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Consejo de Derechos Humanos
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Tema 4 de la agenda
Situaciones de derechos humanos que requieren la atención del Consejo

Carta de fecha 12 de junio de 2017 dirigida al Presidente del Consejo de Derechos Humanos por el Representante Permanente de Georgia ante la Oficina de las Naciones Unidas y otras organizaciones internacionales en Ginebra

Tengo el honor de presentar los informes trimestrales del Ministerio de Relaciones Exteriores de Georgia sobre la situación de los derechos humanos en las regiones ocupadas de Georgia, correspondientes a los períodos comprendidos entre octubre y diciembre de 2016 y entre enero y marzo de 2017.

Le agradecería que tuviese a bien distribuir la presente carta y sus anexos* como documentos del 35º período de sesiones del Consejo de Derechos Humanos, en relación con el tema 4 de la agenda.

(Firmado) Shalva **Tsiskarashvili**
Representante Permanente

* Se reproducen como se recibieron, en el idioma en que se presentaron únicamente.

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Annexes to the letter dated 12 June 2017 from the Permanent Representative of Georgia to the United Nations Office and other international organizations in Geneva addressed to the President of the Human Rights Council

Annex I

Fourth quarterly report (October-December 2016) of the Ministry of Foreign Affairs of Georgia on the human rights situation in the occupied regions of Georgia

I. Introduction

Aims of the report and methodology applied

1. In January 2015 the Ministry of Foreign Affairs of Georgia started preparation of quarterly reports aiming at assessing the human rights situation in the occupied regions of Georgia. The Ministry of Foreign Affairs of Georgia prepared four such reports in 2015. This is the fourth quarterly report of the Ministry of Foreign Affairs of Georgia for the year 2016 covering the period of October-December 2016. The Ministry of Foreign Affairs of Georgia will further continue the preparation of such reports on a quarterly basis. This reporting exercise aims to contribute to the provision of regular and updated information to the international community, to states as well as to international intergovernmental and non-governmental organizations, on the human rights situation in the occupied regions of Georgia.

2. As for the applied methodology, this reporting exercise consolidates and assesses existing information from various open sources, national and international, on violations of human rights in the occupied regions of Georgia. Due to limitations on its length, the report does not aim to collect/contain information on all cases of violations of human rights in the occupied regions of Georgia; it aims to consolidate and assess only some of the most known examples of violations. The methodology applied does not provide for the conduct of fact-finding visits to the occupied regions of Georgia, nor to the conduct of interviews. Therefore the methodology applied does not enable this reporting exercise to collect and produce new data on the human rights situation in the occupied regions of Georgia.

Responsibility of the occupying power for human rights violations

3. The territories of two regions of Georgia – Abkhazia, Georgia and the Tskhinvali Region, Georgia are occupied by the Russian Federation and human rights situation in these regions of Georgia remains alarming. The Russian Federation as the occupying power, exercises effective control over Abkhazia, Georgia and the Tskhinvali Region, Georgia. These two regions still remaining under unlawful foreign military occupation, constitute above all dangerous “black holes” in terms of holding the human rights violators accountable. The occupying power, exercising effective control, has been preventing numerous international organizations from entering Abkhazia, Georgia and the Tskhinvali Region, Georgia.

4. During the reporting period, "EU Statement on the Secretary General's 14th Consolidated Report on the Conflict in Georgia"[1] was made at 1271st Council of Europe Committee of Ministers Meeting.[2] According to the statement, "the human rights situation on the ground remains worrying". It should be emphasized that in the same statement, "[t]he EU calls on the Russian Federation to provide the EU Monitoring Mission (EUMM) with access to the Georgian regions." According to the statement, "[t]he EU regrets that the Secretariat delegation and the CoE Human Rights Commissioner have not been granted access to the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia. The EU calls on all the concerned parties to facilitate access to the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia for the relevant bodies of the CoE. The CoE should be able to fully and effectively use its instruments to ensure monitoring of the human rights situation in all conflict affected areas and for the benefit of all persons in need of human rights protection. No obstacles should be created to the work of international partners in this field."[3]

5. During the reporting period "Statement of the Group of Friends of Georgia on the Conflict in Georgia" was adopted at the 2016 OSCE Ministerial Council Meeting in Hamburg, held on 8-9 December 2016. In the Statement, delegations of Canada, Lithuania, Poland, Romania, Sweden, the United Kingdom and the United States of America expressed "deep concern over the continuous discrimination against ethnic Georgians residing in the Georgian regions of Abkhazia and South Ossetia" and "condemn[ed] the gross violations of rights related to freedom of movement, residence, property, as well as right to education in one's native language and underline[d] that the placement of artificial obstacles, including barbed and razor wire fences along the occupation line, further aggravates the humanitarian situation on the ground." It should be emphasized that the Statement called upon "the Russian Federation to enable access by international human rights monitoring mechanisms to the occupied territories of Georgia."[4]

6. During the reporting period, namely on 13th October 2016, at the session of the Parliamentary Assembly of the Council of Europe (PACE), Mr. Frank-Walter Steinmeier, then Foreign Minister of the Federal Republic of Germany stated the following: "I support all the Council of Europe's efforts to secure regular access to Crimea for its monitoring bodies to observe the human rights situation. This is about not only Crimea, but South Ossetia, Abkhazia, Transnistria and Nagorno- Karabakh. There should be no blank areas on our continent where human rights are not observed."[5]

7. It should be recalled here that during the reporting period of the second quarterly report of the Ministry of Foreign Affairs of Georgia covering the period of April-June 2016, namely on 19 May 2016 Mr. Giga Otkhozoria, was murdered by so called "border guards" deployed along the occupation line with Abkhazia. The murder was committed in the village of Khurcha, Zugdidi district, located in the territory controlled by the government of Georgia. The murderer of Mr. Giga Otkhozoria has been identified — Mr. Rashid Kanji-Ogli. After committing the murder Mr. Rashid Kanji-Ogli and his accomplices immediately fled to the occupied territory of Abkhazia. In May 2016, the

[1] Consolidated Report on the Conflict in Georgia, Council of Europe (April 2016 – September 2016), 2016, SG/Inf(2016) 37.

[2] EU Statement on the Secretary General's 14th Consolidated report on the Conflict in Georgia, 1271st Council of Europe Committee of Ministers Meeting – 16 November 2016.

[3] EU Statement on the Secretary General's 14th Consolidated report on the Conflict in Georgia, 1271st Council of Europe Committee of Ministers Meeting – 16 November 2016.

[4] Statement of the Group of Friends of Georgia on the Conflict in Georgia, "The Ministry of Foreign Affairs of Georgia" 9 December 2016, available at <http://www.mfa.gov.ge/News/%E1%83%94%E1%83%A3%E1%83%97%E1%83%9D-%E1%83%A8%E1%83%98-%E1%83%A1%E1%83%90%E1%83%A5%E1%83%90%E1%83%A0%E1%83%97%E1%83%95%E1%83%94%E1%83%9A%E1%83%9D%E1%83%A1-%E1%83%9B%E1%83%94%E1%83%92%E1%83%9D%E1%83%91%E1%83%90%E1%83%A0%E1%83%97%E1%83%90-%E1%83%AF%E1%83%92%E1%83%A3%E1%83%A4%E1%83%98%E1%83%A1-%E1%83%A5%E1%83%95%E1%83%94%E1%83%A7%E1%83%9C%E1%83%94%E1%83%91%E1%83%98% E1%83%A1-%E1%83%94%E1%83%A0%E1%83%97.aspx?lang=en-US>.

[5] The Parliamentary Assembly of the Council of Europe (PACE), 13 October 2016, available at <http://assembly.coe.int/Documents/Records/2016/E/1610131000E.htm>.

Ministry of Foreign Affairs of Georgia issued a statement "concerning the fact of murder committed in the village of Khurcha, Zugdidi District, on May 19, 2016." According to the statement "this criminal act once again demonstrates the highly alarming situation in the occupied region of Abkhazia, Georgia and the full responsibility for it lies with the Russian Federation as with the power in effective control of the region."[6] In May 2016, the Prosecutor's Office of Georgia filed charges against Mr. Rashid Kanji-Ogli for the premeditated murder of Mr. Giga Otkhozoria and criminal prosecution was launched under the Criminal Code of Georgia.[7] In July 2016, Mr. Khajimba publicly declared that Mr. Rashid Kanji-Ogli would not be handed over to the Georgian authorities.[8] During the reporting period, namely in December 2016, Zugdidi District Court found, in absentia, fugitive Mr. Rashid Kanji-Ogli guilty of the charges filed against him and sentenced him to deprivation of liberty for a term of 12 years.[9] However under the existing circumstances, Mr. Rashid Kanji-Ogli and his accomplices still remain unpunished. The above situation with regard to the violation of the right to life of Mr. Giga Otkhozoria once again demonstrates that the occupied territories of Georgia remain "black holes" in terms of holding the violators of human rights accountable. The above situation further reaffirms the need of immediate, unhindered and continuous access of international human rights monitoring mechanisms in the occupied territories of Georgia.

Occupation line and installation of barbed wire fences and other artificial obstacles

8. The occupation line along the administrative boundary line (ABL) with Abkhazia and the Tskhinvali Region separates Georgia from its two occupied territories. The process of so called "borderization" was commenced in 2011. Currently, the total length of razor wire and barbed wire fences and other artificial obstacles along the occupation line in Tskhinvali Region is nearly 52 km (overall length of the occupation line is more than 350 km) and along the occupation line in Abkhazia is 48 km (overall length of the occupation line is around 145 km).

9. According to "EU Statement on the Secretary General's 14th Consolidated Report on the Conflict in Georgia", made on 16th November 2016 at 1271st Council of Europe Committee of Ministers Meeting, "the EU is deeply concerned about the illegal activities of "borderization" that divide families and communities and impedes the people on the ground, depriving them from fundamental rights, including education in the native language, property rights and freedom of movement, including in the context of so called border crossing, which, inter alia, may lead to fatal incidents. The EU calls on the authorities exercising effective control to remove the fences and other obstacles to the freedom of movement and to investigate all allegations of all crimes and human rights violations on the ground."[10]

[6] Statement by the Ministry of Foreign Affairs of Georgia concerning the fact of murder committed in the village of Khurcha, Zugdidi District, on May 19, 2016, 19 May 2016, available at <http://www.mfa.gov.ge/News/%E1%83%A1%E1%83%90%E1%83%92%E1%83%90%E1%83%A0%E1%83%94%E1%83%9D-%E1%83%A1%E1%83%90%E1%83%A5%E1%83%9B%E1%83%94%E1%83%97%E1%83%90-%E1%83%A1%E1%83%90%E1%83%9B%E1%83%98%E1%83%9C%E1%83%98%E1%83%A1%E1%83%A2% E1%83%A0%E1%83%9D%E1%83%A1-%E1%83%92%E1%83%90%E1%83%9C%E1%83%AA%E1%83%AE%E1%83%90%E1%83%93%E1%83%94% E1%83%91%E1%83%90-2016-%E1%83%AC%E1%83%9A%E1%83%98%E1%83%A1-1.aspx?CatID=5&lang=en-US>.

[7] The Prosecutor's Office Launches Criminal Proceedings on the Murder of Giga Otkhozoria, "Prosecutor's Office of Georgia", 21 May 2016, available at <http://pog.gov.ge/eng/news?info_id=932>.

[8] Abkhazia will not hand over to Georgia border guard suspected in murder, "Ria Novosti", 6 July 2016, available at <https://ria.ru/world/20160706/1459757274.html>.

[9] Court Finds Rashid Kanji-Ogli, Accused of Giga Otkhozoria's Murder, Guilty, Prosecutor's Office of Georgia, 28 December 2016, available at <http://pog.gov.ge/eng/news?info_id=1095>.

[10] EU Statement on the Secretary General's 14th Consolidated report on the Conflict in Georgia, 1271st Council of Europe Committee of Ministers Meeting – 16 November 2016.

10. During the reporting period, an article was published in The New York Times which describes problems created by the occupation line and installation of barbed wire fences along the Tskhinvali region.[11] According to the article, the village of Jariasheni is "[m]arked in places with barbed wire laid at night, in others by the sudden appearance of green signs declaring the start of a "state border" and elsewhere by the arrival of bulldozers, the reach of Russia keeps inching forward into Georgia with ever more ingenious markings of a frontier that only Russia and three other states recognize as real." The article states that "[t]he green border signs that first appeared last year and now keep popping up along the zigzagging boundary warn that "passage is forbidden" across what is declared to be a "state border." According to the article, "Kestutis Jankauskas, the head of the European Union Monitoring Mission in Georgia, said it was hard to know where this boundary line exactly runs. It was never recognized or agreed upon, and its location depends on which maps are used. Russia, he said, is using a map drawn by the Soviet military's general staff in the 1980s. It demarcates what in the Soviet era was an inconsequential administrative boundary within the Soviet Socialist Republic of Georgia but what is now hardening into a hazardous frontier. The fitful movement of the boundary seems to be driven mostly by Russia's desire to align what it sees as a state border with this old Soviet map. So far, the movement has always been forward, often by just a few yards but at other times by bigger leaps."[12]

New so called "Laws" and New Wave of so called "Passportisation"

11. As a result of a reaction of the international community on the issue of adoption of so called new "laws" and so called "passportisation", decision was made in December 2016 to amend so called "law on legal status of foreign citizens in Abkhazia" and to enable residents of Gali district, holding Georgian citizenship, to obtain "residence permits"; according to the amendment, "resident permits can be issued to individuals holding foreign citizenship if they were born in Gali district of the Soviet Socialist Republic of Abkhazia."[13] However, it should be noted here that resident permits will not enable to obtain so called "Abkhazian citizenship" until holding foreign citizenship.[14]

12. As part of the new wave of so called "passportisation" in the Abkhazian region, the issuance of so called "passports" started in May 2016 and it was continuing during the reporting period.[15]

By the middle of December 2016, more than 3 000 new so called "Abkhaz passports" were issued.[16] It has been decided to extend expiry date of old so called "Abkhaz passports" until 31st December 2018.[17] It should be emphasized that on 18th October 2016, so called "head of administration of Gali district" of the Sokhumi occupation regime declared that "from 17

[11] In Russia's 'Frozen Zone,' a Creeping Border With Georgia, Andrew Higgins, The New York Times, 23 October 2016, available at < https://www.nytimes.com/2016/10/24/world/europe/in-russias-frozen-zone-a-creeping-border- with-georgia.html?_r=1>.

[12] In Russia's 'Frozen Zone,' a Creeping Border With Georgia, Andrew Higgins, The New York Times, 23 October 2016, available at < https://www.nytimes.com/2016/10/24/world/europe/in-russias-frozen-zone-a-creeping-border- with-georgia.html?_r=1>.

[13] Resident Permits will be given foreign citizens in Gali, "Apsny", 29 December 2016, available at http://apsny.ru/news/?ID=26462.

[14] Legal status of residents of Eastern districts of Abkhazia will be regulated, "Nuzhnaya Gazeta", 29 December 2016, available at https://abh-n.ru/pravovoe-polozhenie-zhitelej-vostochnyx-rajonov-abxazii-budet- uregulirovano/.

[15] Tania: during one month 300 passports were distributed in Sokhumi, "Apsnypress", 19 December 2016, available at http://www.apsnypress.info/news/taniya-za-mesyats-po-sukhumu-vydano-svyshe-300-pasportov/.

[16] Manargia: more than 3 000 new Abkhaz passports were issued, "Sputnik-Abkhazia", 19 December 2106, available at http://sputnik-abkhazia.ru/Abkhazia/20161219/1020088707/manargiya-oformleno-bolee-trex-tysyach- novyx-abxazskix-pasportov.html.

[17] Expiry date of Abkhaz passports of old sample was extended until 31 December 2018, "Apsnypress", 31 December 2016, available at http://www.apsnypress.info/news/data-okonchaniya-sroka-deystviya-pasportov- starogo-obraztsa-perenesena-na-31-dekabrya-2018-goda/.

800 residents of Gali district, only 340 have Abkhazian citizenship, the rest are Georgian citizens".[18]

13. It should be recalled that on 1st April 2016, so called "law on legal status of foreign citizens in Abkhazia"[19] and "law on entry and exit of Abkhazia"[20] became operational. A similar document was adopted by the Tskhinvali occupation regime, namely so called "law on legal status of foreigners in the Republic of South Ossetia". Adoption of so called "laws" in many ways target the ethnic Georgian population living in the occupied territories. The Ministry of Foreign Affairs of Georgia once again expresses its serious concern on the adoption of new discriminatory regulations for ethnic Georgians living in the occupied regions of Georgia.

II. Freedom from torture and ill-treatment

14. As described in previous quarterly reports of the Ministry of Foreign Affairs of Georgia on the human rights situation in the occupied regions of Georgia, the Russian FSB officers and representatives of the Sokhumi and Tskhinvali occupation regimes regularly take actions which amount to torture and ill-treatment. For years, there has been a regular flow of information on inadequate detentions conditions in so called "detention centers" in the occupied regions of Georgia. The practice of torture and ill-treatment in the occupied regions of Georgia remained an issue of concern during the reporting period as well.

15. During the reporting period, namely on 10th December 2016, the Public Defender of Georgia issued the Report on Human Rights and Freedom in 2016. According to the report, "inappropriate and degrading treatment is regularly applied toward detainees at Russian military basis, including forced labor, verbal and physical abuse, restriction of food and water etc.".[21]

16. On 27th November 2016, three members of so called "special forces unit" of the Tskhinvali occupation regime inflicted severe physical assault to a 21-year-old resident in Tskhinvali. As a result, numerous traumas were inflicted to the head of the victim which was later hospitalized. During the incident, one of the members of so called "special forces unit" even fired a shot in the direction of the victim.[22]

[18] Nadaraia: project is ready on creation of special economic zone in Gali district, "Apsnypress", 18 October 2016, available at http://www.apsnypress.info/news/nadaraya-gotov-proekt-po-sozdaniyu-v-galskom-rayone-osoboy- ekonomicheskoy-zony/.

[19] So called "law on legal status of foreign citizens in Abkhazia" was designed in order to qualify ethnic Georgians, living in the region of Abkhazia, into a category of "foreign citizens" and to discriminate against them in many ways. Many ethnic Georgians living in Abkhazia, predominantly in Gali district, hold Georgian citizenship that qualifies them into the category of "foreigners" under the so called "law on legal status of foreign citizens in Abkhazia" and therefore puts limitation on their human rights including the freedom of movement, the right to property and labour rights. Under this so called "law" ethnic Georgians holding Georgian citizenship were deprived possibility to obtain residence permits and respective restrictive clauses prepared "legal" ground for persecution of ethnic Georgian families.

[20] By the adoption of so called "law on entry and exit of Abkhazia", the decision has been made to introduce visas for states a) not recognizing so called "independence of Abkhazia" and b) not having a "bilateral agreement" of visa free travel. Under this so called "law" any person can exit Abkhazia, however only so called "citizens of Abkhazia" can enter the Abkhazian region without additional formalities. It should be noted that a foreign citizen or a person without citizenship can be expelled from the territory of occupied Abkhazia if that person poses a threat to defense and security or to public order. It should be emphasized that this so called "law", creates additional obstacles to representatives of international organizations leading to further isolation of the region.

[21] The Public Defender of Georgia 10 December Report on the Situation of the Protection of Human Rights and Freedoms in 2016, "The Public Defender of Georgia", 10 December 2016, p. 20, available at < http://www.ombudsman.ge/uploads/other/4/4088.pdf >.

[22] A resident of Tshinvali was beaten by members of special forces unit, "Sputnik-Ossetia", 2 December 2016, available at <http://sputnik-ossetia.ru/South_Ossetia/20161202/3395524.html>; General Prosecutor's Office started investigation against members of special forces unit, which have beaten a

17. In December 2016, in Tskhinvali members of so called “special forces unit” of the Tskhinvali occupation regime physically assaulted two schoolchildren - one boy and one girl of grade 11 of school N 2 in the restaurant “Oasis”. Traumas to heads were inflicted to both of them; as a result the boy lost conscience. Later the victims were transported to a hospital for medical treatment.[23]

18. In October 2016, Mr. Khajimba declared that “there is a need to change detention conditions of detainees in the detention centre” and so called “minister of interior” of the Sokhumi occupation regime declared that “problems related to detention conditions of criminals remain unsolved for already 23 years”.[24] It has been argued by representatives of the Sokhumi occupation regime that “absence of motivation of employees of the ministry of interior to work in the detention centre due to the low salary there”, “understaffing of the preliminary detention centre with employees, which equals to 60 per cent” and non-provision of “the detention centre with necessary technical equipments” are behind the problems.[25]

III. Arbitrary detention

19. The Russian FSB officers regularly carry out arbitrary detention for so called “illegal border crossing” along the occupation lines with Abkhazia and Tskhinvali regions. In most cases detention is followed by fines and later release. Detention period can last several days or several months, in some cases several years. According to data supplied by the State Security Service of Georgia in the middle of December 2016, between 2008 and 12th December 2016, in total 2 775 people were detained by the Russian FSB officers for so called “illegal border crossing”: 1 788 people were detained along the occupation line with the Abkhazian region and 987 people were detained along the occupation line with the Tskhinvali region; from 1st January 2016 to 12th December 2016, 190 people were detained along the occupation line with the Abkhazian region and 132 people were detained along the occupation line with the Tskhinvali region.[26] It should be noted that according to the information of so called “State Security Committee of South Ossetia”, 549 people were detained for so called “illegal border crossing” along the occupation line with the Tskhinvali region throughout the year 2016.[27]

20. According to the report of the Public Defender of Georgia issued during the reporting period, “armed forced of the Russian Federation continue to detain minors, pregnant women, patients and older people.”[28]

resident of Tskhinvali, Sputnik-Ossetia”, 6 December 2016, available at http://sputnik-ossetia.ru/South_Ossetia/20161206/3413768.html.

[23] Tibilov: members of special forces unit should be examples of behavior, “Sputnik-Ossetia”, 29 December 2016, available at <http://sputnik-ossetia.ru/South_Ossetia/20161229/3528028.html>; Prosecutor’s office is investigating details of brawl between youngsters and special forces unit, Sputnik-Ossetia”, 27 December 2016, available at http://sputnik-ossetia.ru/South_Ossetia/20161227/3517504.html.

[24] Raul Khajimba: it is necessary to regulate issue of increasing salaries to employees of the preliminary detention centre, “Apsnypress”, 20 October 2016, available at http://apsnypress.info/news/raul-khadzhimba-neobkhodimo- reshit-voprosy-povysheniya-zarabotnoy-platy-sotrudnikam-sizo/.

[25] Raul Khajimba: it is necessary to regulate issue of increasing salaries to employees of the preliminary detention centre, “Apsnypress”, 20 October 2016, available at http://apsnypress.info/news/raul-khadzhimba-neobkhodimo- reshit-voprosy-povysheniya-zarabotnoy-platy-sotrudnikam-sizo/.

[26] Representatives of the Russian occupying forces detained 2 775 Georgians between 2008 and 12 December 2016 for so called illegal border crossing of Georgian occupied territories, “Pirweli Information Agency”, 12 December 2016, available at < http://pia.ge/post/84592-rusma-okupantebma-2-775-qartveli-daakaves>.

[27] Authorities of South Ossetia expelled violator of state border from Georgia, “Sputnik-Ossetia”, 28 December 2016, available at http://sputnik-ossetia.ru/South_Ossetia/20161228/3522804.html.

[28] The Public Defender of Georgia 10 December Report on the Situation of the Protection of Human Rights and Freedoms in 2016, “The Public Defender of Georgia”, 10 December 2016, p. 20, available athttp://www.ombudsman.ge/uploads/other/4/4088.pdf.

21. It is particularly alarming that during the reporting period, Mr. Giorgi Giunashvil remained in illegal detention in so called Tskhinvali prison.[29] As described in the Third Quarterly Report (July-September 2016) of the Ministry of Foreign Affairs of Georgia on the Human Rights Situation in the Occupied Regions of Georgia, on 8 June 2016, Mr. Giorgi Giunashvil, citizen of Georgia was detained by the Russian FSB officers for so called "illegal border crossing" along the occupation line with Tskhinvali region. Initially, the detainee was sentenced two months of imprisonment for so called "illegal border crossing". However, later so called "prosecutor's office" of the Tskhinvali occupation regime initiated "criminal case" against Mr. Giorgi Giunashvil accusing him of "causing serious damage to the health" of an unspecified resident of the Tskhinavli region in the year 2008. The government of Georgia considers the above accusations against Mr. Giorgi Giunashvil to be groundless and fabricated and therefore calls for his unconditional release.[30]

22. During the reporting period numerous cases were reported on arbitrary detention in the occupied regions of Georgia. Below are only few examples.

23. On 12th October 2016, a resident of the village of Plavi, Gori district, was detained for so called "illegal border crossing" along the occupation line with Tskhinvali region and "criminal charges" were filed against him for the above reason.[31] However, according to the family members of the detainee, he had not crossed the occupation line.[32]

24. On 22nd October 2016, a resident of the village of Mejvriskhevi, Gori district, was detained by the Russian FSB officers for so called "illegal border crossing" nearby the occupation line with the Tskhinvali region. The resident of the village of Mejvriskhevi did not cross the occupation line; when detained he was nearby the occupation line for cattle grazing.[33]

25. On 24th October 2016, a resident of the village Kirbali, Gori district, was detained by the Russian FSB officers for so called "illegal border crossing" nearby the occupation line with the Tskhinvali region. When detained, the resident of the village of Kirbali was collecting timber in the forest nearby the occupation line. He did not cross the occupation line. The detainee spent three days in detention in the Tskhinvali region.[34]

26. On 5th and 6th November 2016, six citizens of Georgia were detained for so called "illegal border crossing" along the occupation line with Tskhinvali region.[35]

27. On 27th November 2016, a 18-year-old resident of Gori district was detained by the Russian FSB officers in the village of Jariasheni, nearby the occupation line with Tskhinvali region and was abducted to the occupied Tskhinvali region.[36]

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[29] IPRM Meeting held in Ergneti, State Security Service of Georgia, 30 November 2016, available at http://ssg.gov.ge/en/news/197/IPRM-Meeting-Held-in-Ergneti.

[30] IPRM Meeting held in Ergneti, State Security Service of Georgia, 30 November 2016, available at <http://ssg.gov.ge/en/news/197/IPRM-Meeting-Held-in-Ergneti>.

[31] Criminal case was filed in relation to violator of border from Georgia, "Sputnik-Ossetia", 12 October 2016, available at <http://sputnik-ossetia.ru/South_Ossetia/20161012/3149539.html>.

[32] A resident of the village of Plavi was detained for so called "illegal border crossing", "IPN", 12 October 2016, available at <http://www.interpressnews.ge/ge/konfliqtebi/401945-ets-sazghvris-ukanonod-gadakvethis-braldebith- sofel-flavis-mckhovrebi-daakaves.html?ar=A>.

[33] 43-year-old man was detained for so called illegal border crossing, "GHN", 22 October 2016, available at<http://ghn.ge/com/news/view/162625>.

[34] What is the story of a man who spent three days in illegal detention the Tskhinvali detention center? "Palitra News", 27 October 2016, available at < http://www.palitratv.ge/yvela-video/akhali-ambebi/79610-ras-hyveba- ckhinvalis-izolatoridan-samdghiani-ukanono-patimrobis-shemdeg-gathavisuflebuli-mamakaci.html>.

[35] Tskhinvali regime released six Georgian citizens as a result of fine payment, "IPN", 8 November 2016, available at <http://www.interpressnews.ge/ge/konfliqtebi/405626-ckhinvalis-rezhimma-jarimis-gadakhdis-shemdeg- saqarthvelos-6-moqalaqe-gaathavisufla.html?ar=A>.

[36] Occupants abducted 18-year-old man from the village of Jariasheni, "Ambebi.ge", 27 November 2016, available at <http://www.ambebi.ge/semtxveva/184430-sofel-jariashenidan-okupantebma-18-tslis-mamakaci-gaitaces.html>.

28. On 6th December 2016, several schoolchildren residing in the occupied village of Otobaia, Gali district, were detained by the Russian FSB officers Abkhazia. The schoolchildren were held in detention in the Russian military base for around 5 hours.[37]

29. On 27th December 2016, a resident of the village of Mejvriskhevi, Gori district, was detained by the Russian FSB officers for so called "illegal border crossing" along the occupation line with Tskhinvali region.[38]

IV. Freedom of movement

30. Along the occupation lines with Abkhazia and Tskhinvali regions people are regularly subject to restrictions on freedom of movement by the Russian FSB officers: the operating crossing points along the occupation lines allow crossings only to individuals having one of the types of "documents" recognized by the occupying power. Those unable to present the "document" or show up at the crossing point out of working hours, are denied the right to cross, often leading to various types of problems of locals, including children. Restrictions on freedom of movement remained an issue of concern during the reporting period that has been attested by the various sources.

31. It should be recalled that in spring 2016, two crossing points from six crossing points along the occupation line with the Abkhazian region were closed down.[39] In November 2016, Mr. Khajimba publicly spoke about the policy of closing down the crossing points along the occupation line with the Abkhazian region.[40] On 5th December 2016, so called "head of administration of Gali district" of the Sokhumi occupation regime publicly declared that "the Russian Border Guards are closing more and more segments of fords on the River Enguri, the places in the river which were used to cross the border illegally. In this 2016 year everything is ready to close down two more crossing points".[41] Eventually, by so called "decree N 241" of so called "government of Abkhazia", dated 28 December 2016, decision was made to close down two more crossing points — "Nabakevi crossing point" and "Otobaia crossing point" along the occupation line with the Abkhazian region.[42] It should be noted that according to paragraph 3 of so called "decree N 241", "the decree will enter into force in 30 days after it is published".[43] When commenting the decision on the closure of two additional crossing points, the representative of so called "government of Abkhazia" stated the following: "in accordance with governmental decision adopted earlier, we are gradually decreasing the number of crossing points on the border with Georgia".[44]

[37] So called border guards freed schoolchildren detained in occupied Abkhazia, "Pirweli Information Agency", 6 December 2016, available at <http://pia.ge/post/83148-e-w-mesazrvreebma-okupirebul-afxazetsi-dakavebuli-skolis- moswavleebi-gaatavisufles.

[38] Authorities of South Ossetia expelled violator of state border from Georgia, "Sputnik-Ossetia", 28 December2016, available at <http://sputnik-ossetia.ru/South_Ossetia/20161228/3522804.html>

[39] Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2016), 2016, SG/Inf(2016) 37, paragraph 41.

[40] Raul Khajimba: we will not let anybody to destroy our state in the heat of revenge, "Apsnypress", 10 November 2016, available at http://www.apsnypress.info/news/raul-khadzhimba-my-nikomu-ne-pozvolim-v-pylu- revanshizma-razrushat-nashu-gosudarstvennost/.

[41] Temur Nadaraia: data supplied by Dimitri Dbar are nor authentic and mislead the public, "Apsnypress", 5 December 2016, available at http://www.apsnypress.info/news/temur-nadaraya-tsifry-privedyennye-dmitriem- dbar-nedeystvitelny-i-vvodyat-v-zabluzhdenie-obshchestve/.

[42] Two more crossing pints on the border on the River Enguri will be closed, "Apsnypress", 28 December 2016, available at <http://www.apsnypress.info/news/zakryvayutsya-eshche-dva-punkta-propuska-na-granitse-po-reke- ingur/>; Decree of government of republic of Abkhazia, 28 December 2016, available at **¡Error! Referencia de hipervínculo no válida.**.

[43] Decree of government of republic of Abkhazia, 28 December 2016, available at **¡Error! Referencia de hipervínculo no válida.**.

[44] Two more crossing pints on the border on the River Enguri will be closed, "Apsnypress", 28 December 2016, available at http://www.apsnypress.info/news/zakryvayutsya-eshche-dva-punkta-propuska-na-granitse-po-reke- ingur/.

32. According to information disseminated on 26th October 2016, Mr. Tibilov declared that “Tskhinvali needs airplanes in order to eradicate the practice by Ossetians travelling to Georgia for medical treatment”. According to the source, Mr. Tibilov stated that “local residents often request authorities to send them for medical treatment to Georgia, where it is much easier to travel rather than to North Ossetia [the Russian Federation]”. According to Mr. Tibilov, “South Ossetia is discussing with the Russian Federation the issue of creation of its own aviation”.[45]

33. As described in previous quarterly reports of the Ministry of Foreign Affairs of Georgia on the human rights situation in the occupied regions of Georgia, both in the Abkhazian region and in the Tskhinvali region so called “border zones” are established in the vicinity of the occupation lines by the occupying power. Residents of each occupied region are subject to restrictions on freedom of movement in terms of entering these so called “border zones” and in terms of moving within these so called “border zones”. It should be emphasized that during the reporting period, so called “deputy minister of foreign affairs” of the Sokhumi occupation regime declared that “there is a decision of government, adopted very recently, in fact few days ago, which approved extension of border zone”.[46] According to the same source, “this is a regime zone and correspondingly, entrance to this zone will be always restricted. Those who dwell there (householders, guests etc.) fall under this regime”.[47] According to information disseminated on 15th November 2016, local residents of Gali district of the occupied Abkhazian region are subject to restrictions on freedom of movement: the Russian military personnel deployed there, demands “documents” in order to allow local residents to move across internal routes of Gali district.[48]

According to information disseminated on 16th December 2016, in the villages of Saberio, Lekukhona and Cheghali, Gali district, freedom of movement of local residents is restricted: occupants demand “documents” from locals in order to allow them to move from one village to another and shoot photos of local residents, presumably in order to create a database.[49]

34. It should be emphasized that according to information disseminated on 23rd November 2016, the Russian FSB officers restricted freedom of movement of residents of the villages of Akhalubani, Adzvi and Jariasheni, Gori district, namely residents of these villages, on the occasion of St. George’s Day, could not visit and pray in St. George’s Church, located nearby the occupation line with the Tskhinvali region.[50]

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[45] Leonid Tibilov - Tskhinvali needs airplanes in order to eradicate the practice by Ossetians travelling to Georgia for medical treatment, “Ambebi”, 26 October 2016, available at http://www.ambebi.ge/conflicts/180939-leonid- thibilovi-ckhinvals-thvithmfrinavebi-stcirdeba-imisthvis-rom-saqarthveloshi-osebis-samkurnalod-chasvla- aghkvethos.html.

[46] Talks about militarization of Gali district are untenable”, “ekhokavkaza”, 24 November 2016, available at < http://www.ekhokavkaza.com/a/28137770.html>.

[47] Talks about militarization of Gali district are untenable”, “ekhokavkaza”, 24 November 2016, available at http://www.ekhokavkaza.com/a/28137770.html.

[48] In occupied Abkhazia population is subject to restrictions of movement on so called border, “Pirweli Information Agency”, 15 November 2016, available at http://pia.ge/post/540-okupirebul-afxazetsi-e-w-sazrvarze-mosaxleobas- gadaadgileba-seezruda.

[49] In the villages of Gali district occupants restrict freedom of movement of locals, “Pirweli Information Agency”, 16 December 2016, available at <http://pia.ge/post/83972-okupirebuli-galis-soflebsi-okupantebi-adgilobrivebs- gadaadgilebas-uzrudaven>.

[50] In Gori district, nearby the occupation line, mobilization of so called Russian border guards was noticeable, “Newposts”, 23 November 2016, available at <http://www.newposts.ge/?l=G&id=125858-%E1%83%92%E1%83%9D%E1%83%A0%E1%83%98,%20%E1%83%A1%E1%83%90%E1%83%9D%E1%83%99%E1%83%A3%E1%83%9E%E1%83%90%E1%83%AA%E1%83%98%E1%83%9D,%20%E1%83%9B%E1%83%94%E1%83%A1%E1%83%90%E1%83%96%E1%83%A6%E1%83%95%E1%83%A0%E1%83%94,%20%E1%83%92%E1%83%98%E1%83%9D%E1%83%A0%E1%83%92%E1%83%9D%E1%83%91%E1%83%90>; Population is not allowed to pray nearby administrative boundary line with so called South Ossetia, “Kvira”, 23 November 2016, available at http://kvira.ge/295904.

V. Right to property

35. During the reporting period, violations of the right to property caused by the occupation of the territories of Georgia, remained the issue of concern.

36. During the reporting period, a representative of the Tskhinvali occupation regime stated that "particularly on locations, where the border is not yet clearly formalized, residents of adjacent territories often cultivate land and harvest crop and therefore violate the law." He further stated that "In cases when the border crosses directly through premises and plots of land, a householder should keep a passport in order to enter his plot of land, which remained on the territory of another state. There are a lot of such situations, predominantly in the village of Zardiantkari."[51]

37. According to the article which was published during the reporting period in *The New York Times*, the occupation line along the Tskhinvali region creates problems for local residents in terms of enjoyment of the right to property. According to the article, "the dirt track now running through this tiny Georgian village [of Jariasheni] nonetheless means that Vephivia Tatiashvili can no longer go to his three-story house because it sits on land now patrolled by Russian border guards." The article argues that "[t]here is no fence or barbed wire, but Mr. Tatiashvili does not dare to cross the track to visit his house for fear of being arrested, as his elderly neighbor was, by Russian border guards. "It is too dangerous for me to go home," he said, complaining that the boundary has become so mobile that nobody really knows its final destination. Mr. Tatiashvili now lives in his brother's house, away from the border in the village center. Russia starts right here," said Mr. Tatiashvili, pointing to the freshly dug track that separates his house from Georgian-held land." The article further observes that "Elizbar Mestumrishvili, 75, a farmer who lives next to Mr. Tatiashvili's now-marooned house, can still get to his home, as it lies on the Georgian side of the new dirt track. But he is wary of going to the bottom of his garden, which lies within a 60-yard frontier zone that Russian and South Ossetian security officers claim the right to patrol. Pointing to a row of vines drooping with plump grapes, he said it was unwise to walk any farther because "they might come and set up a border post".[52]

38. According to local residents of Gali district, so called "administration of Gali district" of the Sokhumi occupation regime forces them to sell most of their harvested citrus crops in the Russian Federation: however it is economically much more profitable for them to sell their crops of citrus in Zugdidi, the territory controlled by the government of Georgia.[53] I should be noted here that the European Court of Human Rights has interpreted "possessions" under Article 1 (Protection of Property), Protocol No. 1 of the European Convention on Human Rights (ECHR) very broadly and has held that it includes movable or immovable property and also the economic interests connected with "possessions".[54]

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[51] David Sanakoev: Arrangement of Border depends on financing, "Sputnik-Ossetia", 13 October, available at http://sputnik-ossetia.ru/South_Ossetia/20161013/3158517.html.

[52] In Russia's 'Frozen Zone,' a Creeping Border With Georgia, Andrew Higgins, The New York Times, 23 October 2016, available at < https://www.nytimes.com/2016/10/24/world/europe/in-russias-frozen-zone-a-creeping-border- with-georgia.html?_r=1>.

[53] Abkhazian de-facto authorities force population of Gali district to transport citrus to Russia, "Business Press News", 27 October 2016, available at < https://bpn.ge/finansebi/27714-afkhazethis-de-faqto-khelisufleba-galis- mosakhleobas-citrusis-rusethshi-gatanas-aidzulebs.html?device=xhtml&lang=ka-GE>.

[54] Possessions" include "a range of economic interests. The following have been held to fall within the protection of Article 1: movable or immovable property, tangible or intangible interests, such as shares, patents, an arbitration award, the entitlement to a pension, a landlord's entitlement to rent, the economic interests connected with the running of a business, the right to exercise a profession, a legitimate expectation that a certain state of affairs will apply, a legal claim, and the clientele of a cinema." Carss-Frisk, M. The right to property: A guide to the implementation of Article 1 of Protocol No. 1 to the European Convention on Human Rights, Human rights handbooks, No. 4 (Strasbourg: Council of Europe, 2001), p. 6, available at https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168007ff4a.

VI. Right to education in the native language

39. As described in previous quarterly reports of the Ministry of Foreign Affairs of Georgia on the human rights situation in the occupied regions of Georgia, in the Gali district there are 31 schools and from these 31 schools only 11 schools, all of which are in so called "lower zone" of Gali district, had the status of Georgian schools until the end of the academic year 2014-2015. However, from the beginning of September of the academic year 2015-2016, drastic changes have been made in the curriculum of these 11 schools, implying teaching of all subjects in the Russian language in grades from I to IV. The academic year 2016-2017 started in line with the above changes implying teaching of all subjects in the Russian language and therefore the Russian language had become the formal instruction language also in grade V. The above policy, if continued for several years, would result in gradual replacement of the Georgian curriculum with the Russian curriculum for all grades in these 11 schools of so called "lower zone" of Gali district.

40. According to the report of the Public Defender of Georgia issued during the reporting period, "problems remain with the access of people living on occupied territories to education."[55]

41. During the reporting period, the situation with regard to the right to education in the native language in the Gali district remained the same. According to "EU Statement on the Secretary General's 14th Consolidated Report on the Conflict in Georgia", made on 16th November 2016 at 1271st Council of Europe Committee of Ministers Meeting, "[t]he EU expresses its concern at reports on a continuing deterioration of the access to education in the native language in the Georgian region of Abkhazia. We strongly believe that the right to education for everyone, including education in the native language should be guaranteed and applied in the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia as well. We join the efforts of the Co-Chairs of Geneva International Discussions to promote understanding and respect for the universal right to education of the child."[56]

42. As described in previous quarterly reports of the Ministry of Foreign Affairs of Georgia on the human rights situation in the occupied regions of Georgia, there is a tendency of making decisions by parents on termination of attendance by their schoolchildren of the schools with newly introduced Russian curriculum and transferring them to the schools located on the other side of the occupation line; however the right to education in the native language remains problematic also in relation to freedom of movement. For example, in the reporting period, namely on the morning of 6th December 2016, several schoolchildren residing in the occupied village of Otobaia, Gali district were detained by the Russian FSB officers and were prevented from crossing the occupation line along Abkhazia and therefore from attending school in the village of Darcheli, Zugdidi district, the territory controlled by the government of Georgia. It should be noted that the schoolchildren were held in detention in the Russian military base for around 5 hours.[57] Moreover, the decision to close down two more crossing points along the occupation line with the Abkhazian region will create further impediments to the schoolchildren going to schools on the territory controlled by the government of Georgia to get the education in the native language, as they have to pass additional several kilometres every day.

[55] The Public Defender of Georgia 10 December Report on the Situation of the Protection of Human Rights and Freedoms in 2016, "The Public Defender of Georgia", 10 December 2016, p. 20, available at http://www.ombudsman.ge/uploads/other/4/4088.pdf.

[56] EU Statement on the Secretary General's 14th Consolidated report on the Conflict in Georgia, 1271st Council of Europe Committee of Ministers Meeting – 16 November 2016.

[57] So called border guards freed schoolchildren detained in occupied Abkhazia, "Pirweli Information Agency", 6 December 2016, available at http://pia.ge/post/83148-e-w-mesazrvreebma-okupirebul-afxazetsi-dakavebuli-skolis- moswavleebi-gaatavisufles.

VII. Conclusions

43. It can be concluded that the situation described in the occupied regions of Georgia constitutes infringements on freedom from torture and ill-treatment and therefore are violations of Article 7 of the International Covenant on Civil and Political Rights (ICCPR); Article 5 of the Universal Declaration of Human Rights (UDHR); Article 3 of the European Convention on Human Rights (ECHR); and the OSCE commitments.[58]

44. It can be concluded that the situation described in the occupied regions of Georgia with regard to arbitrary detention and examples provided for the reporting period constitute arbitrary detention and therefore violations of Article 9 of the International Covenant on Civil and Political Rights (ICCPR); Article 3 of the Universal Declaration of Human Rights (UDHR); Article 5 of the European Convention on Human Rights (ECHR); and relevant provisions of the OSCE commitments.

45. It can be concluded that the situation described in the occupied regions of Georgia with regard to freedom of movement and examples provided for the reporting period constitute violations of the right to freedom of movement, namely of Article 12 of the International Covenant on Civil and Political Rights (ICCPR); Article 13 of the Universal Declaration of Human Rights (UDHR); Article 2, Protocol No. 4 of the European Convention on Human Rights (ECHR); and the OSCE freedom of movement commitments.

46. It can be concluded that the situation described in the occupied regions of Georgia with regard to the right to property and examples provided for the reporting period violate the right to property, namely Article 17 of the Universal Declaration of Human Rights (UDHR); Article 1, Protocol No. 1 of the European Convention on Human Rights (ECHR); and the OSCE commitments.

47. It can be concluded that the situation described in the occupied regions of Georgia with regard to education in the native language and examples provided for the reporting period constitute violations of the right to education in one's native language and therefore violations of Article 26 (read in conjunction with Article 2) of the Universal Declaration of Human Rights (UDHR); Article 2, Protocol No. 1 of the European Convention on Human Rights (ECHR); Article 28 (read in conjunction with paragraph 1 of Article 2) of the UN Convention on the Rights of the Child; and relevant provisions of the OSCE commitments.

48. It can be concluded that the situation described in the occupied regions of Georgia, particularly adoption of so called "laws" and the process of "passportisation" violates prohibition of discrimination provisions of Article 14 and Protocol No. 12 of the European Convention on Human Rights (ECHR); Article 26 of the International Covenant on Civil and Political Rights (ICCPR); and the International Convention on the Elimination of All Forms of Racial Discrimination.

VIII. Appeal to the international community

49. The Ministry of Foreign Affairs of Georgia appeals to the international community, states as well as international intergovernmental and non-governmental organizations:

- to call on the Russian Federation to reverse its recognition of independence of the Georgian regions Abkhazia and Tskhinvali and to end the occupation of the Georgian territories;
- to call on the Russian Federation to stop violations of human rights on the occupied territories while exercising effective control;

[58] The Vienna Concluding Document (1989) prohibits torture and other cruel, inhuman or degrading treatment or punishment. Paragraph 23.4; The Paris Document (1990) also prohibits torture and other cruel, inhuman or degrading treatment or punishment; the Istanbul Charter for European Security commits to "eradicating torture and other cruel, inhuman or degrading treatment or punishment throughout the OSCE area." Paragraph 21.

- to continue calling on the Russian Federation to ensure free movement of people and removal of barbed and razor wires and other artificial obstacles and banners along the occupation line; to take additional measures in order to monitor and report on the human rights situation in the occupied regions of Georgia, more specifically, the Ministry of Foreign Affairs of Georgia appeals to:

  (i) the Office of the United Nations High Commissioner for Human Rights (OHCHR) to take additional measures in order to regularly address and assess the human rights situation in Abkhazia and Tskhinvali region of Georgia;

  (ii) the UN Human Rights Council's Special Procedure Mandate holders to take additional measures in order to address and report on the human rights situation in Abkhazia and Tskhinvali region of Georgia;

  (iii) the Commissioner for Human Rights of the Council of Europe to take additional measures in order to address and report on the human rights situation in Abkhazia and Tskhinvali region of Georgia;

  (iv) the OSCE and its autonomous institutions, namely the Office for Democratic Institutions and Human Rights (ODIHR) and the Office of the High Commissioner on National Minorities (HCNM) to find ways for monitoring the human rights situation in Georgia's occupied regions. Such steps could, inter alia, include undertaking a follow-up mission to the occupied regions of Georgia and preparing a report on the status of the implementation of the recommendations contained in the ODIHR/HCNM 2008 Report on "Human Rights in the War Affected Areas following the Conflict in Georgia".

- to continue calling on the Russian Federation to allow a) access of the international human rights monitoring mechanisms to the occupied regions of Georgia; b) access of the relevant missions of international organizations (e.g. EUMM), including humanitarian organizations, to the occupied regions of Georgia through legal routes;

- to continue and intensify condemning violations of human rights such as the right to life; freedom of movement; freedom from torture and ill-treatment; the right to liberty; the right to property and the right to receive education in the native language in the occupied regions of Georgia.

Annex II

First quarterly report (January - March 2017) of the Ministry of Foreign Affairs of Georgia on the human rights situation in the occupied regions of Georgia

I. Introduction

Aims of the report and methodology applied

1. In January 2015 the Ministry of Foreign Affairs of Georgia started preparation of quarterly reports aiming at assessing the human rights situation in the occupied regions of Georgia. The Ministry of Foreign Affairs of Georgia has already prepared eight such reports: four reports in 2015 and four reports in 2016 (all available at <http://www.mfa.gov.ge/Occupied- Territories.aspx>). This is the first quarterly report of the Ministry of Foreign Affairs of Georgia for the year 2017 covering the period of January-March 2017. The Ministry of Foreign Affairs of Georgia will further continue the preparation of such reports on a quarterly basis. This reporting exercise aims to contribute to the provision of regular and updated information to the international community, to states as well as to international intergovernmental and non-governmental organizations, on the human rights situation in the occupied regions of Georgia.

2. As for the applied methodology, this reporting exercise consolidates and assesses existing information from various open sources, national and international, on violations of human rights in the occupied regions of Georgia. Due to limitations on its length, the report does not aim to collect/contain information on all cases of violations of human rights in the occupied regions of Georgia; it aims to consolidate and assess only some of the most known examples of violations. The methodology applied does not provide for the conduct of fact-finding visits to the occupied regions of Georgia, nor to the conduct of interviews. Therefore the methodology applied does not enable this reporting exercise to collect and produce new data on the human rights situation in the occupied regions of Georgia.

Responsibility of the occupying power for human rights violations

3. The Russian Federation as the occupying power of two regions of Georgia — Abkhazia and the Tskhinvali region exercises effective control over these territories. Human rights situation in these territories remains alarming and these two regions of Georgia constitute above all dangerous “black holes” in terms of holding the human rights violators accountable. The Russian Federation as the occupying power has been preventing numerous international organizations from entering Abkhazia, Georgia and the Tskhinvali Region, Georgia.

4. It should be emphasized that in the reporting period, namely on 24th March 2017, the UN Human Rights Council adopted the resolution on “Cooperation with Georgia”.[1] According to the resolution, serious concern is expressed “over the repeated denial of access to international and regional monitors, including United Nations human rights mechanisms, to both Georgian regions [of Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia], by those in control of those regions.” In the resolution serious concern was expressed “at the human rights and humanitarian situation in these regions [of Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia] of Georgia”. The resolution expressed concern “about reported kidnappings, arbitrary detention, interference with property rights, restrictions on access to education in one’s

[1] Cooperation with Georgia”, Resolution adopted by the UN Human Rights Council, 24 March 2017, 34th session (27 February-24 March 2017), A/HRC/RES/34/37.

native language, free movement and residence, as well as continued discrimination on the ground of ethnic origin in both regions". The resolution further expressed concern "that internally displaced persons and refugees continue to be deprived of the right to return to their homes in a safe and dignified manner". The resolution recognized "in this context the importance of and need for periodic reports of the Office of the High Commissioner for an objective and impartial assessment of the situation of human rights in both Georgian regions, [and called] for immediate access for the Office of the High Commissioner and international and regional human rights mechanisms to Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia".[2] On 24th March 2017, Ms Baroness Anelay, Minister of State of the Foreign and Commonwealth Office of the UK, commented the adoption of the Human Rights Council resolution on "Cooperation with Georgia" and stated the following "I also welcome the adoption of the resolution on the situation in South Ossetia and Abkhazia. The human rights situation there is deeply concerning. For too long, international organisations have been denied access by the de facto authorities to these increasingly isolated territories."[3]

5. During the reporting period, namely on 26th January 2017 the Parliamentary Assembly of the Council of Europe (PACE) adopted Resolution 2149 (2017) on "the Progress of the Assembly's monitoring procedure (September-December 2016) and the periodic review of the honouring of obligations by Austria, the Czech Republic, Denmark, Finland, France and Germany". In paragraph 10 of the Resolution, the Parliamentary Assembly of the Council of Europe (PACE) expressed its concern about developments and remaining shortcomings in a number of countries and with regard to the Russian Federation it noted the following "the occupation and illegal recognition of independence of Abkhazia, Georgia and South Ossetia, Georgia, in violation of, *inter alia*, international law, the Statute of the Council of Europe (ETS No. 1) and accession commitments." In paragraph 11 of the Resolution, the Parliamentary Assembly of the Council of Europe (PACE) called on "the authorities of the Russian Federation to reverse the ethnic cleansing and the occupation of the Georgian regions of Abkhazia and South Ossetia and to allow international monitors on the ground".[4]

6. Recently the Secretary General of the Council of Europe published its 15th Consolidated Report on the Conflict in Georgia describing, *inter alia*, human rights situation in Abkhazia, Georgia and Tskhinvali region, Georgia and covering the period between October 2016 and March 2017. Thus part of the Council of Europe's report fully covers the reporting period[5] of the present reporting exercise. It should be noted that the delegation of the secretariat of the Council of Europe carried out a fact-finding visit to Georgia on 20-21 February 2017, however was not allowed to visit Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia.[6] According to the Consolidated Report, "regrettably, since the previous [consolidated] report, no progress has been made in terms of access of international human rights monitoring mechanisms, including those of the Council of Europe, to Sokhumi and Tskhinvali."[7] The Consolidated report emphasized that "[d]uring the period under review, no progress could be reported as regards the voluntary, safe, dignified and unhindered return of internally displaced persons (IDPs) and refugees on

[2] Cooperation with Georgia", Resolution adopted by the UN Human Rights Council, 24 March 2017, 34th session (27 February-24 March 2017), A/HRC/RES/34/37.

[3] Baroness Anelay welcomes conclusions of UN Human Rights Council, Minister of State of the Foreign and Commonwealth Office of the UK, 24 March 2017, available at https://www.gov.uk/government/news/baroness- anelay-welcomes-conclusions-of-un-human-rights-council--4.

[4] Progress of the Assembly's monitoring procedure (September-December 2016) and the periodic review of the honouring of obligations by Austria, the Czech Republic, Denmark, Finland, France and Germany." Resolution 2149 (2017), 26 January 2017, the Parliamentary Assembly of the Council of Europe (PACE), paragraphs 10.7 and 11.7.

[5] January-March 2017.

[6] Consolidated Report on the Conflict in Georgia, Secretary General of the Council of Europe (October 2016-March 2017), 2016, SG/Inf (2017)18, paragraphs 4 and 5.

[7] Consolidated Report on the Conflict in Georgia, Secretary General of the Council of Europe (October 2016-March 2017), 2016, SG/Inf (2017)18, paragraph 35.

the basis of internationally recognised principles."[8] According to the Consolidated Report, "new restrictions on freedom of movement enacted by the *de facto* authorities in Abkhazia and recurrent detentions across both Administrative Boundary Lines (ABLs) continued to trigger serious concerns during the reporting period, also in terms of their negative impact on human rights and safety. It would appear that the new rules will have a particularly worrying effect on schoolchildren and humanitarian crossings. Crossing itinerary in some cases is extended to over 50 km. Moreover, the purported closure of yet another crossing point has been announced in the future, leaving only the Inguri road bridge."[9]

7. During the reporting period, namely on 9th March 2017, the UN Committee on the Rights of the Child issued "Concluding observations on the fourth periodic report of Georgia". In the Concluding observations, the Committee on the Rights of the Child noted "that Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia, remain outside the effective control of the State party, which is a serious obstacle to the implementation of the Convention in those regions. The Committee welcomes the efforts undertaken by the State party to support health and education services in those regions. However, it is concerned about restrictions in those regions to freedom of movement, the access to quality health-care services, the right to education in one's native language, the rights of internally displaced children and continued discrimination on the basis of ethnicity in those regions."[10]

8. During the reporting period, namely on 3rd March 2017, the U.S. Department of State published Country Reports on Human Rights Practices for 2016.[11] According to the U.S. Department of State's Country Reports on Human Rights Practices for 2016, "Russian and Abkhaz de facto authorities, on the other hand, limited international organizations' ability to operate in Abkhazia, and Russian and South Ossetian de facto authorities limited international organizations, including humanitarian organizations, regular access to South Ossetia; the most significant human rights problems reported during the year included: arbitrary detentions and deprivation of life by Russian and de facto authorities of Georgian citizens along the administrative boundary line with the country's occupied territories; there were frequent reports of abductions along the administrative boundary lines of both occupied regions of Abkhazia and South Ossetia; Russian border guards restricted the movement of the local populations." [12]

9. During the reporting period, namely on 22rd February 2017, Amnesty International published its Report 2016/2017: The State of the World's Human Rights.[13] According to Amnesty International, "De facto authorities and Russian forces in the breakaway regions of Abkhazia and South Ossetia continued to restrict movement across the administrative boundary line, detaining dozens of people."[14]

10. During the reporting period, namely on 10th February 2017, the Public Defender of Georgia issued Special Report on the Rights of Women and Children in Conflict-Affected Regions (Review of 2014-2016). According to the report, human rights situation in the occupied territories of Georgia remains alarming in terms of women's rights and rights of children, more specifically human rights violations are at hand due to domestic violence;

[8] Consolidated Report on the Conflict in Georgia, Secretary General of the Council of Europe (October 2016-March 2017), 2016, SG/Inf (2017)18, paragraph 60.

[9] Consolidated Report on the Conflict in Georgia, Secretary General of the Council of Europe (October 2016-March 2017), 2016, SG/Inf (2017)18, paragraphs 14 and 43.

[10] Concluding observations on the fourth periodic report of Georgia, the UN Committee on the Rights of the Child, 9 March 2017. Paragraph 4, CRC/C/GEO/CO/4.

[11] Georgia 2016 Human Rights Report, U.S. Department of State, published on 3rd March 2017, available at https://www.state.gov/documents/organization/265634.pdf.

[12] Georgia 2016 Human Rights Report, U.S. Department of State, published on 3rd March 2017, available at <https://www.state.gov/documents/organization/265634.pdf>, pages 23-24, 1, 2 and 3.

[13] Amnesty International Report 2016/2017: The State of the World's Human Rights (Georgia 2016/2017), published on 22nd February 2017, available at https://www.amnesty.org/en/countries/europe-and-central-asia/georgia/report- georgia/.

[14] Amnesty International Report 2016/2017: The State of the World's Human Rights (Georgia 2016/2017), published on 22nd February 2017, available at https://www.amnesty.org/en/countries/europe-and-central-asia/georgia/report- georgia/.

early marriage; honor killings; child poverty; documentation gap and related violations of rights; issues related to children's safety, illegal detentions and inappropriate and degrading treatment; issues related to education in one's native language and issues related to quality of education; and problems related to rights of children with disabilities. In his Special Report on the Rights of Women and Children in Conflict-Affected Regions (Review of 2014-2016) the Public Defender of Georgia called "the Russian Federation and the de-facto authorities to ensure the unrestricted operation of human rights organizations and international missions in Abkhazia and Tskhinvali region."[15]

11. It should be emphasized that during the reporting period, namely on 17th March 2017, INTERPOL issued a red notice warrant on Mr. Rashid Kanji-Ogli.[16] During the reporting period, namely on 10th March 2017, the Kutaisi Court of Appeals increased the sentence to fugitive Mr. Rashid Kanji-Ogli to 14 years.[17] It should be recalled here that in December 2016, Zugdidi District Court found, *in absentia*, fugitive Mr. Rashid Kanji-Ogli guilty of the charges filed against him and sentenced him to deprivation of liberty for a term of 12 years.[18] The case concerns violation of the right to life, namely on 19 May 2016 Mr. Giga Otkhozoria, was murdered by so called "border guards" deployed along the occupation line with Abkhazia. The murder was committed in the village of Khurcha, Zugdidi district, located in the territory controlled by the government of Georgia. After committing the murder Mr. Rashid Kanji-Ogli and his accomplices immediately fled to the occupied territory of Abkhazia. Under the existing circumstances, Mr. Rashid Kanji-Ogli and his accomplices still remain unpunished. The above situation with regard to the violation of the right to life of Mr. Giga Otkhozoria once again demonstrates that the occupied territories of Georgia remain "black holes" in terms of holding the violators of human rights accountable. According to 15th Consolidated Report of the Secretary General of the Council of Europe, "it was also reported to the delegation that a general insecurity feeling persists among the local population in Khurcha in the aftermath of the incident".[19]

Occupation line and installation of barbed wire fences and other artificial obstacles

12. The occupation line along the administrative boundary line (ABL) with Abkhazia and the Tskhinvali Region separates Georgia from its two occupied territories.

13. According to 15th Consolidated Report of the Secretary General of the Council of Europe, the international community also remains firm in its "opposition to the so-called "borderisation" activities and their impact on the local population, particularly as regards adverse effects on their freedom of movement, livelihood and security perceptions."[20] According to the Consolidated Report, "freedom of movement continues also to be very negatively affected by the ongoing so- called "borderisation" process, which according to information provided by the Georgian central government, has resulted in a 48 km stretch of fencing along the ABL [with the Abkhazian region]. Following the so-called "borderisation" phase that resulted in installation of fences and barbed wire stretching over

[15] Special Report of Public Defender of Georgia on the Rights of Women and Children in Conflict-Affected Regions (Review of 2014-2016), 10 February 2017, pages 35-60, available at <http://www.ombudsman.ge/uploads/other/4/4459.pdf>.

[16] INTERPOL issued warrant on Mr. Rashid Kanji-Ogli, sentenced for murder of Mr. Giga Otkhozoria, "Fortuna",17 March 2017, available at < http://fortuna.ge/giga-otkhozorias-mkvlelobistvis-msjavrdebul-rashid-kanjioghlize- interpolis-mier-dzebna-gamockhadda/>.

[17] Kutaisi Court of Appeals Aggravates Punishment of Rashid Kanji-Ogli, Convicted of the murder of Giga Otkhozoria, Prosecutor's Office of Georgia, 10 March 2017, available at<http://pog.gov.ge/eng/news?info_id=1157>.

[18] Court Finds Rashid Kanji-Ogli, Accused of Giga Otkhozoria's Murder, Guilty, Prosecutor's Office of Georgia, 28 December 2016, available at http://pog.gov.ge/eng/news?info_id=1095.

[19] Consolidated Report on the Conflict in Georgia, Secretary General of the Council of Europe (October 2016-March 2017), 2016, SG/Inf (2017)18, paragraph 38.

[20] Consolidated Report on the Conflict in Georgia, Secretary General of the Council of Europe (October 2016-March 2017), 2016, SG/Inf (2017)18, paragraph 53.

52 km along the ABL [with the Tskhinvali region], ploughing of furrows and deep ditches along the ABL were pursued during the period under review."[21]

14. According to the U.S. Department of State's Country Reports on Human Rights Practices for 2016, published during the reporting period, "Russian "borderization" of the administrative boundary lines of the occupied territories continued during the year [of 2016], separating residents from their communities and undermining their livelihoods. The restrictions tightened the Russian "borderization" of both administrative boundary lines and further restricted movement, creating physical barriers and obstructing access to agricultural land, water supplies, and cemeteries."[22]

15. According to Amnesty International Report 2016/2017: The State of the World's Human Rights, published during the reporting period, "continuing border fencing along the administrative boundary lines of the breakaway regions of Abkhazia and South Ossetia had further negative impact on economic and social rights of local residents."[23]

16. On 10th January 2017 an article was published by CNN which describes problems created by the occupation line.[24] According to the article, "An EU monitoring mission patrols what is officially known as the Administrative Boundary Line between Georgia and the breakaway regions of South Ossetia and Abkhazia. In recent years, monitors say, the line has crept forward, swallowing farmland. "Many people don't know in many places where the line is," Kestutis Jankauskas, head of the EU monitoring mission, tells CNN. "It [the border] is being established by practice but it is nothing official. It is [a] very fluid notion of a line." Sometimes the Russian troops use razor wire fencing to mark what they see as the border; at others they post green signs saying "passage forbidden" in Georgian and English. These signs often stand alone, creating confusion for locals, who complain they've been detained and fined for unwittingly crossing the line. This year, the Russians dug two trenches through prime orchard land, claiming the move was for fire protection purposes, but Georgians who traversed the ditches say they were detained. "We don't know where and how far that line can move because it was never recognized; it was never negotiated," explains Jankauskas, adding that it is most likely based on old Soviet General Staff maps from the 1980s".[25]

New so called "Laws" and New Wave of so called "Passportisation"

17. It should be emphasized that the UN Human Rights Council resolution on "Cooperation with Georgia", adopted during the reporting period, expressed concern about "continued discrimination on the ground of ethnic origin in both regions".[26]

18. It should be recalled that on 1st April 2016, so called "law on legal status of foreign citizens in Abkhazia" and "law on entry and exit of Abkhazia" became operational. A similar document was adopted by the Tskhinvali occupation regime, namely so called "law on legal status of foreigners in the Republic of South Ossetia". Adoption of so called "laws" in many ways target the ethnic Georgian population living in the occupied territories. According to the Special Report of the Public Defender of Georgia on the Rights

[21] Consolidated Report on the Conflict in Georgia, Secretary General of the Council of Europe (October 2016-March 2017), 2016, SG/Inf (2017)18, paragraphs 42 and 51.

[22] Georgia 2016 Human Rights Report, U.S. Department of State, published on 3rd March 2017, available at <https://www.state.gov/documents/organization/265634.pdf>, pages 2 and 24.

[23] Amnesty International Report 2016/2017: The State of the World's Human Rights (Georgia 2016/2017), published on 22nd February 2017, available at <https://www.amnesty.org/en/countries/europe-and-central-asia/georgia/report- georgia/>.

[24] Returning home to find your house in a 'different country', Erin McLaughlin and Sebastian Shukla, CNN, 10 January 2017, available at http://edition.cnn.com/2017/01/09/europe/georgia-south-ossetia-russia-border/.

[25] Returning home to find your house in a 'different country', Erin McLaughlin and Sebastian Shukla, CNN, 10 January 2017, available at http://edition.cnn.com/2017/01/09/europe/georgia-south-ossetia-russia-border/.

[26] "Cooperation with Georgia", Resolution adopted by the UN Human Rights Council, 24 March 2017, 34th session (27 February-24 March 2017), A/HRC/RES/34/37.

of Women and Children in Conflict-Affected Regions (Review of 2014-2016), published during the reporting period, "the majority of the population of Gali as well as some communities in Ochamchire and Tkvarcheli have no access to documents with which to realize their rights, including the rights to movement, private property, and access to education and health, among others."[27]

19. As part of the new wave of so called "passportisation" in the Abkhazian region, the issuance of so called "passports" started in May 2016 and it was continuing during the reporting period.[28] By the end of the reporting period, 12 000 so called "passports" were issued.[29] It is planned to issue altogether 100 000 so called "passports" by the end of 2017.[30] As for so called "passportisation" in the Tskhinvali region, 3114 so called "passports" were issued during 2016 by the Tskhinvali occupation regime.[31]

20. As a result of a reaction of the international community on the issue of adoption of so called new "laws" and so called "passportisation", decision was made in December 2016 to amend so called "law on legal status of foreign citizens in Abkhazia" and to enable residents of Gali district, holding Georgian citizenship, to obtain "residence permits".[32] More specifically, "in December 2016, the *de facto* Parliament of Abkhazia adopted changes to the *de facto* law on the status of foreign citizens that regulates, among other things, the status and rights of the ethnic Georgian population in the Gali district. The new changes reportedly foresee that the majority of Gali district residents who have Georgian citizenship will be granted "permanent residency" rights, however, it is understood that these changes do not address all outstanding issues. While it is anticipated that one improvement might purportedly concern crossings along the ABL, lack of clarity persists with respect to other rights attached to the permanent resident status, such as property rights."[33] It should be noted that the process of issuance of so called "resident permits" to Gali residents holding Georgian citizenship did not start during the reporting period.[34]

II. Freedom from torture and ill-treatment

21. As described in previous quarterly reports of the Ministry of Foreign Affairs of Georgia on the human rights situation in the occupied regions of Georgia, the Russian FSB officers and representatives of the Sokhumi and Tskhinvali occupation regimes regularly take actions which amount to torture and ill-treatment.

22. The practice of torture and ill-treatment in the occupied regions of Georgia remained an issue of concern during the reporting period that was attested by various reports either published in the reporting period or covering the reporting period.

[27] Special Report of Public Defender of Georgia on the Rights of Women and Children in Conflict-Affected Regions (Review of 2014-2016), 10 February 2017, page 51, available at http://www.ombudsman.ge/uploads/other/4/4459.pdf.

[28] Issuance of so called passports in occupied Abkhazia will be renewed from 27 March, "Pirweli Information Agency", 24 March 2017, available at http://www.pia.ge/post/110489-okupirebul-afxazetsi-e-w-pasportebis- gacema-27-martidan-ganaxldeba.

[29] Passport administration renewed issuance of new Abkhaz passports, "Apsny", 28 March 2017, available at http://apsny.ru/news/?ID=28310&PAGEN_1=2.

[30] Aslan Kobakhia: issuance of new passports will be renewed from 27 March, "Apsnypress" 12 March 2017, available at http://www.apsnypress.info/news/aslan-kobakhiya-vydacha-novykh-pasportov-vozobnovitsya-s-27- marta/.

[31] State security committee declared the number of issued passports, "Sputnik-Ossetia", 12 March 2017, available at http://sputnik-ossetia.ru/South_Ossetia/20170312/3829571.html.

[32] Resident Permits will be given foreign citizens in Gali, "Apsny", 29 December 2016, available at http://apsny.ru/news/?ID=26462.

[33] Consolidated Report on the Conflict in Georgia, Secretary General of the Council of Europe (October 2016 –March 2017), 2016, SG/Inf (2017)18, paragraphs 45-46.

[34] Georgians living in Abkhazia are given new status, "Pirweli Information Agency", 30 March 2017, available at <http://pia.ge/post/111850-afxazetsi-mcxovreb-qartvelebs-axali-statusi-mianiwes>.

23. According to the U.S. Department of State's Country Reports on Human Rights Practices for 2016, published during the reporting period, "[i]ndividuals detained in Russian-occupied South Ossetia and Abkhazia who later returned to Georgian government-controlled territory reported incidents of mistreatment and abuse, including cigarette burns and beatings, while in custody, according to the EUMM. Human rights observers estimated half of the individuals detained by South Ossetian de facto authorities experienced some form of abuse. Prison conditions in Abkhazia and South Ossetia were reported to be chronically substandard".[35]

24. According to 15th Consolidated Report of the Secretary General of the Council of Europe, covering the reporting period, in the Abkhazian region "[w]hile as a rule those apprehended are released after being shortly detained and paying a "fine", the delegation continued to receive reports about instances of ill-treatment."[36]

25. According to Amnesty International Report 2016/2017: The State of the World's Human Rights, published during the reporting period, "De facto authorities and Russian forces in the breakaway regions of Abkhazia and South Ossetia continued. detaining dozens of people: several detainees complained of torture and other ill-treatment, including beatings, during the prolonged arbitrary detentions."[37]

26. On 23rd February 2017, a 70-year-old local resident was detained in the vicinity of the village of Gugutiantkari, Gori district for so called "illegal border crossing" along the occupation line with the Tskhinvali region. When detained, the local resident was collecting timber in his yard nearby the occupation line. The detainee was transported to the direction of Tskhinvali.[38] The detainee was physically abused when in detention.[39] After his release, due to his severe health conditions, he was immediately placed in Gori hospital.[40] The medical examination suggested that victim suffered a concussion as a result of physical abuse.[41]

27. According to the information disseminated on 3rd March 2017, a resident of the occupied Tskhinvali region was abducted and tortured.[42]

III. Arbitrary detention

28. It should be emphasized that the UN Human Rights Council resolution on "Cooperation with Georgia", adopted during the reporting period, expressed concern "about reported kidnappings [and] arbitrary detention. in both regions".[43]

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[35] Georgia 2016 Human Rights Report, U.S. Department of State, published on 3rd March 2017, available at <https://www.state.gov/documents/organization/265634.pdf>, page 6 and 7.

[36] Consolidated Report on the Conflict in Georgia, Secretary General of the Council of Europe (October 2016 –March 2017), 2016, SG/Inf (2017)18, paragraph 44.

[37] Amnesty International Report 2016/2017: The State of the World's Human Rights (Georgia 2016/2017), published on 22nd February 2017, available at https://www.amnesty.org/en/countries/europe-and-central-asia/georgia/report-georgia/.

[38] Nearby the village of Gugutiantkari 70-year-old Amiran Gugutishvili was detained by so called border guards, "IPN", 25 February 2017, available at http://www.interpressnews.ge/ge/konfliqtebi/420542-sofel-gugutianthkarthan-ets-mesazghvreebma-70-tslis-amiran-gugutishvili-daakaves.html?ar=A.

[39] According to physician, 70-year-old Amiran Gugutishvili, who was released from Tskhinvali detention center, suffers a concussion, "IPN", 28 February 2017, available at http://www.interpressnews.ge/ge/regioni/420865- eqimis-informaciith-ckhinvalis-izolatoridan-gathavisuflebul-70-tslis-amiran-gugutishvils-tvinis-sheryeva- aqvs.html?ar=A.

[40] Amiran Gugutishvili was released from Tskhinvali detention center, "Imedi", 28 February 2017, available at http://imedi.ge/index.php?rec_start=70&rec_start_nav=0&pg=shs&id_pr=10857&id=20.

[41] According to physician, 70-year-old Amiran Gugutishvili, who was released from Tskhinvali detention center, suffers a concussion, "IPN", 28 February 2017, available at http://www.interpressnews.ge/ge/regioni/420865- eqimis-informaciith-ckhinvalis-izolatoridan-gathavisuflebul-70-tslis-amiran-gugutishvils-tvinis-sheryeva- aqvs.html?ar=A.

[42] Ossetian Week: difficult happiness of constructor and again Eduard Kokoiti, "ekhokavkaza", 3 March 2017, available at https://www.ekhokavkaza.com/a/28349475.html.

29. According to the U.S. Department of State's Country Reports on Human Rights Practices for 2016, published during the reporting period, "Russian border guards along the administrative boundary line with Abkhazia typically enforced the boundary-crossing rules imposed by de facto authorities by fining and releasing detained individuals. Along the South Ossetia administrative boundary line, Russian border guards frequently transferred individuals to de facto authorities. There were also reports of arbitrary arrests of ethnic Georgians by the de facto authorities, particularly in the Tskhinvali and Gali regions of South Ossetia and Abkhazia, respectively. Detainees reported they were not informed of the reason for their arrest or why they were brought before a de facto prosecutor … The EUMM also reported that, on at least one occasion, local South Ossetian border guards crossed into government-controlled territory to detain an individual."[44]

30. According to 15th Consolidated Report of the Secretary General of the Council of Europe, "representatives of the Georgian central government expressed fears that the practice of longer- term detentions could be reinstated. In this respect they once again drew the delegation's attention to the case of a Georgian IDP [Mr. Giorgi Giunashvil] from the Gori district that was detained in June 2016 for "illegal border crossing", and sentenced to over 20 years of imprisonment on 3 February 2017 allegedly on crimes relating to "illegal possession of weapons" during the August 2008 conflict."[45] It is particularly alarming that on 3rd February 2017 Mr. Giorgi Giunashvil was sentenced for 20 years of imprisonment in the occupied Tskhinvali region.[46] It should be recalled that on 8 June 2016, Mr. Giorgi Giunashvil, citizen of Georgia was detained by the Russian FSB officers for so called "illegal border crossing" along the occupation line with Tskhinvali region. Initially, the detainee was sentenced two months of imprisonment for so called "illegal border crossing". However, later so called "prosecutor's office" of the Tskhinvali occupation regime initiated "criminal case" against Mr. Giorgi Giunashvil.[47] The government of Georgia considers accusations against Mr. Giorgi Giunashvil to be groundless and fully fabricated therefore calls for his unconditional release.[48]

31. It is also alarming that during the reporting period a citizen of Georgia — Mr. Giorgi Lukava remained in illegal detention in so called Sokhumi prison. Mr. Giorgi Lukava was detained in 2012 in the occupied Abkhazian region and was sentenced for life

[43] Cooperation with Georgia", Resolution adopted by the UN Human Rights Council, 24 March 2017, 34th session (27 February-24 March 2017), A/HRC/RES/34/37.

[44] Georgia 2016 Human Rights Report, U.S. Department of State, published on 3rd March 2017, available at <https://www.state.gov/documents/organization/265634.pdf>, pages 3-4.

[45] Consolidated Report on the Conflict in Georgia, Secretary General of the Council of Europe (October 2016-March 2017), 2016, SG/Inf (2017)18, paragraph 56.

[46] State Security Service of Georgia - State Security Service of Georgia will spare no efforts in order to free Mr. Giorgi Giunashvili from illegal detention, "IPN", 5 February 2017, available at <http://www.interpressnews.ge/ge/konfliqtebi/417528-susi-sakhelmtsifo-usafrthkhoebis-samsakhuri-giorgi- giunashvilis-ukanono-patimrobidan-dasakhsnelad-yvelafers-gaakethebs.html?ar=A>.

[47] IPRM Meeting held in Ergneti, State Security Service of Georgia, 19 July 2016, available at <http://ssg.gov.ge/en/news/152/IPRM-Meeting-Held-in-Ergneti>; 10 issues discussed in the framework of Incident Prevention and Reaction Mechanism (IPRM), "Kvira.ge", 19 July 2016, available at<http://kvira.ge/%E1%83%98%E1%83%9C%E1%83%AA%E1%83%98%E1%83%93%E1%83%94%E1%83%9C%E1%83%A2%E1%83%94%E1%83%91%E1%83%98%E1%83%A1-%E1%83%9E%E1%83%A0%E1%83%94%E1%83%95%E1%83%94%E1%83%9C%E1%83%AA%E1%83%98% E1%83%98-4/>.

[48] State Security Service of Georgia - State Security Service of Georgia will spare no efforts in order to free Mr. Giorgi Giunashvili from illegal detention, "IPN", 5 February 2017, available at <http://www.interpressnews.ge/ge/konfliqtebi/417528-susi-sakhelmtsifo-usafrthkhoebis-samsakhuri-giorgi- giunashvilis-ukanono-patimrobidan-dasakhsnelad-yvelafers-gaakethebs.html?ar=A>; Giorgi Giunashvili was sentenced 20 years of imprisonment by Tskhinvali court, "IPN", 5 February 2017, available at<http://www.interpressnews.ge/ge/konfliqtebi/417514-giorgi-giunashvils-ckhinvalis-sasamarthlom-20-tsliani- patimroba-sheufarda.html?ar=A>State Security Service of Georgia - State Security Service of Georgia will take all available measures in order to free Mr. Giorgi Giunashvili from legal detention, "IPN", 5 February 2017, available athttp://www.interpressnews.ge/ge/konfliqtebi/417528-susi-sakhelmtsifo-usafrthkhoebis-samsakhuri-giorgi- giunashvilis-ukanono-patimrobidan-dasakhsnelad-yvelafers-gaakethebs.html?ar=A.

imprisonment.[49] The government of Georgia demands immediate release of Mr. Giorgi Lukava from illegal detention.[50]

32. During the reporting period numerous cases were reported on arbitrary detention in the occupied regions of Georgia. Below are only few examples.

33. On 7th January 2017, along the occupation line with Tskhinvali region, the Russian FSB officers abducted a local resident from the adjacent village. The local resident was abducted when approaching local church in order to celebrate Orthodox Christmas Day.[51]

34. On 27th January 2017, two women, both of them residents of Tbilisi, were detained by the Russian FSB officers for so called "illegal border crossing" along the occupation line with the Tskhinvali region.[52]

35. On 16th February 2017, a resident of the town of Anaklia, Zugdidi district, was detained by the Russian FSB officers for so called "illegal border crossing" nearby the occupation line with the Abkhazian region and "criminal charges" were filed against him for the above reason. Later the detainee was freed but was banned from leaving the occupied territory of Abkhazia until "criminal investigation" is pending.[53]

36. On 9th March 2017, three women were detained for so called "illegal border crossing" along the occupation line with Abkhazia. All of them were transported to so called "Sokhumi detention centre" on the territory of the occupied Abkhazia. They were travelling to the occupied territory of Abkhazia in order to attend funeral service of their relative when they were detained.[54]

IV. Freedom of Movement

37. It should be emphasized that the UN Human Rights Council resolution on "Cooperation with Georgia", adopted during the reporting period, expressed concern about restrictions on "free movement and residence. in both regions".[55] According to the U.S. Department of State's Country Reports on Human Rights Practices for 2016, published

[49] Abkhazian de facto authorities do not confirm the fact of moving Giorgi Lukava from Drand prison, "Pirweli Information Agency", 15 November 2016, available at http://pia.ge/post/99592-afxazetis-de-faqto-xelisufleba- giorgi-lukavas-drandis-cixidan-gayvanis-faqts-ar-adasturebs.

[50] Georgia Raises Three Key Issues at IPRM Meeting in Gali, "Georgia Today", 23 February 2017, available at http://georgiatoday.ge/news/5909/Georgia-Raises-Three-Key-Issues-at-IPRM-Meeting-in-Gali.

[51] 25-year-old man was abducted from the village of Jariasheni, "Info 9", 7 January 2017, available athttp://www.info9.ge/konfliqtebi/163438-sofel-jariashenidan-25-tslis-mamakaci-gaitaces.html?lang=ka-GE.

[52] Two residents of Tbilisi were detained by Russian Occupants – detention at the occupation line, "Newposts", 1February 2017, available at <http://www.newposts.ge/?l=G&id=131238-%E1%83%9D%E1%83%99%E1%83%A3%E1%83%9E%E1%83%90%E1%83%9C%E1%83%A2%E1%83%94% E1%83%91%E1%83%98,%20%E1%83%A2%E1%83%A7%E1%83%95%E1%83%94%E1%83%9D%E1%83%91%E1%83%90%E1%83%A8%E1%83%98>.

[53] Russian Occupants detained one person in Samegrelo for so called illegal border crossing, "IPN", 17 February October 2017, available at <http://www.interpressnews.ge/ge/konfliqtebi/419265-rusma-okupantebma- samegreloshi-ets-sazghvris-ukanonod-gadakvethis-braldebith-erthi-piri-daakaves.html?ar=A>; A citizen of Georgia was detained in Gali district for illegal state border crossing of republic of Abkhazia, "Apsnypress", 18 February2017, available at <http://www.apsnypress.info/news/v-galskom-rayone-zaderzhan-grazhdanin-gruzii-za- nezakonnoe-peresechenie-gosgranitsy-respubliki-abkha/>; A resident of Anaklia abducted by Russian militaries isfreed, "Livepress", 17 February 2017, available at http://www.livepress.ge/ka/akhali-ambebi/article/18211-gamgebelirusethissamkhedroebismiermotacebulianakliismkvidrigathavisuflebulia.html.

[54] Three women were detained along administrative border with Abkhazia, "Newposts", 14 March 2017, available at http://www.newposts.ge/?l=G&id=134910-%E1%83%90%E1%83%A4%E1%83%AE%E1%83%90%E1%83%96%E1%83%94%E1%83%97%E1%83%98,%20%E1%83%93%E1%83%90%E1%83%99%E1%83%90%E1%83%95%E1%83%94%E1%83%91%E1%83%90.

[55] Cooperation with Georgia", Resolution adopted by the UN Human Rights Council, 24 March 2017, 34th session (27 February-24 March 2017), A/HRC/RES/34/37.

during the reporting period, "de facto authorities and Russian occupying forces limited this freedom [of movement] in Abkhazia and South Ossetia. De facto authorities and Russian forces in the occupied regions of Abkhazia and South Ossetia also restricted the movement of the local population across the administrative boundaries for medical care, pension services, religious services, and education."[56] In addition, it has been argued that "separation of family members appears to remain a pressing concern for the local population in Akhalgori [in the Tskhinvali region]."[57]

38. According to 15th Consolidated Report of the Secretary General of the Council of Europe "the main critical development over the reporting period [in the Abkhazian region] concerns the closure of two additional crossing points on the ABL, namely Khurcha/Nabakevi and Meore- Otobaia/Orsantia, pursuant to a decision of the *de facto* authorities adopted on 28 December 201[6], which became effective on 5 March 2017."[58] It should be emphasized that the closure of two additional crossing points along the occupation line with Abkhazia was followed by the reaction on behalf of the international community. The international community has expressed concern on the issue of closure of two additional crossing points and indicated negative implications of the above decision for living conditions of local residents and their human rights, including the freedom of movement. Below are listed some examples of that reaction.

39. Spokesman for the UN Secretary-General stated that "we regret the recently announced plans to close two additional crossing points along the Inguri River, Georgia, which will be detrimental to the freedom of movement and overall well-being of the population, including school children, on both sides of the administrative boundary line, especially those living in the Gali District."[59] The UN Resident Coordinator in Georgia stated that "the United Nations are concerned that the announced restrictions will have negative consequences for the humanitarian and development needs of those living in Abkhazia, Georgia. As movement is further restricted, the people of Abkhazia will find it more difficult to access basic services such as healthcare and education and participate in economic activities and social events such as weddings, funerals and public holiday commemorations, as well as family gatherings across the dividing line. Notably, access to education for children who have been crossing to attend schools in their mother tongue will be impeded".[60] Spokesperson for the EU stated that "the announced closure of two crossing points along the Administrative Boundary Line of Georgia's breakaway region of Abkhazia - Nabakevi- Khurcha and Meore Otobaia-Orsantia - which are used daily by hundreds of commuters, will be detrimental to the freedom of movement of the population, including school children, on both sides of the Administrative Boundary Line. It will likely increase the risk of incidents, especially detentions."[61] According to the European Union Monitoring Mission in Georgia (EUMM) "EUMM expressed serious concern about the announced closure of crossing points, emphasizing the negative impacts such a step would have on the daily lives of local residents who cross the ABL. Special emphasis was put on the challenges to freedom of movement for schoolchildren and for patients crossing for medical

[56] Georgia 2016 Human Rights Report, U.S. Department of State, a published on 3rd March 2017, available at<https://www.state.gov/documents/organization/265634.pdf>, pages 23-24.

[57] Consolidated Report on the Conflict in Georgia, Secretary General of the Council of Europe (October 2016-March 2017), 2016, SG/Inf (2017)18, paragraph 57.

[58] Consolidated Report on the Conflict in Georgia, Secretary General of the Council of Europe (October 2016-March 2017), 2016, SG/Inf (2017)18, paragraph 40.

[59] In response to questions on the announced closure of crossing points along the Ingurui River, the Spokesman has the following to say, Stephane Dujarric, Spokesman for the UN Secretary-General, 27 February 2017, available at https://www.un.org/sg/en/content/sg/note-correspondents/2017-02-27/note-correspondents-response-questions.

[60] UN Speaks Out against Inguri River Crossing Closures, "Georgia Today", 26 January 2017, available at http://georgiatoday.ge/news/5681/UN-Speaks-Out-against-Inguri-River-Crossing-Closures.

[61] Statement on the latest developments along the Administrative Boundary Line of Georgia's breakaway region of Abkhazia, Spokesperson for the EU, 25 January 2017, available athttps://eeas.europa.eu/headquarters/headquarters-homepage/21406/statement-latest-developments-along- administrative-boundary-line-georgias-breakaway-region_en.

care."[62] Spokesperson of the OSCE Chairmanship stated that "we have closely followed the latest developments on the ground. We believe this decision has a number of negative consequences, in particular concerning the freedom of movement of the population on both sides of the Administrative Boundary Line. We therefore call for meaningful dialogue as well as swift and pragmatic solutions, in order to avoid further repercussions for the local population's everyday life."[63] Spokesperson by the NATO stated that "I am concerned by the announced closure of two crossing points along the administrative boundary line of the Abkhazia region of Georgia. Closing these crossing points, which are used daily by hundreds of citizens, will have a negative impact on the situation on the ground and stability in the region. It will restrict freedom of movement, affecting the livelihoods of local residents."[64] The co-rapporteurs of the Parliamentary Assembly of the Council of Europe for the monitoring of Georgia, visited Georgia from 28 to 30 March 2017 and at the end of their visit "expressed their serious concerns about. the closure of crossings of the ABL between Abkhazia and the rest of Georgia."[65] According to 15th Consolidated Report of the Secretary General of the Council of Europe, "[i]t is anticipated that the reduction in the number of crossing points will inevitably lead to an increased number of detentions, which continue to occur regularly in case of crossings in "unauthorised" points and/or due to lack of valid documents."[66] Respective statements were made by the United States,[67] Lithuania[68] and Japan.[69]

40. According to the information disseminated on 23rd January 2017, some ethnic Abkhazians were against the decision on closing down two additional crossing points.[70] It should be emphasized that on 25th January 2017 around 200 ethnic Georgians, all residents of Gali district of the occupied Abkhazian region, held a peaceful rally protesting against the decision on closing down two additional crossing points.[71] Another protest rally of Gali

[62] EUMM participates in 42nd meeting of Gali IPRM, UMM, 25 January 2017, available at <https://www.eumm.eu/en/press_and_public_information/press_releases/5726/?print=yes>.

[63] OSCE Chairmanship concerned about closure of crossing points, stresses negative implications for local population, Spokesperson of the OSCE Chairmanship, 7 March 2017, available at<http://www.osce.org/cio/303171>.

[64] Statement by the NATO Spokesperson Oana Lungescu on developments along administrative boundary lines in Georgia, Spokesperson of the NATO, 28 February 2017, available at http://www.nato.int/cps/en/natohq/news_141873.htm?utm_source=twitter&utm_medium=press&utm_campaign=170228-georgia.

[65] Georgia: rapporteurs welcome progress made and hope the authorities will soon address outstanding issues, 3 April 2017, available at < http://assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=6579&lang=2>.

[66] Consolidated Report on the Conflict in Georgia, Secretary General of the Council of Europe (October 2016-March 2017), 2016, SG/Inf (2017)18, paragraph 44.

[67] United States Deeply Concerned by Closure of Crossing Points in Georgia's Abkhazia Region (March 6), Acting Spokesperson, Washington DC, 6 March 2017, available at https://ge.usembassy.gov/united -states-deeply- concerned-closure-crossing-points-georgias-abkhazia-region/.

[68] Lithuanian Foreign Ministry's statement on closure of two crossing points in Georgia's breakaway region of Abkhazia, Ministry of Foreign Affairs of Lithuania, 1 March 2017, available at http://urm.lt/default/en/news/lithuanian-foreign-ministrys-statement-on-closure-of-two-crossing-points-in- georgias-breakaway-region-of-abkhazia.

[69] Statement of the Embassy of Japan in Georgia on the so-called "referendum" in the Georgia's Tskhinvali region/South Ossetia and the closure of so-called crossing points along the occupation line of Abkhazia, 1 March 2017, available at http://www.ge.emb-japan.go.jp/files/statement_01.03.2017/statement_01.03.2017_eng.pdf.

[70] Abkhazians are protesting against closing down crossing points along the administrative boundary line with Abkhazia, "Pirweli Information Agency", 23 January 2017, available at http://pia.ge/post/98361-okupirebul- afxazetsi-sesazloa-2-e-w-gamsvebi-punqtebi-arar-daixuros.

[71] Residents of Gali district came out for protest, "ekhokavkaza", 25 January 2017, available at <https://www.ekhokavkaza.com/a/28257996.html>; Abkhazian senior official advises Georgian residents of Gali not to cross redlines, "Pirweli Information Agency", 27 January 2017, available at http://pia.ge/post/99437-afxazi- maralcinosnebi-galel-qartvelebs-zrvris-gadakvetas-ar-urceven.

residents against the decision on closing down two additional crossing points was held on 23rd February 2017.[72]

41. According to 15th Consolidated Report of the Secretary General of the Council of Europe, "It was reported to the delegation that the so-called "border zone" with a specific regime adjacent to the ABL inside the territory of Abkhazia had been expanded since November 2016. At the same time, the delegation was informed that the *de facto* authorities [in the Tskhinvali region] had eased some of the restrictions in terms of access to the so-called "border zone" adjacent to the ABL, following several protests and criticism by South Ossetia residents who were unable to visit villages situated within the designated area. In particular, on 27 January 2017, the *de facto* government removed special permissions required to enter the so-called "border zone". Other restrictions including the requirement of a permission to carry out livelihood activities within 100 m distance from the ABL reportedly remains in force."[73]

42. It should be emphasized that according to the information disseminated on 18th January 2017, the Sokhumi occupation regime is planning to adopt so called "law" aiming at tightening of sanctions for so called "illegal border crossing". According to the so called "draft law", fines for so called "illegal border crossing" will increase to the amount of 80 to 100 fold of minimum wage of a detainee and detention period can last 15 days in cases of recurrence of "illegal border crossing".[74] According to 15th Consolidated Report of the Secretary General of the Council of Europe, "[w]hile as a rule those apprehended are released after being shortly detained and paying a "fine", [a] drastic increase in "fines" — up to ten times higher — for recurrent "violations" is reported to be recently enforced [in the Abkhazian region]."[75]

43. In his Special Report on the Rights of Women and Children in Conflict-Affected Regions (Review of 2014-2016) the Public Defender of Georgia called for ensuring "that minors no longer be detained and patients be permitted to cross [the occupation line] at any point of the day. Issues related to treatment during detentions and the practice of nighttime release of detainees should be discussed during the negotiations."[76]

V. Right to property

44. According to the U.S. Department of State's Country Reports on Human Rights Practices for 2016, published during the reporting period, "In Abkhazia the de facto legal system prohibits property claims by ethnic Georgians who left Abkhazia before, during, or after the 1992-93 war, thereby depriving IDPs of their property rights in Abkhazia. In a 2010 decree, South Ossetian de facto authorities invalidated all real estate documents issued by the Georgian government between 1991 and 2008 relating to property in the Akhalgori Region. The decree also declared all property in Akhalgori belongs to the de facto authorities until a "citizen's" right to that property is established in accordance with the de facto "law," effectively stripping ethnic Georgians displaced in 2008 of their property rights in the region. De facto authorities in the separatist regions of Abkhazia and South Ossetia restricted the rights, primarily of ethnic Georgians, to own property."[77]

[72] Georgian residents of Gali held another protest rally, "Pirweli Information Agency", 24 February 2017, available at http://pia.ge/post/104260-galelma-qartvelebma-morigi-aqcia-gamartes.

[73] Consolidated Report on the Conflict in Georgia, Secretary General of the Council of Europe (October 2016-March 2017), 2016, SG/Inf (2017)18, paragraphs 43 and 52.

[74] Occupied Abkhazia is planning to tighten sanctions for so called illegal border crossing, "Pirweli Information Agency", 18 January 2017, available at http://pia.ge/post/97770-okupirebuli-afxazeti-e-w-sazrvris-ukanono- gadakvetaze-sanqciebis-gamkacrebas-apirebs.

[75] Consolidated Report on the Conflict in Georgia, Secretary General of the Council of Europe (October 2016-March 2017), 2016, SG/Inf (2017)18, paragraph 44.

[76] Special Report of Public Defender of Georgia on the Rights of Women and Children in Conflict-Affected Regions (Review of 2014-2016), 10 February 2017, page 59, available at http://www.ombudsman.ge/uploads/other/4/4459.pdf .

[77] Georgia 2016 Human Rights Report, U.S. Department of State, published on 3rd March 2017, available at <https://www.state.gov/documents/organization/265634.pdf>, page 18 and 2.

45. It should be emphasized that during the reporting period, namely on 1st January 2017 so called "law on privatization of republican and municipal property" became operation in occupied Abkhazia.[78] The so called "law" regulates privatization of property of "Republic of Abkhazia" (republican property) and "Administrative-Territorial entities" (municipal property) to natural and legal persons. It is particularly alarming that the above so called "law", *inter alia*, opens illegal prospects for selling the abandoned property of internally displaced persons and refuges from Abkhazian region which were in the possession of "Republic of Abkhazia" (republican property) and "Administrative-Territorial entities" (municipal property) before adoption of this so called "law".[79]

46. It should be emphasized that the UN Human Rights Council resolution on "Cooperation with Georgia", adopted during the reporting period, expressed concern about "interference with property rights in both regions".[80]

47. According to Amnesty International Report 2016/2017: The State of the World's Human Rights, "increased fencing along the administrative boundary lines negatively impacted the rights to work, food and adequate standard of living of local residents, after they lost access, partly or completely, to their orchards, pasture and arable land."[81]

48. According to 15th Consolidated Report of the Secretary General of the Council of Europe, during the reporting period, due to the so-called "borderisation", "local residents continued to be unable to access their agricultural and grazing lands in particular during the harvesting period."[82]

49. On 13 March 2017, an article was published in *npr* which describes problems created by the occupation line along the Tskhinvali region.[83] More specifically, according to article "Farmers along the boundary have gone to bed one night thinking their fields and orchards were in Georgia, only to wake up and discover fencing and trenches indicating otherwise. New green signs announcing the presence of a South Ossetian "state border" occasionally pop up in places previously understood to be well within Georgian territory. For now, the boundary is, effectively, wherever Russia says it is. Russia claims it is following old Soviet military maps defining the border of South Ossetia, which was considered a province of sorts in Soviet times. But maps defining that territory are unpublished. "If you have a so-called border in the middle of a village, in the middle of the orchards, it creates huge problems for the local community, for the society," says Tomasz Szablowski, a monitor for the European Union. The village, explains music teacher Zizi Kurmashvili, used to be prosperous — people had huge apple, peach and plum orchards and there was a thriving market. Now, she says, Russia has stolen their land and their water, and people can't make any money."[84]

[78] Law on privatization of republican and municipal property", paragraph 1, Article 38, available at < https://abh- n.ru/zakon-o-privatizacii-respublikanskoj-i-municipalnoj-sobstvennosti/>.

[79] Program "Abkhazia", 26 October 2017, available at <https://www.youtube.com/watch?v=sqJJmTcwxBw>;Program "Abkhazia", 24 January 2016, available at < https://www.youtube.com/watch?v=pSCCxyo7m6w>.

[80] Cooperation with Georgia", Resolution adopted by the UN Human Rights Council, 24 March 2017, 34th session (27 February-24 March 2017), A/HRC/RES/34/37.

[81] Amnesty International Report 2016/2017: The State of the World's Human Rights (Georgia 2016/2017), published on 22nd February 2017, available at https://www.amnesty.org/en/countries/europe-and-central-asia/georgia/report- georgia/.

[82] Consolidated Report on the Conflict in Georgia, Secretary General of the Council of Europe (October 2016-March 2017), 2016, SG/Inf (2017)18, paragraph 51.

[83] Along A Shifting Border, Georgia And Russia Maintain An Uneasy Peace, Stephanie Joyce, npr, 13 March 2017, available at http://www.npr.org/sections/parallels/2017/03/13/519471110/along-a-shifting-border-georgia-and-russia-maintain-an-uneasy-peace.

[84] Along A Shifting Border, Georgia And Russia Maintain An Uneasy Peace, Stephanie Joyce, npr, 13 March 2017, available at http://www.npr.org/sections/parallels/2017/03/13/519471110/along-a-shifting-border-georgia-and- russia-maintain-an-uneasy-peace.

50. It should be noted that according to the information disseminated on 18th January 2017, the Sokhumi occupation regime is planning to adopt so called "law" providing for the possibility of confiscation of personal belongings in cases of so called "illegal border crossing".[85]

51. According to the information disseminated on 22nd January 2017, the Russian FSB officers searched several citizens of Georgian at so called crossing point along the occupation line with Abkhazia and confiscated their personal mobile phones for the reason that these mobile phones were switched to the Georgian cellular network operators.[86] According to the same source, people wishing to cross the occupation line with Abkhazia are forced to pay additional toll for personal belongings exceeding the weight of 10 kilos.[87]

52. On 2nd March 2017, representative of the Tskhinvali occupation regime declared that "it is necessary to explain to residents of adjacent villages not to cultivate plots of land located at the other side of border line. During this year there will be no compromise in terms of allowing illegal harvesting of crops".[88]

VI. Right to education in the native language

53. During the reporting period, the situation with regard to the right to education in the native language in the Gali district of the occupied Abkhazian region remained the same. It should be emphasized that the UN Human Rights Council resolution on "Cooperation with Georgia", adopted during the reporting period, expressed concern about "restrictions on access to education in one's native language".[89]

54. According to 15th Consolidated Report of the Secretary General of the Council of Europe, covering the reporting period, "it is recalled that Russian has replaced Georgian as the language of instruction in all 11 schools in Lower Gali [in the Abkhazian region] in the grades from one to five, following the practice enforced in the Upper Gali where all schools shifted to Russian language curricula since 2008. In these grades, access to the native Georgian language has been reduced to two classes per week of Georgian as a foreign language, which are taught in addition to one class of Georgian literature per week. In discussions with the delegation, representatives of the Georgian central government also expressed concerns that training of Gali teachers has become more difficult in view of stricter controls and that Georgian textbooks provided by the Ministry were confiscated on several occasions. Both Georgian and international interlocutors also pointed to a growing dropout rate believed to be due to the combined effect of reduced access to native language and the growing restrictions on freedom of movement of schoolchildren in spite of the assurances provided in this latter respect by the Abkhaz side in the beginning of the 2016 school year."[90]

[85] Occupied Abkhazia is planning to tighten sanctions for so called illegal border crossing, "Pirweli Information Agency", 18 January 2017, available at http://pia.ge/post/97770-okupirebuli-afxazeti-e-w-sazrvris-ukanono- gadakvetaze-sanqciebis-gamkacrebas-apirebs.

[86] Citizens using so called pedestrian crossing points are fined in occupied Abkhazia, "Newposts", 22 January 2017, available at http://www.newposts.ge/?id=130280.

[87] Citizens using so called pedestrian crossing points are fined in occupied Abkhazia, "Newposts", 22 January 2017, available at http://www.newposts.ge/?id=130280.

[88] Georgian violators of border were expelled from South Ossetia, "Sputnik-Ossetia", 2 March 2017, available athttp://sputnik-ossetia.ru/South_Ossetia/20170302/3791660.html.

[89] Cooperation with Georgia", Resolution adopted by the UN Human Rights Council, 24 March 2017, 34th session (27 February-24 March 2017), A/HRC/RES/34/37.

[90] Consolidated Report on the Conflict in Georgia, Secretary General of the Council of Europe (October 2016 –March 2017), 2016, SG/Inf (2017)18, paragraphs 47-48.

55. According to the U.S. Department of State's Country Reports on Human Rights Practices for 2016, published during the reporting period, "Ethnic Georgians living in the Gali District of Abkhazia faced problems receiving an education in the Georgian language. According to the EUMM in Georgia, some Gali students seeking to attend school in government-administered territory faced difficulties at the start of the school year crossing the administrative boundary to attend school."[91]

56. According to the Special Report of the Public Defender of Georgia on the Rights of Women and Children in Conflict-Affected Regions (Review of 2014-2016), published during the reporting period, "restrictions imposed on movement across the Administrative Boundary Line have also affected access to education for those students who cross the Line on a daily basis due to the geographic proximity of schools. Because of these restrictions, the number of such students decreases from year to year. In addition, only those students who are on a special list kept by the Russian border guards are able to cross the Administrative Boundary Line to attend school."[92]

57. It has been argued that the closure of two additional crossing points along the occupation line with Abkhazia "will have a particularly worrying effect on schoolchildren and humanitarian crossings. Crossing itinerary in some cases is extended to over 50 km."[93] And "EUMM expressed serious concern about the announced closure of crossing points, emphasizing the negative impacts such a step would have on the daily lives of local residents who cross the ABL. Special emphasis was put on the challenges to freedom of movement for schoolchildren ..."[94]

VII. Conclusions

58. It can be concluded that the situation described in the occupied regions of Georgia and examples provided for the reporting period constitute violations of various human rights and freedoms included but not limited to violations of freedom from torture and ill-treatment;[95] arbitrary detention;[96] the right to freedom of movement;[97] the right to property;[98] the right to education in one's native language;[99] and prohibition of discrimination.[100]

[91] Georgia 2016 Human Rights Report, U.S. Department of State, published on 3rd March 2017, available at <https://www.state.gov/documents/organization/265634.pdf>, page 42.

[92] Special Report of Public Defender of Georgia on the Rights of Women and Children in Conflict-Affected Regions (Review of 2014-2016), 10 February 2017, page 56, available athttp://www.ombudsman.ge/uploads/other/4/4459.pdf.

[93] Consolidated Report on the Conflict in Georgia, Secretary General of the Council of Europe (October 2016 –March 2017), 2016, SG/Inf (2017)18, paragraph 42.

[94] EUMM participates in 42nd meeting of Gali IPRM, EUMM, 25 January 2017, available athttps://www.eumm.eu/en/press_and_public_information/press_releases/5726/?print=yes.

[95] Article 7 of the International Covenant on Civil and Political Rights (ICCPR); Article 5 of the Universal Declaration of Human Rights (UDHR); Article 3 of the European Convention on Human Rights (ECHR); and the OSCE commitments.

[96] Article 9 of the International Covenant on Civil and Political Rights (ICCPR); Article 3 of the Universal Declaration of Human Rights (UDHR); Article 5 of the European Convention on Human Rights (ECHR); and relevant provisions of the OSCE commitments.

[97] Article 12 of the International Covenant on Civil and Political Rights (ICCPR); Article 13 of the Universal Declaration of Human Rights (UDHR); Article 2, Protocol No. 4 of the European Convention on Human Rights (ECHR); and the OSCE freedom of movement commitments.

[98] Article 17 of the Universal Declaration of Human Rights (UDHR); Article 1, Protocol No. 1 of the European Convention on Human Rights (ECHR); and the OSCE commitments.

[99] Article 26 (read in conjunction with Article 2) of the Universal Declaration of Human Rights (UDHR); Article 2, Protocol No. 1 of the European Convention on Human Rights (ECHR); Article 28 (read in conjunction with paragraph 1 of Article 2) of the UN Convention on the Rights of the Child; and relevant provisions of the OSCE commitments.

[100] Article 14 and Protocol No. 12 of the European Convention on Human Rights (ECHR); Article 26 of the International Covenant on Civil and Political Rights (ICCPR); and the International Convention on the Elimination.

VIII. Appeal to the International Community

59. The Ministry of Foreign Affairs of Georgia appeals to the international community, states as well as international intergovernmental and non-governmental organizations:

- to call on the Russian Federation to reverse its recognition of independence of the Georgian regions Abkhazia and Tskhinvali and to end the occupation of the Georgian territories;
- to call on the Russian Federation to stop violations of human rights on the occupied territories while exercising effective control;
- to continue calling on the Russian Federation to ensure free movement of people and removal of barbed and razor wires and other artificial obstacles and banners along the occupation line;
- to take additional measures in order to monitor and report on the human rights situation in the occupied regions of Georgia, more specifically, the Ministry of Foreign Affairs of Georgia appeals to:
    - (i) Office of the United Nations High Commissioner for Human Rights (OHCHR) to continue efforts with the aim to access the Abkhazia and Tskhinvali regions of Georgia, pursuant to the HRC Resolution A/HRC/RES/34/37.
    - (ii) the UN Human Rights Council's Special Procedure Mandate holders to take additional measures in order to address and report on the human rights situation in Abkhazia and Tskhinvali region of Georgia;
    - (iii) the Commissioner for Human Rights of the Council of Europe to take additional measures in order to address and report on the human rights situation in Abkhazia and Tskhinvali region of Georgia;
    - (iv) the OSCE and its autonomous institutions, namely the Office for Democratic Institutions and Human Rights (ODIHR) and the Office of the High Commissioner on National Minorities (HCNM) to find ways for monitoring the human rights situation in Georgia's occupied regions. Such steps could, inter alia, include undertaking a follow-up mission to the occupied regions of Georgia and preparing a report on the status of the implementation of the recommendations contained in the ODIHR/HCNM 2008 Report on "Human Rights in the War Affected Areas following the Conflict in Georgia".
- to continue calling on the Russian Federation to allow a) access of the international human rights monitoring mechanisms to the occupied regions of Georgia; b) access of the relevant missions of international organizations (e.g. EUMM), including humanitarian organizations, to the occupied regions of Georgia through legal routes;
- to continue and intensify condemning violations of human rights such as the right to life; freedom of movement; freedom from torture and ill-treatment; the right to liberty; the right to property and the right to receive education in the native language in the occupied regions of Georgia.