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**GROUPES ET INDIVIDUS PARTICULIERS: EXODES MASSIFS
ET PERSONNES DÉPLACÉES**

**Rapport du Représentant du Secrétaire général pour les droits de l'homme
des personnes déplacées dans leur propre pays,
Walter Kälin**

Additif^{*} ^{}**

**MISSION EN GÉORGIE
(21-24 décembre 2005)**

* Le résumé du présent rapport de mission est distribué dans toutes les langues officielles. Le corps du rapport, qui figure en annexe, est distribué uniquement dans la langue dans laquelle il a été présenté.

** La soumission tardive de ce document s'explique par le souci d'y faire figurer les renseignements aussi à jour que possible.

Résumé

À l'invitation du Gouvernement géorgien, le Représentant du Secrétaire général pour les droits de l'homme des personnes déplacées dans leur propre pays, Walter Kälin, a effectué une mission officielle en Géorgie du 21 au 24 décembre 2005. Son principal objectif était d'engager le dialogue avec le Gouvernement et les autorités de facto d'Abkhazie et de la région de Tskhinvali/Ossétie du Sud en vue de trouver des solutions durables et fondées sur le respect des droits pour les personnes déplacées à l'intérieur du pays. Le Représentant s'est en outre employé à renforcer les partenariats entre les acteurs concernés. Il a fait part de ses premières réflexions dans un communiqué de presse publié le 27 décembre. Ses conclusions et recommandations complètes figurent dans le présent rapport.

Le Représentant s'est rendu à Tbilissi ainsi qu'à Soukhoumi, Gali, Zugdidi et Tskhinvali. Il a rencontré le Ministre des réfugiés et de l'hébergement, le Ministre d'État de la résolution des conflits, le Sous-Ministre des affaires étrangères, le Représentant spécial du Président de la Géorgie pour le processus de paix entre la Géorgie et l'Abkhazie et chef du Gouvernement de la République autonome d'Abkhazie en exil, les autorités locales de Zugdidi et les autorités de facto de Soukhoumi et de Tskhinvali. Il s'est également entretenu avec des représentants d'organisations internationales et d'organisations non gouvernementales ainsi qu'avec des personnes déplacées à l'intérieur du pays se trouvant dans des centres collectifs et des zones de retour.

Sa conclusion a été que le manque de solutions politiques aux conflits régionaux, les mesures discriminatoires et le sentiment général d'insécurité constituaient des obstacles majeurs au rapatriement. Les retours durables sont en outre compromis par le manque d'infrastructures et de services de base dans les zones de rapatriement. Tout en insistant sur le droit des personnes déplacées à l'intérieur du pays à rentrer de leur plein gré dans leurs foyers d'origine, dans la sécurité et la dignité, le Représentant s'est félicité de l'intention exprimée par le Gouvernement de soutenir plus activement leur intégration locale. Les conditions de vie des personnes déplacées à l'intérieur du pays, hébergées dans des abris collectifs provisoires pendant de nombreuses années, sont jugées très préoccupantes par le Représentant. Les groupes vulnérables, tels que les personnes âgées, les personnes ayant subi un traumatisme et les personnes handicapées, ainsi que les ménages dirigés par une femme, sont particulièrement touchés.

Le Représentant a invité les parties aux conflits à respecter les obligations qui leur incombent en vertu des accords signés, en particulier le devoir de coopérer et de faciliter le rapatriement des personnes déplacées à l'intérieur du pays. Il a encouragé le Gouvernement à accélérer le processus d'élaboration et de mise en œuvre de la politique nationale envisagée pour faire face à la crise liée aux déplacements de population. Il l'a invité instamment à faire en sorte que cette politique favorise l'intégration des personnes déplacées dans la société et leur permette d'acquérir des logements convenables tout en leur laissant la possibilité de rentrer chez eux. Une assistance humanitaire devrait continuer d'être fournie aux groupes particulièrement vulnérables et des solutions durables devraient être trouvées pour ceux qui ne peuvent vivre de manière autonome. Le Représentant a invité instamment les autorités géorgiennes à finir au plus vite d'adopter la législation relative à la restitution des biens conformément aux normes internationales. Il a lancé un appel à la communauté internationale et aux donateurs leur demandant d'aider le Gouvernement à mettre au point une politique globale et fondée sur

les droits à l'intention des personnes déplacées à l'intérieur du pays et de soutenir sa mise en œuvre effective et rapide.

Le Représentant a invité instamment les autorités de facto d'Abkhazie, en Géorgie, à s'abstenir d'adopter des mesures incompatibles avec le droit au rapatriement et avec les normes internationales relatives aux droits de l'homme, telles que les lois discriminatoires, en particulier «la loi sur la citoyenneté». Il leur a également demandé instamment de coopérer pour créer un bureau international permanent des droits de l'homme à Gali et à accepter sans délai une police civile des Nations Unies.

Annex

**REPORT OF THE REPRESENTATIVE OF THE SECRETARY-GENERAL
ON THE HUMAN RIGHTS OF INTERNALLY DISPLACED PERSONS**

ADDENDUM

**MISSION TO GEORGIA
(21 to 24 December 2005)**

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Introduction

1. Following a request by the President of Georgia to the Secretary-General, the Representative of the Secretary-General on the human rights of internally displaced persons conducted an official mission to Georgia from 21 to 24 December 2005 in pursuance of his mandate¹ to engage in coordinated international advocacy and action for improving protection and respect of the human rights of internally displaced persons (IDPs) through dialogue with Governments as well as non-governmental organizations (NGOs) and other relevant actors. The main objectives of the mission were to study the situation of displacement in Georgia; engage in dialogue with the Georgian Government and the de facto authorities of Abkhazia and the Tskhinvali Region/South Ossetia; explore durable, rights-based solutions for the displaced; share his recommendations with the authorities and the international community; and strengthen partnerships among relevant actors.
2. The Representative visited Tbilisi, Sukhumi, Gali, Zugdidi and Tskhinvali. He met with the Minister for Refugees and Accommodation, the State Minister for Conflict Resolution, the Deputy Minister for Foreign Affairs, the Special Representative of the President of Georgia for the Georgian-Abkhaz Peace Process and Head of the Government of the Autonomous Republic of Abkhazia in Exile, with local authorities in Zugdidi as well as with de facto authorities in Sukhumi and Tskhinvali. He also discussed with international agencies and NGOs, and consulted IDPs in collective centres and areas of return.
3. The Representative would like to express his gratitude for and recognition of the full cooperation of the authorities of Georgia and their willingness to receive him, as well as for the open and constructive nature of the meetings. He would also like to extend his gratitude to the de facto authorities of Abkhazia and the Tskhinvali Region/South Ossetia for meeting and sharing their perspectives with him. The Representative is indebted to the United Nations Observer Mission in Georgia (UNOMIG) and the United Nations country team, in particular the Office of the United Nations High Commissioner for Refugees (UNHCR), for the high quality of briefings and the extraordinary logistical support to his mission. He is grateful for the information provided to him by representatives of civil society, and expresses his thanks to the representatives of the humanitarian community and NGOs who contributed their expertise. Finally, he would like to thank IDPs who were ready to share their experiences with him.
4. The Representative's conclusions and recommendations in the present report are informed by the Guiding Principles on Internal Displacement² (the Guiding Principles), which are recognized by States as "an important international framework for the protection of internally displaced persons".³ The Representative observes that IDPs in Georgia are, as citizens of their country, entitled to enjoy the protection of all guarantees of international human rights and humanitarian law subscribed to by the State or applicable on the basis of customary international law. IDPs do not lose, as a consequence of their being displaced, the rights of the population at large. At the same time, they have specific needs distinct from those of the non-displaced population which need to be addressed by specific protection and assistance measures. These rights are reflected and detailed in the Guiding Principles. The primary duty and responsibility

to provide such protection lies with the national authorities, and IDPs have the right to request and receive such protection and assistance from their Government (guiding principle 3). At the same time, the Principles also apply to non-State actors who are effectively exercising control over a territory to an extent that the rights of IDPs and returnees are affected. As the Representative stresses in his report to the Commission on Human Rights at its sixty-second session,⁴ protection must not be limited to securing the survival and physical security of IDPs but relates to all relevant guarantees, including civil and political as well as economic, social and cultural rights attributed to them by international human rights and humanitarian law. In this regard, Georgia has an obligation to prevent any violations of these rights from occurring or from reoccurring; to stop them while they are being committed; and ensure reparation to, and full rehabilitation of, victims.

5. The Representative notes that there are situations in which States do not have the capacity to fulfil these obligations, either because they do not possess the means, financial or other, or because they have de facto lost control over parts of their territory. In such cases, States have an obligation to allow others to fulfil this duty, in particular international agencies and organizations. As regards the responsibility of authorities on territories no longer under direct State control that have not received international recognition, the Guiding Principles state that such de facto authorities, without prejudice to their legal status, are obliged to respect the rights of the IDPs concerned (guiding principle 2). In Georgia, this means that the de facto authorities in Abkhazia and the Tskhinvali Regional/South Ossetia are responsible for avoiding any action that could lead to the displacement of persons; protecting the population that may have fled into the areas under their control; and respecting the rights of IDPs should they wish to return to or to resettle in areas controlled by them. Although such de facto authorities as well as the territories they control are not subjects of international law, they nevertheless may have obligations under international law. In times of internal armed conflict, article 3 common to the Geneva Conventions of 12 August 1949 provides basic obligations for all parties to a conflict irrespective of their status. As regards human rights, the obligations of Georgia under international treaty and human rights law continue to apply in territories under the control of de facto authorities. Their acts are classified, under the law on State responsibility, as acts of the State to the extent that such authorities are in fact exercising elements of governmental authority in the absence or default of the official authorities, and in circumstances which call for the exercise of such authority.⁵

I. CONTEXT OF INTERNAL DISPLACEMENT

A. History of displacement

6. The former Soviet Republic of Georgia gained its independence in 1991 and was simultaneously confronted with uprisings by nationalist groups within its territory demanding their own independence. The ensuing violent fighting, finally leading to the unilateral declarations of independence by South Ossetia in 1991 and Abkhazia in 1999, resulted in an estimated 10,000 persons being killed and the loss of control by the Government of Georgia over both regions.⁶

7. The 1992-1994 conflict between Georgia and pro-Abkhaz forces displaced some 300,000 persons.⁷ The pre-war population of Abkhazia was approximately 535,000 people,⁸ of whom around 18 per cent were ethnic Abkhaz.⁹ Almost the entire population of Abkhazia's easternmost Gali district, totalling some 79,000 mostly ethnic Georgians prior to the war, was displaced.¹⁰ With the support of the international community, tens of thousands of refugees and IDPs returned to their homes in the Gali district during subsequent years. However, continuous small-scale security incidents and a large-scale outbreak of violence in 1998 again displaced some 30,000-40,000 persons,¹¹ and destroyed more than 1,500 homes as well as public buildings, including schools, some of them newly rehabilitated.¹² Since 1999, an estimated 45,000 persons have again returned to the Gali district, including persons commuting daily across the ceasefire line and those migrating seasonally in accordance with agricultural cycles. UNHCR plans to verify their exact number in the coming months.¹³

8. The 1990-1992 conflict in the Tskhinvali Region/South Ossetia is estimated to have displaced some 60,000 persons, including about 10,000 ethnic Georgians.¹⁴ The vast majority, however, were ethnic Ossets from both the breakaway territory and other parts of Georgia, most of whom have fled abroad (primarily to the Russian Federation region of North Ossetia). Some were displaced as a direct consequence of fighting in and around the Tskhinvali Region/South Ossetia, while others moved due to fear, harassment or forcible eviction in parts of Georgia that remained otherwise largely peaceful during the conflict. Within the Tskhinvali Region/South Ossetia, about 5,000 persons were internally displaced.¹⁵ Recent returns to the Tskhinvali Region/South Ossetia are mainly comprised of persons integrating into areas where they belong to the ethnic majority. Out of several thousand Osset families who fled to the Tskhinvali Region/South Ossetia, less than a dozen have since returned to their former places of residence in other parts of Georgia, and some of the latter have already re-returned to the Tskhinvali Region/South Ossetia.¹⁶ In July and August 2004, tensions following the newly elected Government's plan to bring the Tskhinvali Region/South Ossetia back under its control caused the displacement of several thousand people,¹⁷ of whom some returned to their previous places of residence in the Tskhinvali Region/South Ossetia during the following months.

9. By November 2004, 241,032 IDPs were registered with the Ministry for Refugees and Accommodation of Georgia. Between December 2004 and June 2005, the Ministry, with financial and technical support from UNHCR, verified the number of IDPs currently living in territories under Georgian control, registering a total of 221,597.¹⁸ This number includes 210,409 IDPs of those previously registered with the Ministry as well as an additional 11,188 newly registered and newborn IDPs. Out of the total of verified IDPs, 209,013 (94.32 per cent) are from Abkhazia and 12,584 (5.68 per cent) from Tskhinvali Region/South Ossetia. In addition, some 5,000 persons remain displaced within Tskhinvali Region/South Ossetia. The number of persons still displaced inside Abkhazia is not known.

B. General human rights situation in Georgia

10. Georgia is party to the following international human rights instruments: the International Covenant on Civil and Political Rights and its Optional Protocol and Second Optional Protocol; the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol to the Convention on the Elimination of Discrimination against Women; the Convention against

Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the Convention on the Rights of the Child and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. It is party to other international conventions, including the Convention on the Prevention and Punishment of the Crime of Genocide; the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees; and the Rome Statute of the International Criminal Court. It is also a party to the Geneva Conventions of 12 August 1949, and the Additional Protocols thereto of 8 June 1977. Georgia has issued a standing invitation to the special procedures of the Commission on Human Rights. At the regional level, Georgia is party to the Convention for the Protection of Human Rights and Fundamental Freedoms, including its Protocols Nos. 1 to 14, as well as the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

11. According to article 7 of the Constitution of Georgia, “[t]he State recognizes and protects universally recognized human rights and fundamental freedoms as eternal and supreme human values. While exercising power, the people and the State are bound by these rights and freedoms as if enacted by law”. In line with guiding principle 5, all State authorities are thus bound by this article to ensure human rights protection and abide by international humanitarian law guarantees throughout the territory under their jurisdiction. Legislative acts and by-laws specifying the rights of IDPs, including the Law of Georgia on Forcibly Displaced Persons - Persecuted Persons of 1996 (see paragraph 15 below), confirm that the Government of Georgia recognizes its primary duty and responsibility to provide protection and humanitarian assistance to IDPs.¹⁹ However, the ethnic and political conflicts concerning the regions of Abkhazia and the Tskhinvali Region/South Ossetia create serious obstacles for the State party in exercising its jurisdiction with regard to the implementation of its human rights obligations in those regions.

12. Throughout the Georgian-Abkhaz conflict, both parties launched attacks on civilians designed to terrorize ethnic populations and drive them from particular areas, to the extent that the Security Council was “deeply concerned [...] at reports of ‘ethnic cleansing’ and other serious violations of international humanitarian law”.²⁰ To date, perpetrators of war crimes still go unpunished. Impunity for human rights crimes remains a problem throughout the country. Despite the numerous steps taken by the Government to combat torture, impunity and denial of due process, such as public condemnation by leading Government officials, legislative amendments and simplified investigation procedures, leading international human rights organizations document that these human rights violations remain “serious problems” and that accusations are often not investigated by law enforcement authorities, particularly outside of the capital.²¹ Similar findings led the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to insist that “impunity for acts of torture must end”.²²

13. The Committee on the Elimination of Racial Discrimination noted at its sixty-seventh session that “the conflicts in South Ossetia and Abkhazia have resulted in discrimination against people of different ethnic origins, including a large number of internally displaced persons and refugees”.²³ Other United Nations treaty bodies voiced their concern over the “increasing level of poverty, the poor living conditions of the majority of the population, the high unemployment rate, the low level of salaries and of social security benefits, and the rampant problem of corruption”.²⁴ In particular, “[t]he State party’s efforts to provide basic services to this disadvantaged group and special legislation adopted to that end have succeeded only partially in

meeting the most basic needs of internally displaced persons, particularly with regard to employment, social security, adequate housing and access to water, electricity, basic health services and education”.²⁵ The Representative’s predecessor, Francis Deng, who conducted an official mission to Georgia in 2000, documented the particular problems faced by IDPs in Georgia, including urgent humanitarian needs, as well as inadequate responses from the authorities and the international community. In his report, he urged the Government, *inter alia*, to improve the living conditions of IDPs and to design national policies and legislation in accordance with the Guiding Principles.²⁶

II. RESPONSES TO INTERNAL DISPLACEMENT

A. Domestic responses

14. In 1994, the Georgian and Abkhaz sides (the Parties), together with the Russian Federation and UNHCR, signed the Quadripartite agreement on voluntary return of refugees and displaced persons, based *inter alia* on “the right of all citizens to live in and to return to their country of origin”²⁷ as enshrined in the International Covenant on Civil and Political Rights. The Parties reaffirmed their “willingness to create conditions for the voluntary, safe and dignified return of displaced persons to their permanent places of residence in all regions of Abkhazia”, expressed their “desire [...] to cooperate with each other to achieve full observance of the principles and safeguards governing voluntary repatriation” and agreed to guarantee “security and living conditions in the areas of return” before implementing repatriation operations. The Agreement obliges the Parties to ensure, *inter alia*, that returnees will be protected from harassment, that they have their expired identity and residence documents extended and their lost property restituted or, if not possible, will be duly compensated, to which end the establishment of a property claims mechanism was envisaged.²⁸ A Quadripartite Commission was established under the Agreement to implement its provisions. However, the Commission functioned only from 1994 to 1995 before its work stalled due to disagreement between the Parties, having organized the return of only 311 persons.²⁹ The Agreement remains the only document relevant to the return of IDPs and refugees signed by the parties. Currently, both sides are discussing, in the framework of the United Nations-led peace process, a joint declaration confirming their renewed commitment to the non-resumption of hostilities and the safe and dignified return of refugees and IDPs.

15. The 1996 Law of Georgia on Forcibly Displaced Persons - Persecuted Persons defines the legal status of IDPs in Georgia, establishes their legal, economic and social entitlements, and aims at ensuring respect and realization of their rights and legal interests,³⁰ such as free choice of residence within Georgia. Benefits include the use of public utilities free of charge at the temporary residence of IDPs, as well as monthly financial allowances from the Government. Those recognized as particularly vulnerable are entitled to free medical services.³¹ The law further envisages the return of private property to returnees and/or compensation for damages thereof, and obliges national and local authorities to “create necessary social and economic conditions for the safe living of the Persecuted Person at his/her place of permanent residence”.³² Despite these positive aspects, the law and ensuing policies of the former Government focused on return as the only desirable solution and created many obstacles to the local integration of those IDPs who were willing to start a new life away from their pre-war communities.

16. Legislative improvements in recent years have restored the right of IDPs to vote in local and parliamentary elections and to stand for elections themselves. In 2003, the Constitutional Court declared that legal provisions making it impossible for IDPs to acquire property without losing their national IDP status were unconstitutional.³³ A Draft Georgian Law on Rehabilitation and Restitution of Property of Victims of the Georgian-Ossetian Conflict, recently submitted by the Government of Georgia to the international community for comments, is an indication of its willingness to facilitate the repossession of property and thereby the sustainable return of displaced persons.

17. The Ministry for Refugees and Accommodation of Georgia is responsible for coordinating other governmental agencies' responses to internal displacement.³⁴ It registers the displaced and decides on the granting of "persecuted person" status to those considered IDPs in accordance with Georgian legislation.³⁵ The Ministry is also responsible for ensuring, together with relevant executive bodies and local authorities, that IDPs receive their monthly allowances as well as a temporary residence and first aid, that they are supported in their search for temporary employment, have their medical costs covered, enjoy access to free primary and secondary education, and are supported in their return to places of permanent residence, etc.³⁶

18. The Georgian national authorities informed the Representative of their policy shift concerning the tackling of problems arising from internal displacement, away from the previous Government's approach. The old Government ousted during the "Rose Revolution" in November 2003 had focused on the need of the displaced to return to their places of origin, and accordingly treated their stay at the site of displacement as only temporary, without helping them to integrate under acceptable living conditions at the site of their displacement, which caused a high degree of marginalization of IDPs. The finding of durable solutions for the displaced was closely tied to permanent political solutions. The Representative was informed that the current Government, by contrast, is envisaging designing an IDP policy which would, on the one hand, be based on the idea that IDPs should be allowed and encouraged to start normal lives in terms of accommodation, economic opportunities and participation in the social life of host communities. All of this would not preclude their right to return to their original homes once that becomes possible. On the other hand, the new policy would actively promote the right of IDPs, as citizens of Georgia, to make a meaningful choice of whether to return to their pre-war places of residence or to permanently integrate locally or elsewhere in Georgia. Concrete plans as communicated to the Representative include an increase in the monthly financial allowance to IDPs, vocational training opportunities, and the allocation of land plots in rural areas. The Government has, in cooperation with the United States Agency for International Development, already begun to privatize collective accommodation currently occupied by IDPs, by offering them real estate at a comparatively low price, in order for them to subsequently transform it into private accommodation or income-generating facilities such as hotels.

19. The Representative was impressed with Georgia's vibrant civil society. Numerous NGOs run projects beneficial to or expressly targeting IDPs, such as income-generation projects, medical assistance and psychosocial rehabilitation, extra-curricular education for IDP children, promoting human rights awareness and vocational training.

20. The de facto Abkhaz authorities unilaterally declared their acceptance of the return of refugees and IDPs to the Gali district in March 1999.³⁷ In his dialogue with a leading de facto official, the Representative was however informed that return in safety and dignity to areas beyond the Gali district could not be ensured for Georgian returnees. In October 2005, the Abkhaz de facto Parliament passed a “Law of the Republic of Abkhazia on Citizenship of the Republic of Abkhazia”, which defines the group of persons eligible to apply for Abkhaz citizenship, regulates the procedure of its acquisition and enumerates grounds on which applications may be rejected. Although this “law”, since it has been promulgated by internationally unrecognized authorities, would not have any international legal consequences, it nevertheless has a direct impact on individuals in the region of Abkhazia, particularly Georgian returnees (see paragraph 41 below). Abkhaz de facto authorities shared with the Representative their concerns about the constant threats of attacks to which law enforcement personnel in the Gali district are subjected, with several dozens having been killed over recent years. As some of these crimes are reportedly jointly perpetrated by criminal groups from either side of the ceasefire line, Georgian government officials communicated to the Representative their readiness to cooperate with the Abkhaz de facto authorities to fight crime in the district.

21. De facto authorities in the Tskhinvali Region/South Ossetia, in their discussions with the Representative, saw their role mainly in welcoming back Tskhinvali Region/South Ossetian returnee families, to whom they had reportedly provided 100 housing units in 2004. Their future plans shared with the Representative involved the voluntary resettlement of IDPs into rural areas so as to allow them to breed livestock and engage in agricultural activities, with the expected support from the international community. Observing that few IDPs intended to return to their former places of residence while most seemed to opt for local integration in the Tskhinvali Region/South Ossetia, de facto authorities have been insisting during bilateral negotiations with the Georgian Government on the creation of restitution mechanisms for left-behind property of Tskhinvali Region/South Ossetian IDPs on Georgian territory (see paragraph 37 below).

B. International responses

22. The United Nations has since 1993 led efforts of the international community, including diplomatic efforts of the Group of Friends of the Secretary-General (France, Germany, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America), towards a peaceful settlement of the Georgian-Abkhaz dispute. Return of refugees and IDPs, predominantly to the Gali district, has been at the centre of the peace process. In a variety of resolutions, the Security Council has stressed “the urgent need for progress on the question of the refugees and internally displaced persons” and called on both sides to display a “genuine commitment to make returns the focus of special attention and to undertake this task in close coordination with UNOMIG and consultations with UNHCR and the Group of Friends”.³⁸

23. UNOMIG was established in 1993 by Security Council resolution 858 (1993) to observe the ceasefire and contribute to a comprehensive political settlement of the conflict.³⁹ The Special Representative of the Secretary-General for Georgia (SRSG) acts simultaneously as head of UNOMIG and as chairperson of the political peace process. One of the purposes of UNOMIG,

as enshrined in its mandate, is to contribute to conditions conducive for the return of refugees and displaced persons. In the Gali district, UNOMIG tracks and compiles crime statistics and follows up with the de facto authorities where possible. Further, it is tasked with observing the work of the Commonwealth of Independent States (CIS) Peacekeeping Forces who, according to the Quadripartite Agreement, are mandated, inter alia, to promote the safe return of refugees and IDPs.

24. The Human Rights Office in Abkhazia, Georgia (HROAG), was established as an integral part of UNOMIG in 1996, in cooperation with the Organization for Security and Cooperation in Europe (OSCE).⁴⁰ Within its protection mandate, the office gathers information from victims, witnesses and other reliable sources and follows up on individual complaints in the areas of due process, impunity, treatment of detainees, involuntary disappearances, forced labour, arbitrary evictions and property rights violations. The office also runs capacity-building and awareness-raising projects. Its protection activities for the local population in the Gali District, consisting mainly of returnees, could be enhanced by the opening of a sub-office in Gali town which the Security Council has repeatedly called for,⁴¹ but which the Abkhaz de facto authorities have so far failed to agree to.⁴²

25. UNOMIG police work with local law enforcement authorities to strengthen their abilities to fight crime, which is a major deterrent to return. The Security Council has called for the deployment of United Nations police on both sides of the ceasefire line.⁴³ While the Abkhaz de facto authorities assured the Representative that this issue was still on their agenda, the lack of political will to comply with the Security Council resolutions has been delaying their implementation until the time of writing.

26. As enshrined in the Quadripartite Agreement, UNHCR has been given responsibility to act as the international lead agency for the return of displaced persons to Abkhazia. Having invested, during subsequent years, in return, reconstruction and humanitarian assistance in the Gali district, the 1998 violence displaced most returnees again and destroyed much of the agency's achievements, as well as increased the overall insecurity in the area. UNHCR hence adopted a more cautious approach to humanitarian and rehabilitation operations in Abkhazia, including a reduction of protection activities. According to its 2005 two-year strategy for confidence-building measures for displaced and war-affected persons in Abkhazia, designed jointly with the Norwegian (NRC) and Danish (DRC) Refugee Councils and the Swiss Agency for Development and Cooperation (SDC), UNHCR will focus on protection monitoring and limited assistance to spontaneous returnees in the Gali and neighbouring districts. Work has already been initiated in a number of areas, including protection activities, small-scale shelter rehabilitation and school repairs. In the coming months, UNHCR will verify the numbers of returnees and IDPs currently living in the Gali district as well as investigate their socio-economic situation.⁴⁴ Other international organizations, such as the International Committee of the Red Cross (ICRC), the United Nations Children's Fund (UNICEF) and the World Food Programme (WFP) have been providing humanitarian assistance to IDPs and returnees. UNICEF and NRC are planning to train teachers in conflict resolution themes and provide school kits. However, security concerns restrict the access of humanitarian personnel to the local population, especially in the Gali district.

27. Concerning the Tskhinvali Region/South Ossetia, a Joint Control Commission representing Georgia, the Tskhinvali Region/South Ossetia, North Ossetia and Russia, as well as Joint Peacekeeping Forces representing Georgia, Russia and North Ossetia, are meant to prevent the escalation of the conflict.⁴⁵ International organizations, such as ICRC, UNHCR and NRC have been providing minimum humanitarian assistance to the displaced and returnees within Tskhinvali Region/South Ossetia, such as basic shelter.

28. Monitoring missions undertaken by the European Community's Humanitarian Aid Office (ECHO) during 2005 concluded that, while donors have renewed their financial support activities following the installation of the new Government, most have concentrated on development projects rather than paying attention to the humanitarian needs of Georgia's most vulnerable persons. In an effort to remedy the situation, the European Union has recently allocated significant funding for food security and income-generation projects to displaced and resident communities, as well as for projects improving the shelter conditions for IDPs in collective centres and for returnees to the Gali district.⁴⁶

III. PROTECTION NEEDS OF INTERNALLY DISPLACED PERSONS DURING DISPLACEMENT

29. The Representative was shocked by the miserable living conditions of many IDPs. While poverty is widespread⁴⁷ and unemployment very high throughout Georgia, IDPs generally suffer disproportionately. They have limited access to land, housing and employment, and are therefore more susceptible to poverty than the rest of the population. Many have no income of their own and are dependent on the Government's financial allowance of around US\$ 6 per month, which is insufficient to afford the minimum monthly food basket or other basic necessities, buying just half a pound of bread per day.⁴⁸ Studies maintain that the overall health status of IDPs is worse than that of the population at large, and that IDPs in rural areas have very limited, if any, access to the free-of-charge health services, as ensured to vulnerable categories of IDPs by the Law of Georgia on Forcibly Displaced Persons. Furthermore, IDP children are increasingly illiterate, and some of the remaining schools attended by displaced children only lack resources.⁴⁹

30. Little information is available about the more than half of IDPs in Georgia who have been accommodated with host families since their flight. Civil society representatives informed the Representative that living space for IDPs and their children in host families has often been extremely overcrowded for many years, which has led to further impoverishment, interpersonal tensions, and negative effects on the psychosocial development of children. Since the 1998 fighting and destruction, no United Nations agency or other international organization has provided shelter support to returnee families in Abkhazia.⁵⁰

31. Some 96,970 IDPs (43.76 per cent of all registered IDPs) are living in one of the more than 1,500 remaining collective accommodation centres. The abject poverty in these centres is, by contrast to the situation of IDPs living in host families, well-documented and familiar also to the Government. Around 70 per cent of these centres do not meet minimum standards, with inadequate access to clean water, unsafe electric systems, and insufficient insulation.⁵¹ The Representative visited some of these centres where IDPs have been living for over a decade, often without receiving any support from the Government or the international community. He was concerned about the absence of running water in some of the places he visited, the badly

unhygienic conditions and the exposure of inhabitants to the cold, as no repairs to doors, windows and crumbling walls had been undertaken. The Representative hence concluded that these conditions were clearly not in accordance with the right to an adequate standard of living, including the right to adequate housing, as provided for by guiding principle 18. On top of that, some collective centres were located in relative isolation, forcing children to walk several kilometres to school and complicating access to health care particularly for the elderly.

32. Vulnerable groups such as the elderly, female-headed households, traumatized and disabled persons are disproportionately represented among the inhabitants of collective accommodation facilities. Their difficult social and financial situation, adding to uncertainty about the future, has created feelings of dependency, passivity and depression in many, which in turn has hindered their social integration and self-reliance. The Representative learned from civil society groups that qualified counselling and medical help were hardly available.

IV. PROTECTION NEEDS OF INTERNALLY DISPLACED PERSONS REGARDING RETURN AND OTHER DURABLE SOLUTIONS

33. In accordance with guiding principle 28, IDPs have the right to choose between return and integration in the area of displacement or another part of the country. Return shall be voluntary and conducted in safety and with dignity. Reintegration shall be facilitated. Returnees are entitled, according to guiding principle 29, to be protected against discrimination and recover their property and/or receive compensation in cases of damage or loss.

34. Experience shows that the degree of respect for these standards has a direct impact on the success of IDPs returning to their former homes and places of habitual residence. Successful return is mainly based on three elements: (a) ensuring safety for the life and limb of returnees; (b) returning property to the displaced and reconstructing their houses; and (c) creating an environment that sustains return and reintegration, that is, which allows life under adequate conditions, including income-generation opportunities, non-discrimination and possibilities for political participation.

A. Safety

35. Since the 1992-1993 armed conflict, the lack of security for IDPs and returnees has been a major source for concern. The report of the Secretary-General on the situation in Abkhazia, Georgia noted that “the human rights situation in the Gali district remains precarious. [...] The culture of impunity prevailed, generating a feeling of insecurity among the local population. Cases of prolonged detention, extortion and use of physical violence by uniformed personnel were reported”.⁵² More than a year later, interlocutors on both sides confirmed this assessment to the Representative and even reported observing a deterioration of the security situation in recent months, including cases of murder of local administration staff. Returnees continue to be the targets of serious crimes such as armed attacks, abductions, forced disappearances, robberies, including the confiscation of agricultural products, and explosions.

36. Many incidents are never reported as returnees are reluctant to turn to the authorities. According to UNOMIG HROAG and other international observers, the widespread, deep-seated feeling of insecurity among inhabitants of the Gali district is strengthened by law enforcement problems. Law enforcement institutions are reportedly understaffed and concentrated only in a

few urban areas, thus rendering comprehensive protection of returnees against criminal activities inefficient.⁵³ The distrust of victims in the effectiveness and willingness of local authorities to investigate, together with at times politicized misinformation distorting the quantity and motivation of crimes, complicate the documentation of accurate information and the improvement of responses.

B. Land and property issues

37. Land and property issues strongly influence the decisions of IDPs whether or not to return and are also at the heart of the authorities' approaches to promoting returns, particularly concerning South Ossetians displaced from other places in Georgia. Much of the latter's property is now reportedly occupied by others, with some real estate having changed owners multiple times. Previous attempts by the Government of Georgia to draft legislation regulating the restitution of property of displaced South Ossetians were deemed unacceptable by the Tskhinvali Region/South Ossetian de facto authorities and found incompatible with international standards by United Nations legal experts.⁵⁴ Tskhinvali Region/South Ossetian de facto authorities fear that even when an adequate property restitution law will finally be adopted in Georgia, many South Ossetians would experience major difficulties to regain houses through a cumbersome legal process, and would thus continue to be unable to return.

38. Remaining houses in the Gali district are often damaged and many remain empty, with repossession problems resulting mainly from the lack of (access to) construction material and skills as well as the insecurity prevailing in the region. Nevertheless, leading Georgian government officials, in an effort to prevent future problems, plan to take stock of all property left behind by IDPs on the Abkhaz side, in order to ensure that lawful property owners are not deprived of their entitlement in their absence, thus keeping open the possibility for repossession.

39. The Government's recent strategy to privatize collective centres in Georgia and assist IDPs to acquire private apartments aims at providing them with property for use as private housing or business investment in lieu of the accommodation they were forced to abandon. Civil society representatives shared with the Representative their fears that, due to the absence of a comprehensive privatization policy, particularly vulnerable groups among IDPs might lose out in the process and would consequently find themselves in even more precarious situations.

C. Conditions for sustainable return

40. Over the last 15 years, the economic situation in Abkhazia, Georgia, has deteriorated dramatically, with GDP having fallen by 80-90 per cent, per capita income by 90 per cent, and unemployment risen to around 95 per cent.⁵⁵ Most industries and State farms are severely damaged or destroyed. Livelihoods, both urban and rural, are now based on subsistence farming. The infrastructure (electricity, telecommunications, roads, water sewerage) is in a state of collapse. Public services such as health care and education are inadequate.⁵⁶ Thus, living conditions of returnees remain extremely poor, with deficient housing, limited economic opportunities and a general lack of public services. The scarcity of resources to rehabilitate or reconstruct houses in the Gali district is said to be among the main concerns of IDPs with regard to return.⁵⁷

41. The “Law of the Republic of Abkhazia on Citizenship of the Republic of Abkhazia” of October 2005 (see paragraph 20 above) potentially creates important difficulties and administrative hurdles for returnees who do not want to accept Abkhaz citizenship even if it were not imposed on them and has no international significance. Certain parts of the “law” contain provisions discriminating against persons of non-Abkhaz origin, including Georgian returnees. For example, the “law” makes the granting of citizenship conditional upon residence on the territory of Abkhazia during a period coinciding with the time closely after open hostilities had ceased, which was when many Georgians had fled the region.⁵⁸ Its article 6 restricts the possibility of acquiring or maintaining dual citizenship to persons of Abkhaz ethnicity, while non-Abkhaz “citizens” “have a right to obtain citizenship of the Russian Federation only”,⁵⁹ thus clearly excluding the option of returnees to the Gali district to keep their Georgian passport when acquiring Abkhaz “citizenship”. Concerning the law’s implementation and application in practice, de facto authorities in Sukhumi informed the Representative that Abkhaz “citizenship”, which, absent international recognition of Abkhazia’s independence, has an internal meaning only and would not be imposed on anyone including Georgian returnees. However, officials differed in their account of the impact which the lack of Abkhaz identity documents would have on Georgians who already had returned or would do so in the future. According to their diverging views, consequences for non-Abkhaz citizens would range from an exclusion from the right to vote and the obligation to perform military service, over the possible non-acknowledgement of their legal identity by administrative authorities, to their treatment as foreigners including the possibility of expulsion. The law may also be seen as creating a hostile atmosphere towards returnees and thus constitute a psychological obstacle to return.

42. The Representative was informed that Abkhaz de facto authorities, following an order from the Head of the de facto Department of Education in the Gali district in August 2005,⁶⁰ have been attempting to restrict or eliminate the use of the Georgian language in public schools, and to enforce this policy with varying degrees of severity. The de facto authorities in Sukhumi told the Representative that this policy was not directed against the Georgian language per se, but aimed at preventing the use of Georgian-language school books which reportedly conveyed a distorted account of Georgian and Abkhaz history. The Representative was informed by other sources that the withdrawal of teaching material and, in some places, of Georgian-speaking teaching personnel, had lead to a shortage of material and personnel in general, thus leading to an interruption of the regular functioning of local schools or impacting on the quality of education. Finally, he was informed of alleged forcible recruitment of ethnic Georgians to Abkhaz military forces.

43. The poor economic situation in the Tskhinvali Region/South Ossetia has deterred many from returning home as opportunities for income generation and basic services are largely absent.⁶¹ The international community has paid much less attention to the situation in the Tskhinvali Region/South Ossetia, with rehabilitation and reconstruction projects for returnees virtually inexistent. The Representative visited a settlement of returnees where houses had been provided by the humanitarian community. However, due to insufficient resources houses had not been adequately insulated against cold weather, and did not have water or sanitary facilities.

D. Institutional and structural problems

44. National and international interlocutors in Tbilisi informed the Representative that they had found it difficult or impossible to have certain individual cases of IDPs resolved effectively, as the distribution of responsibilities among the various levels and branches of Government addressing internal displacement were unclear and cooperation between them inefficient.

45. In the Gali district, the complicated legal system, including antiquated and contradictory legislation, combined with at times incoherent judicial practice, has similarly incurred complaints about a failure by the authorities to effectively address legal problems experienced by returnees, particularly concerning property rights. Moreover, many returnees to the Gali district have expressed a lack of trust in local authorities, which are almost exclusively made up of ethnic Abkhaz, as well as in the CIS Peacekeeping Force.⁶²

V. CONCLUSIONS AND RECOMMENDATIONS

46. **The main cause of problems encountered by internally displaced persons (IDPs) in Georgia is the absence of political solutions to regional conflicts, as well as the ensuing widespread feelings of insecurity. As a consequence, return movements are slow - or almost non-existent in some areas - and the finding of durable solutions as well as international support for rehabilitation and development investments are hampered. At the same time, sustainable returns and societal integration could contribute to promoting and stabilizing the peace process.**

47. **The Representative of the Secretary-General on the human rights of internally displaced persons calls on all parties to meet their commitments under previous agreements, in particular the Quadripartite Agreement on voluntary return of refugees and displaced persons. He recommends that they swiftly finalize the envisaged joint declaration on the non-resumption of hostilities and the right to return as an important step towards solving the displacement crisis. He also appeals to all parties to protect the victims of forced displacement from the detrimental effect of ongoing tensions.**

48. **Persons displaced by past conflicts in Abkhazia, Georgia, have the right to return voluntarily to their former homes in safety and dignity. Sustainable return to the Gali district is largely obstructed by administrative measures directed against returnees, attacks and harassment, as well as widespread impunity for perpetrators. The Representative is concerned about the difficulties which the "Law of the Republic of Abkhazia on Citizenship of the Republic of Abkhazia" may create for returnees unwilling to accept Abkhaz "citizenship" even if it were not imposed on them and has no international significance. The Representative is also concerned about reports of restrictions of the use of the Georgian language in schools on the Abkhaz side of the ceasefire line, which has detrimental effects on the sustained provision and quality of education.**

49. **The Representative:**

(a) **Urges the Abkhaz de facto authorities to allow persons displaced from Abkhazia to return to their homes in the Gali district and elsewhere in the territory under their control. He also urges them to refrain from adopting measures incompatible with the right**

to return and with relevant international and European human rights standards, and which would endanger the sustainability of returns. Such measures include imposing Abkhaz “citizenship” on returnees, disproportionately disadvantaging returnees not willing to give up their Georgian citizenship, as well as diminishing their civil rights or creating administrative obstacles;

(b) Appeals to the Abkhaz de facto authorities to do everything in their power to prevent and punish acts of violence against returnees and other violations of their human rights, including through close cooperation with the authorities on the other side of the ceasefire line. He urges them to admit United Nations civilian police and cooperate in the establishment of a permanent human rights office in Gali without further delay;

(c) Calls on the Abkhaz de facto authorities to respect the right of returning IDPs to use their own language, including in educational institutions, as enshrined in guiding principle 23 of the Guiding Principles on Internal Displacement. He further calls on the authorities concerned to avoid interruptions and disturbances of the education of IDP and returnee children, and make the necessary budget allocations;

(d) Urges Abkhaz de facto authorities not to take any other actions which may have a discriminatory effect against IDPs and returnees or prevent the willingness of persons in displacement to return to their places of origin, including the forced recruitment of ethnic Georgians into Abkhaz military forces.

50. The right to return in safety and dignity also applies to persons displaced during the conflicts with the Tskhinvali Region/South Ossetia. Fears regarding their safety and instances of discrimination in areas of origin, as well as the lack of property restitution mechanisms strongly discourages Ossetians who fled from Georgia from returning.

51. The Representative urges the Government of Georgia to take effective measures to ensure safety and non-discrimination for Ossetians willing to return to their homes. He urges the Government and Parliament to pass, in accordance with relevant international standards, envisaged legislation on the rehabilitation and restitution of the property of conflict victims, and implement it without delay. The repossession of property by rightful owners should be promoted and facilitated, and the free choice of IDPs to return to their property or sell it should be acknowledged. Precautions should be taken so as to avoid placing unrealistic obstacles in the way of IDPs seeking trials to reclaim their property through the courts.

52. IDPs have the right to freely choose whether they want to return, integrate locally or resettle in another part of the country.

53. The Representative welcomes the recognition by officials of the Government of Georgia of this right of IDPs, as citizens of their country. He calls on all relevant authorities to raise awareness of and promote this right so as to render the choice meaningful for IDPs. In practice, this includes ensuring access to relevant information, as well as the creation of income-generation and training projects in order to provide IDPs with the possibility of sustaining themselves.

54. The right of IDPs to a life in safety and dignity at the site of their displacement must be equally ensured by the authorities. The Representative is concerned about the deplorable living conditions of IDPs who are still accommodated in collective centres throughout Georgia. He is especially concerned about the situation of those belonging to particularly vulnerable groups, such as the elderly without family support, traumatized victims, disabled or sick persons, female-headed households and families of missing persons.

55. The Representative:

(a) Encourages the Government to implement its plans to improve the living conditions of IDPs, in particular by closing collective centres, raising the monthly financial allowance to which IDPs are entitled on the basis of up-to-date needs assessments, and by offering income-generation projects and providing land plots;

(b) Urges national and local authorities, in coordination with international agencies and donors, to seek durable solutions targeting particularly vulnerable persons among IDPs, including the creation of adequate housing and appropriate institutional arrangements throughout Georgia;

(c) Encourages the international community and donors to support these efforts and ensure that development projects are run in parallel with humanitarian assistance to the needy, including host communities shouldering an additional burden while in a similarly desperate situation.

56. Integration and return are not mutually exclusive but complementary. The Representative welcomes the intention of relevant Georgian Ministries to support more effectively the local integration of IDPs, whether or not the latter wish to return to their pre-war homes once this becomes possible. He is pleased with concrete plans to design a national policy addressing the displacement crisis, in line with his predecessor's recommendations at the fifty-seventh session of the Commission on Human Rights.

57. The Representative:

(a) Encourages the Government of Georgia to swiftly formalize its envisaged strategy for IDPs. He recommends to the Government that it design and adopt a comprehensive, rights-based policy which would support IDPs as they integrate into society and acquire adequate living conditions, while maintaining their option to return;

(b) Recommends that such a policy should seek to ensure the full enjoyment of all human rights of IDPs, as restated in the Guiding Principles on Internal Displacement. It should contain the following elements:

- i) First, the right of IDPs to return to their places of origin should be reaffirmed, together with a commitment to take steps to create sustainable conditions in return areas and provide reliable information to IDPs about those conditions;

- ii) **Second, a comprehensive integration policy should encompass the whole range of political, civil, social, economic and cultural rights of IDPs. Existing legislation which might de jure or de facto negatively affect the welfare and rights of IDPs may need to be revised. In practical terms, integration would mean offering adequate accommodation to IDPs in order to close collective centres, improving access to education and health care, as well as creating economic opportunities allowing them to sustain themselves. Their participation in public life, including elections, needs to be promoted and improved;**
- iii) **The third element of the policy should provide for humanitarian assistance to the most vulnerable persons among the displaced and find durable solutions for those who may not be able to live on their own, such as elderly without family support, female-headed households as well as disabled and traumatized persons;**
- iv) **Finally, the policy should clarify the roles and responsibilities of all relevant government agencies, national or local, and contain mechanisms to hold them accountable.**

(c) Recommends that the authorities accompany the process of designing the national policy with close consultations with civil society and IDPs themselves. He offers his support to the process upon request;

(d) Recommends that the new policy should be elaborated and implemented without delay in order not to unnecessarily prolong the suffering of victims. In order to ensure the effective implementation, the necessary budget allocations should be made;

(e) Recommends that the international community, in particular the Office of the United Nations High Commissioner for Refugees (UNHCR), support the Government in the process of designing such a policy.

58. The Government of Georgia conveyed to the Representative its need for external support if its ambitions to create opportunities and adequate living conditions for IDPs are to be translated into reality. Due to past mismanagement, lack of political will and insecurity which undermined sustainable responses to the displacement crisis, international organizations and donors have largely disengaged from humanitarian assistance or focused predominantly in development investments.

59. The Representative:

Calls upon the Government to demonstrate their genuine commitment to resolving the displacement crisis, by proactively initiating efforts to implement their plans and the Representative's recommendations in a transparent and consultative manner, and by mobilizing adequate national resources;

Recommends that donors stand ready to strongly support efforts undertaken by the Government to implement its IDP policy.

Notes

- ¹ Commission on Human Rights resolution 2004/55, para. 24.
- ² E/CN.4/1998/53/Add.2.
- ³ General Assembly draft resolution A/60/L.1, para. 132.
- ⁴ E/CN.4/2006/71.
- ⁵ Article 9, Draft Articles on Responsibility of States for Internationally Wrongful Acts, adopted by the International Law Commission at its fifty-third session (2001), report of the International Law Commission on the work of its fifty-third session, Official Records of the General Assembly, Fifty-sixth session, Supplement No. 10 (A/56/10), chapter IV.E.1.
- ⁶ Available at http://unomig.org/data/file/274/001120-24_JAM-Eng.pdf.
- ⁷ UNHCR, Strategic directions: Promoting confidence-building measures for displaced and war-affected persons in Abkhazia (August 2005), (hereinafter UNHCR strategy).
- ⁸ http://unomig.org/data/file/274/001120-24_JAM-Eng.pdf.
- ⁹ United Nations Observer Mission in Georgia Fact Sheet “The Conflict in Abkhazia, Georgia”.
- ¹⁰ UNHCR strategy.
- ¹¹ UNHCR strategy.
- ¹² See http://unomig.org/data/file/274/001120-24_JAM-Eng.pdf.
- ¹³ UNHCR strategy.
- ¹⁴ International Crisis Group, Georgia-South Ossetia: Refugee Return the Path to Peace (April 2005).
- ¹⁵ Ibid.
- ¹⁶ UNHCR Shelter Assistance Programme to Persons Affected by the Georgian-Ossetian Conflict (statistics 1997-2005), 14 November 2005.
- ¹⁷ Internal Displacement Monitoring Centre/Norwegian Refugee Council: *Profile of Internal Displacement: Georgia* (April 2005).
- ¹⁸ Ministry for Refugees and Accommodation preliminary figures of October 2005 shared with UNHCR. The issue of the legal statutes of those IDPs who did not appear for the latest verification exercise in November 2004 or who had not yet successfully undergone verification due to problematic supporting documents remains unclear.

¹⁹ Cohen, Roberta, Kälin, Walter, Mooney, Erin (eds), *The Guiding Principles on Internal Displacement and the Law of the South Caucasus - Georgia, Armenia, Azerbaijan* (Washington: the American Society of International Law - The Brookings Institution-SAIS Project on Internal Displacement, 2003), p. 16. For a list of applicable Georgian legal acts adopted until 2001, see pp. 119-131.

²⁰ Security Council resolution 876 (1993).

²¹ Human Rights Watch, World Report (January 2006), Amnesty International, Torture and Ill-treatment still a Concern after the “Rose Revolution” (November 2005).

²² Statement of the Special Rapporteur to the sixty-first session of the Commission on Human Rights, Geneva (4 April 2005).

²³ CERD/C/GEO/CO/3, para. 5.

²⁴ CRC/C/15/Add.222, para. 54.

²⁵ E/C.12/1/Add.83, para. 12.

²⁶ E/CN.4/2001/5/Add.4.

²⁷ S/1994/397, annex II.

²⁸ Ibid.

²⁹ UNHCR briefing.

³⁰ See an analysis of the Law by the Georgian Young Lawyers’ Association (GYLA) in Cohen et al., note 21 above. The publication also includes an unofficial translation of the Law (pp. 133-139).

³¹ Articles 3 and 5 of the Law .

³² Article 7. The term “persecuted persons” results from the Georgian definition of persons considered eligible for IDP status as stated in article 1 of the Law, which takes into account those displaced “because of the threat posed to his or her life [...] as a result of aggression of a foreign power, internal conflict or large-scale human rights violation”. It thus excludes persons displaced as a result of other factors including natural disasters. For a comprehensive analysis of gaps between Georgian IDP legislation and the Guiding Principles, see Cohen et al., note 21 above.

³³ IDMC/NRC profile.

³⁴ Article 8.

³⁵ See note 33 above.

³⁶ Article 5.

³⁷ Briefing provided by UNOMIG to the Representative during his mission.

³⁸ E.g. Security Council resolution 1582 (2005).

³⁹ The UNOMIG mandate was revised in 1994 to include the monitoring of compliance with the Agreement on a Ceasefire and Separation of Forces (signed in Moscow in 1994).

⁴⁰ Security Council resolution 1077 (1996).

⁴¹ Security Council resolutions 1615 (2005), 1582 (2005), 1554 (2004), 1524 (2004), 1494 (2003).

⁴² S/2005/657.

⁴³ Security Council resolution 1494 (2003). Currently, the United Nations police is partially deployed on the Georgian-controlled side of the ceasefire line.

⁴⁴ UNHCR strategy.

⁴⁵ IDMC/NRC.

⁴⁶ ECHO/GEO/BUD/2005/01000.

⁴⁷ Overall, 54 per cent of the Georgian population live below the poverty line and approximately 15-17 per cent are extremely poor (2004, IDMC/NRC).

⁴⁸ ECHO/GEO/BUD/2005/01000.

⁴⁹ IDMC/NRC.

⁵⁰ UNHCR strategy. The NGO *Première Urgence* has been implementing a shelter rehabilitation programme financed by SDC for vulnerable persons living in Sukhumi and surrounding areas.

⁵¹ IDMC/NRC.

⁵² S/2004/822, para. 27.

⁵³ UNOMIG briefing.

⁵⁴ See for example UNHCR, "Observations on the Draft Law of Georgia on the Restitution of Housing and Property to the Victims of the Georgian-Ossetian Conflict", December 2004; Marcus Cox, "Preliminary Review of May 2000 Draft Law of Georgia on Restoration and Protection of Housing and Property Rights of Refugees and Internally Displaced Persons", report prepared for UNHCR, Council of Europe and OSCE, 9 June 2000; Scott Leckie, "Housing and Property Restitution Issues in the Context of Return to and within Georgia", report prepared for UNHCR, 7 July 1998.

⁵⁵ UNHCR Country Operations Plan for 2006 (September 2005).

⁵⁶ UNHCR strategy.

⁵⁷ Discussion with international NGOs in Gali.

⁵⁸ Article 5 (b).

⁵⁹ Article 6.

⁶⁰ UNOMIG briefing.

⁶¹ IDMC/NRC.

⁶² UNOMIG briefing.
