Defender requested a progress report from the Ministry of Labor, Health and Social Affairs and was subsequently notified that negotiations were ongoing with the Ministry of Justice to ensure the inclusion of neutral document holders in the State Program for the Elimination of Hepatitis C.⁴⁶ The Public Defender of Georgia welcomes implementation of the recommendation by the Government.

DOCUMENTATION AND FREEDOM OF MOVEMENT

Issues related to the documentation of Gali residents have remained unsettled for many years. This causes serious problems with respect to freedom of movement and property and social rights. In spite of a decision made by the Abkhazian *de facto* authorities to issue resident permits to Gali residents who hold Georgian citizenship,⁴⁷ as of 1 March 2017 the process of issuing resident permits had not yet been launched. In his parliamentary reports for 2014 and 2015, the Public Defender highlighted a series of problems related to the ambiguity of criteria for issuing resident permits. That ambiguity creates a sizeable space for interpretation which, in the Public Defender's view, can create barriers for Gali communities.⁴⁸

Since June 2016, the authorities have issued Form N9 to Gali residents for the purpose of crossing the ABL. Issuance of the document has benefited those who have to regularly commute across the ABL. International organizations believe that the number of such documents issued in Sukhumi may amount to 12,000.⁴⁹ Information available to the Public Defender suggests that Gali residents need to first obtain five or six other documents in order to obtain Form N9,⁵⁰ in addition to, in many cases, making an additional payment or

44 Letter #01/13196 dated 18 February 2016 of the Ministry of Labor, Health and Social Affairs of Georgia.

45 Letter #01/38169 dated 17 May 2016 of the Ministry of Labor, Health and Social Affairs of Georgia.

46 Letter #01/8698 dated 14 February 2017 of the Ministry of Labor, Health and Social Affairs of Georgia.

47 'Legal status of the Eastern Abkhazia residents is going to be regulated', 29.12.2006, 'Nuzhnaya Gazeta'. Available in Russian at: <https://abh-n.ru/pravovoe-polozhenie-zhitelej-vostochnyx-rajonov-abxazii-budet-uregulirovano/> [Last accessed 26.02.2017]. See The Human Rights Situation of the Conflict-affected Population in Georgia, 2015. Public Defender of Georgia. 2015, p.17.

48 Ibid.

49 Information provided to the Public Defender's Office by the UNHCR Regional Representative in the South Caucasus, 28 February 2017.

50 The following documents are required for the issuance of Form N9: 1) a certificate from the place of residence, names and surnames of family members, extract from a Residents Book; 2) Form A issued by a village administration to indicate the period of time the applicant has lived on the indicated territory; 3) a certificate from a place of work or education institution; 4) a birth certificate (if the certificate is Georgian, a notary certified translation as well as copies of the parents' passports must be enclosed. If the parents

bribe. The Office of the Public Defender learned that one Gali resident had to pay 8,000 Russian rubles (approximately 300 GEL) to acquire a Form N9.⁵¹ For these reasons, most local residents cannot afford to obtain a Form N9 and instead have to take a bypass route to cross the ABL.

This factor contributes to the high number of detentions, which has remained a problem for many years. According to data released by the Border Protection Service of the Russian Federation, the number of detentions on the Abkhazian ABL totaled 14,000 between 2009 and 2016.⁵²

The situation is likely to be further complicated as checkpoints opened in 2013 will reportedly be closed. The Abkhazian *de facto* authorities have on numerous occasions pledged to shut down all checkpoints on the ABL except for the checkpoint on the Enguri river. One checkpoint (Shamgona-Tagiloni) was shut down in April 2016, followed by closure of the Khurcha-Nabakevi and Orsantia-Otobaia checkpoints on 4 March 2017. In lieu of that, the *de facto* authorities provide a special bus service to the Enguri checkpoint to Gali residents.⁵³ In an act of protest, residents of the village of Nabakevi in Gali district organized a rally on 25 January 2017. That was soon followed by a meeting of local residents with the representatives of local authorities and the security services. The protests ended. However, the decision to close the checkpoints went forward.⁵⁴

In addition to the fact that villages in so-called Upper and Lower Gali are located far from the Enguri River crossing, poor infrastructure creates additional problems for local residents to get to the crossing. Maintaining only one functioning checkpoint at the Enguri River crossing is likely to add to the financial burdens of local communities, increase commute times and contribute to the further isolation of communities in Gali. It is assumed that closure of the checkpoints will result in an increased number of detentions, as the local residents will be forced to use bypass routes.⁵⁵

are deceased, death certificates are also required); 5) certificate of marriage (if the certificate is Georgian, a notary certified translation and a copy of the spouse's passport must also be enclosed); 6) permission from the Security Service; 7) a certificate from a conscription service (required only for men); and 8) a receipt of payment.

51 Information provided to the Public Defender of Georgia by a Gali resident, 10 February 2017.

52 'Border Protection section of Russia's Federal Security Service celebrates the 7th anniversary in Abkhazia'. 29 April 2016. Apsnypress. Available in Russian at: <http://www.apsnypress.info/news/pogranupravlenie-fsb-ros-sii-v-abkhazii-prazdnuet-sedmyu-godovshchinu-so-dnya-obrazovaniya/> [Last accessed 24.02.2017].

53 'Two more checkpoints to shut down at the Enguri border', 28 December 2016, Apsnypress. Available in Russian at: <http://apsnypress.info/news/zakryvayutsya-eshche-dva-punkta-propuska-na-granitse-po-re-ke-ingur> [24.02.2017]; 'Abkhazian cabinet of ministers releases its resolution', 24 January 2017. Apsnypress. Available in Russian at: <http://www.apsnypress.info/documents/vneseny-izmeneniya-v-postanovlenie-kab-mina-abkhazii-ob-ustanovlenii-punktov-propuska-cherez-gosudars/> [Last accessed 24.02.2017].

54 'Gali residents protest crossing point closure', 17 January 2017, 'Civil Georgia'. Available at: <http://www.civil.ge/eng/article.php?id=29810&search=> [Last accessed 24.02.2017].

55 The Public Defender of Georgia responded to the initiative of the *de facto* authorities by stating that 'this is yet another step backward from respecting and protecting the rights of the local population. The closure of a crossing point restricts the freedom of movement of Gali residents and exposes them to problems in health-care, education, trade, family unification and other directions'. *The Public Defender comments on announced closure of the crossing point on the Dividing Line of Abkhazia*. 6 January 2017, Available in Georgian at: <http://www.ombudsman.ge/ge/news/saxalxo-damcveli-afxazetis-gamyof-xazze-gamshvebi-punqtebis-she-sadzlo-gauqmebas-exmaureba.page>.

It should be underlined that until recently those detained and charged for “illegal crossing of the border” were released after paying 1,200 Russian rubles (approximately 60 GEL). However, as a result of a legislative amendment enacted by the *de facto* Parliament of Abkhazia of 18 January 2017, the fine payable for “violation of the border” will further increase to 4,800-6,000 rubles (approximately 215-270 GEL), while repeated violations during a single year will entail 15 days’ administrative imprisonment.⁵⁶ Undoubtedly, this regulation will negatively affect the rights of those who routinely cross the ABL.

The problems related to movement across the ABL are coupled with the difficulties of internal movement. Russian Federation guards serving at checkpoints opened in December 2016 in Gali thoroughly check the documents (Form N9 or an Abkhazian passport) of residents commuting between villages. For instance, a resident of a village in Upper Gali cannot commute to a village in the Lower Zone without a permit, and vice versa. As for residents of other regions of Abkhazia, they too must produce a special permit upon entering a so-called “border zone” (Gali). Such severe restrictions will create additional problems for those residents who lack some or all of the necessary documents.

As for detentions on the ABL with South Ossetia, there were no major changes to established procedures in 2016. The ABL remains closed for local communities except for one checkpoint in Akhagori district. According to information provided by the Georgian State Security Agency, 134 individuals were detained on the ABL in 2016, including 14 women and eight minors (in 2015, the number of detentions amounted to 163, including 18 women and seven minors).⁵⁷ Most detainees were residents of villages in the vicinity of the ABL on the Georgian-controlled sign.

Data released by the *de facto* South Ossetian authorities suggests that in 2016, 549 individuals were detained for “violation of border regime.”⁵⁸ The difference in the respective numbers of detainees is accounted for by residents of South Ossetia who were detained while trying to cross into Georgian-controlled territory.

As for the case of Akhagori, members of the local population still need a permit in order to cross over to Akhagori and back. However, the issuance of such permits is often problematic. Limited working hours at the checkpoint (7 AM to 9 PM) create an additional barrier for the local communities. In addition, the checkpoint is completely closed on holidays and during political events (e.g. elections). The Public Defender learned that on 30 December 2016—while the checkpoint was closed for the New Year—a fatal case occurred: a 73-year old man diagnosed with a stroke had to wait in an ambulance while a permit could be issued. The patient, who was unconscious, was transferred to a hospital in Tbilisi where he died shortly thereafter.⁵⁹

The local communities have been long concerned about the fact that they are unable to invite friends and family members living on Georgian-controlled territory to Akhagori.

56 ‘Fine for illegal crossing of the Abkhazian border has increased’. 19 January 2017, ‘Kavkazski Uzel’. Available in Russian at: <http://www.kavkaz-uzel.eu/articles/296198/> [Last accessed 24.02.2017].

57 Letter #1494/17 dated 2 February 2017 of the Georgian State Security Agency.

58 ‘South Ossetian Authorities have evicted a border violator from Georgia’, 28 December 2016. ‘Sputnik Ossetia’. Available in Russian at: http://sputnik-ossetia.ru/South_Ossetia/20161228/3522804.html [Last accessed 24.02.2017].

59 Information provided by a source, 20 January 2016.

At the end of 2015, 10 individuals were on a special list granting permission to commute from Georgian-controlled territory to attend weddings or funerals in Akhagori. However, that is no longer the case: a total ban took effect in January 2016.⁶⁰

RIGHTS OF CHILDREN

In Georgian, Abkhazian and South Ossetian societies, children are traditionally perceived as inferior. These societies often ignore children and justify abusive treatment of them. Tradition restricts children from publicly expressing opinions, whether within the family, school or wider public. Consequently, violation of the rights of children are rarely identified or even recognized. Abuse of children and violation of their rights fails to receive public attention, even though there have been some grave cases.

Protection of children's rights in conflict-affected regions is carried out by local and international organizations. However, these efforts are limited to small initiatives. Interventions undertaken by international organizations such as UN's Children Fund (UNICEF) and World Vision are mostly devoted to projects built on issues related to access to healthcare, awareness raising and capacity building. By contrast, local civil society organizations focus mostly on charity, cultural and sports events.

General assessments by local and international actors suggest that the situation regarding the rights of children is broadly similar in Abkhazia and South Ossetia as it is in the rest of Georgia. Common problems include child poverty, violence against children, an insufficient number of pre-school education facilities and care institutions for children with disabilities and a lack of financial resources. Moreover, inconsistent or non-existent public policies for the protection and support of children remains one of the most serious challenges facing the conflict-affected regions.

The Public Defender's special report on the rights of children and women living on the occupied territories deals with how the pernicious legacy of armed confrontation, unresolved conflict and politicized humanitarian issues affects children, including teens.⁶¹ Children's health is systematically exposed to threats because of restrictions on movement across the ABL. Children seeking medical treatment often have to be transported via bypass routes which require spending two to three days in a village near the ABL waiting for an appropriate moment to cross (when Russian border guards are not in the vicinity). Gali residents in particular claim there have been hundreds of such cases.⁶²

Document-related issues severely affect children because, if neither parent holds an Abkhazian passport, the child is not eligible to receive a birth certificate and, therefore, identification documents. The problem is further exacerbated by the fact that, without identification documents, local community members cannot cross to the Georgian-controlled side to obtain documents confirming their Georgian citizenship. For these

60 'Neither death, nor marriage', Murat Gukemukhov, Radio 'Ekho Kavkaza'. 05.02.2016. Available in Russian at: <http://www.ekhoavkaza.com/content/article/27534878.html> [Last accessed 02.03.2016].

61 Special Report of the Public Defender of Georgia on the Rights of Women and Children in Conflict-affected Regions, 2016.

62 Interviews conducted by representatives of the Public Defender's Office in November 2016.

reasons, there are many children in Gali, Ochamchire and Tkvarcheli districts holding neither Abkhazian nor Georgian documents. As a result of this situation, in many instances children cannot register at pre-school and general education institutions. This is a breach of one's right to education. Moreover, these individuals are unable to benefit from small allowances and healthcare services provided by the Government of Georgia to Georgian citizens and internally-displaced persons.

Persons with disabilities are particularly affected by these limitations as they have limited capacity to cross the ABL to the Georgian-controlled side to obtain proper documents.

The Public Defender is deeply concerned with the detention of children, including infants, and their parents. In addition, children detained by Russian border guards are subject to inappropriate and degrading treatment at Russian military bases. Such treatment involves verbal abuse, limited access to food and drinking water and other abuses.⁶³

Eye-witness accounts provided by detained citizens to the Public Defender's Office describe poor conditions in the holding cells of Russian military bases in Gali. Detainees are not provided with water or food, and dozens are placed in the same room regardless of sex and age.

Restriction of the right of children to free movement across the ABL also violates their right to health and education, as attending school is one of main reasons for which children have to cross the ABL. In addition, according to Article 37 of the UN Convention on the Rights of the Child, no child shall be subject to torture or other cruel, inhuman or degrading treatment or punishment. Pursuant to the same article, the arrest, detention or imprisonment of a child should be used only as a measure of last resort. With respect to children in Gali, detentions are mostly used to secure the payment of fines by family members.

The right to education in one's native language as well as access to quality education remain grave problems facing communities in Gali district. The issue was highlighted in the Public Defender's parliamentary reports for 2014 and 2015.⁶⁴ In his parliamentary report for 2015, the Public Defender appealed to members of delegations representing the parties to the Geneva International Discussions to use all legal, political and diplomatic mechanisms to protect the rights of Gali communities and to raise awareness in the international community.

Based on information provided by the Georgian Ministry of Foreign Affairs,⁶⁵ issues related to the right to receive education in one's native language—as such issues affect Gali communities—are routinely raised by the second working group under the Geneva International Discussions, which is devoted to humanitarian affairs. These issues are also highlighted in reports on human rights on the occupied territories which are released by

63 For more information on specific cases see the Special Report of the Public Defender of Georgia on the Rights of Women and Children in Conflict-affected Regions for 2016. p.14. Available at: <http://www.ombudsman.ge/uploads/other/4/4319.pdf>

64 For more information see the special report of the Public Defender of Georgia on The Right to Education in the Gali District: New Developments and Challenges in the Academic year of 2015-2016. Available at: <http://www.ombudsman.ge/uploads/other/3/3363.pdf>.

65 Letter #01/2223 dated 23 January 2017 of the Ministry of Foreign Affairs of Georgia.

the Ministry of Foreign Affairs on a quarterly basis. Regrettably, despite consistent efforts by the Ministry of Foreign Affairs, the situation is unchanged. Moreover, no agreement been achieved on a program or mechanism which would be acceptable to Gali residents.

The Georgian Ministry of Education and Science has also supported educational processes on the occupied territories. However, in order to effectively address gaps in the sphere of education, it is important that the number of informal education programs for school students residing on the occupied territories be increased. In addition, measures must be taken to strengthen material support for teachers.

Early marriage is a problem for young girls residing on the occupied territories. As law enforcement agencies often choose to not respond to early marriage cases, justice rests within families. In many instances, family members themselves agree to early marriage. Even when it comes to domestic violence, in most cases families refuse to accept their daughters back into the home, believing it to be a smear to their honor. The Public Defender is aware of 11 cases of early marriage among girls occurring over the past three years in Gali (by 2016, the total number of school children in Gali totaled 4,363), including one case in which both spouses were minors.⁶⁶ An Abkhazian NGO reported 23 cases of early marriage among communities in Ochamchire, Tkvarcheli and Gali in 2016.⁶⁷ It can be assumed that the practice of early marriage is equally common throughout Abkhazia, South Ossetia and the rest of Georgia.⁶⁸ However, the Public Defender's Office has no access to accurate information which would allow it to produce a comprehensive picture.

REVIEW OF THE LAW ON OCCUPIED TERRITORIES AND RELEVANT RECOMMENDATIONS

In the fall of 2016, the 9th Parliament of Georgia resumed review of a draft law on "Amending the Law of Georgia on the Occupied Territories." The law was passed in its first reading by the 8th Parliament in May 2013. The Public Defender of Georgia dedicated a special report to the parliamentary discussions and submitted his opinions with respect to restrictions stipulated by the law which hamper the realization of human rights.⁶⁹

ILLEGAL ENTRY TO THE OCCUPIED TERRITORIES

In May 2013, the Georgian Parliament passed on the first reading the bill, "On Amendments to the Law on Occupied Territories" (hereinafter referred to as the "Amendments").

66 Information provided by the Gali Resource Center. 13.12.2016.

67 Information provided to the Public Defender's Office. 2016.

68 See a special report of the Public Defender of Georgia, On Early Marriage: Challenges and Solutions, 2016. Available at: <https://www.ombudsman.ge/uploads/other/3/3488.pdf>.

69 For more information see the special report of the Public Defender Analysis and Recommendations regarding the Law on Occupied Territories, 2017. Available at: <http://www.ombudsman.ge/uploads/other/4/4316.pdf> [24.02.17].

Submitted by the Government, the Amendments altered Article 4 of the Law on Occupied Territories regulating entry into the occupied territories. Further to the Amendments, first-time violation of the rule against entering the occupied territories from outside the territory of Georgia is no longer treated as a criminal offense; rather, it is now treated as an administrative offense. The same action committed on a repeat basis is deemed a criminal offense; however, rather than subject to confinement, the guilty party is punishable by a fine of 400 GEL. Parliament resumed consideration of the Amendments in late 2016.

The Public Defender believes that illegal entry to the occupied territories should be subject to administrative sanctions only. Therefore, he approves of the Government's draft law envisaging the issuance of special permits after entering the occupied territories and calls for simplified procedures for international organizations and their representatives.

ECONOMIC ACTIVITIES ON THE OCCUPIED TERRITORIES

Through the Law on Occupied Territories, Georgia limits nearly all economic activities on the occupied territories that bypass the regulations of the Government of Georgia, and considers any such activity to be a criminal offense. This applies not only to foreign citizens and foreign investments, but also to economic activities carried out by Georgian companies and citizens. Although the Law on Occupied Territories allows for the possibility of issuing a special permit, the number of activities to which the Government has given consent is relatively small.

In order to ensure greater engagement of the communities on the occupied territories in the economic activities of the rest of Georgia—as well as to create an environment enabling these communities to benefit from Georgia's political and economic integration with the EU—the Public Defender believes the Government should develop flexible legal and logistical mechanisms, including a revised tax regime, and allocate financial resources to allow local entrepreneurs and micro and small businesses operating on the occupied territories to develop economic and trade relations with businesses and entrepreneurs operating on the other side of the administrative boundary line, with the purpose of carrying out joint economic activities. In addition, procedures regarding responsibility and permission should be revised for local healthcare and educational organizations and institutions delivering medical services and educational programs to persons living on the occupied territories.

DOCUMENTS ISSUED ON THE OCCUPIED TERRITORIES

The Public Defender believes that residents of the occupied territories should be made able to obtain Georgian citizenship documents and other legally-valid documents in a simplified manner. Therefore, the Government of Georgia should discuss the possibility of accepting documents issued by the *de facto* authorities to ensure that residents of the occupied territories have access to state services.

RESPONSIBILITY FOR THE PROTECTION OF HUMAN RIGHTS

The Law on Occupied Territories makes no mention of the obligation of the Government of Georgia to protect, to the extent possible, the rights of the population living on the occupied territories. The Public Defender believes that a relevant entry to the Law on Occupied Territories stipulating the State's obligation to protect the rights of communities residing on the occupied territories would contribute to improving the human rights situation of conflict-affected communities.

RECOMMENDATIONS

TO THE GOVERNMENT OF GEORGIA:

- Task relevant structures (Ministry of Labor, Health and Social Affairs, Office of the State Minister for Reconciliation and Civic Equality, State Security Agency) to develop a mechanism to ensure the population residing on the occupied territories is able to benefit from the referral program; draft amendments to the Resolution on *Establishing a Commission and a Rule of its Operation for the Purpose of Making Decisions on the Provision of Relevant Medical Assistance under the Referral Service* so that a unified practice is established with respect to every individual residing on the occupied territories regardless of citizenship status.

TO THE PARLIAMENT AND GOVERNMENT OF GEORGIA:

- Develop amendments to the Law of Georgia on Occupied Territories to reflect the recommendations of the Public Defender of Georgia regarding entry to the occupied territories and implementation of economic activities on such territories, as well as recommendations with respect to legally-valid documents issued by *de facto* authorities and the obligation to protect human rights on the occupied territories (these recommendations are included in the Public Defender's special report, *Analysis and Recommendations regarding the Law of Georgia on Occupied Territories*).

TO THE MEMBERS OF DELEGATIONS PARTICIPATING IN THE GENEVA INTERNATIONAL DISCUSSIONS AND THE INCIDENT PREVENTION AND RESPONSE MECHANISM (OFFICE OF THE STATE MINISTER FOR RECONCILIATION AND CIVIC EQUALITY, MINISTRY OF FOREIGN AFFAIRS OF GEORGIA, MINISTRY OF JUSTICE OF GEORGIA, STATE SECURITY AGENCY OF GEORGIA):

- Ensure greater participation of women in the Geneva International Discussions and the Incident Prevention and Response Mechanism so that the specific needs of women and children, including issues related to domestic violence, are included on the agendas of these mechanisms.

TO THE INTERIM GOVERNMENTAL COMMISSION FOR RESPONDING TO THE NEEDS OF POPULATION RESIDING ALONGSIDE THE DIVIDING LINE:

- Make a conclusive decision to provide funds for rehabilitating houses damaged as a result of the military conflicts in the 1990s and 2008, or compensate against damage from the state budget.
- Deliberate and task relevant member structures (Ministry of Agriculture, Ministry of Economy and Sustainable Development) to assess specific features of the villages located in the vicinity of the ABL and develop entrepreneurial and agricultural programs tailored to the specific needs and capacities of these communities.
- Allocate means to rehabilitate the bridge on the river Olori in the village of Pakhulani, Tsalenjikha municipality, and to reinforce the riverbanks.

TO THE MINISTRY OF LABOR, HEALTH AND SOCIAL AFFAIRS OF GEORGIA:

- Refurbish and equip an intensive care unit for children in the hospital currently under construction in the village of Rukhi, Zugdidi municipality and donate an ambulance to the region to serve children crossing from Abkhazia, among others.
- Rehabilitate, refurbish and equip primary healthcare centers in the villages of Khurcha (Zugdidi municipality) and Pakhulani (Tsalenjikha municipality).
- Allocate additional resources to providing financial and material support to medical personnel working on the occupied territories and ensure their professional retraining; equip medical facilities operating on the occupied territories.
- Hand over an ambulance to Saberio Emergency Medical Centre as soon as possible.
- Take all available measures to support non-governmental organizations that offer services to women, children, persons with disabilities, victims of violence and abuse and other vulnerable people living on the occupied territories.
- Open a shelter for victims of domestic violence in Zugdidi to serve individuals living in Abkhazia, among others.

TO THE MINISTRY OF EDUCATION AND SCIENCE:

- Strengthen support for Gali schools and its personnel, including material assistance—which may include better insurance coverage for academic personnel, donation of personal computers and other assistance programs.
- Increase the number of educational and informal educational programs targeting the needs of children and teachers on the occupied territories.