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HAUT COMMISSARIAT
POUR LES REFUGIES

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UNITED NATIONS
HIGH COMMISSIONER
FOR REFUGEES
*Regional Office
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VERENIGDE NATIES
HOOG COMMISSARIAAT
VOOR DE VLUCHTELINGEN

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Background Note on the Protection of Asylum Seekers and Refugees in Georgia

1. Legal Framework and Refugee/Asylum Policy

Georgia passed national legislation concerning refugees in February 1998 and then signed the 1951 Refugee Convention and its Protocol in August 1999.

Legislative Framework

The national Law on Refugees contains several provisions which are not in line with the 1951 Convention.¹ Of note are:

- deviations from the 1951 Convention in the refugee definition (Art. 1);
- pre-screening, resulting in prevention of registration of refugee applications (Art. 2);
- insufficient protection against *refoulement* (Art. 3, 5, 7 and 8);
- deprivation of refugee status when temporarily remaining outside Georgia (Art. 10);
- negative consequences of suspension of social and economic rights when temporarily remaining outside Georgia (Art. 11).

Some declared rights of asylum seekers and refugees are not secured under the law and practice (right to housing, right to financial assistance).

Generally, there is a lack of consistency and coherence between the Law on Refugees and other relevant legislation.² Such gaps contribute to the difficulties faced by refugees in Georgia.

¹ In April 2005, the Georgian parliament adopted amendments to the Law on Refugees. However the amendments did not address the concerns outlined above, which had been formally expressed by UNHCR to the Georgian government in its comprehensive comments to the Law.

The Department for Refugees and Asylum Seekers within the Ministry of Refugees and Accommodation is responsible for refugee status eligibility procedures and registration of prima facie Chechen refugees. The Refugee Department has reportedly processed few asylum applications, granting refugee status to a total of 18 persons - mostly from the CIS countries - since 1998. No asylum application was processed between 2000 and 2002. Since 2003, however, the number of asylum-seekers, increasingly from outside the CIS countries, has been on a steady rise (6 in 2003, 11 in 2004 and 5 in the first quarter in 2005).

UNHCR does not have a formal role in the national asylum procedure at any stage.

2. Populations of Concern in Georgia

More than 262,000 internally displaced persons were registered with the Ministry for Refugees and Accommodation by mid-2004. By November 2004, following the MRA's annual IDP registration exercise, that number was reduced to 241,032. Subsequently, the MRA carried out a verification of IDP registration, with the support of UNHCR. As a result, a total of 214,018 IDPs were verified as at 30 June 2005, including some 204,892 persons (or 85%) already registered with MRA as of November 2004, and an additional 9,126 newborn or newly registered IDPs.

An overwhelming majority of IDPs in Georgia (some 201,634 or 94.21%) were displaced from Abkhazia. Another 12,384 (5.79%) IDPs remain displaced from the South Ossetia region.

As confirmed by this latest verification exercise, about 37 percent of Georgia's internally displaced population (79,528 persons) live in the Samegrelo region adjacent to Abkhazia. Another 77,077 displaced persons, 36 percent of the total, settled in Tbilisi region, and 24,431 in Imereti. About 44 per cent of the displaced population (some 94,473 IDPs) live in collective accommodation centres, often in below-standard conditions, and the rest stay in private homes, often with their extended families.

Since 1998, an estimated 40,000 and 60,000 IDPs have spontaneously returned to Gali, with part of the population migrating seasonally between Georgia proper and Abkhazia. In addition to a large IDP population, Georgia hosts about 2,600 prima facie refugees, all of whom originate from Chechnya. The majority population resides in the impoverished Pankisi Valley, neighbouring the Russian Federation.

² In June 2005, UNHCR commented on the draft Law on Legal Status of Aliens when the revision of the Law was proposed. The proposed draft Law did not, in UNHCR's view, give sufficient consideration to the special circumstances of refugees and asylum-seekers, which are different from those of other aliens, particularly in respect of the provisions on expulsion vis-à-vis the Georgian government's obligation under article 33 of the 1951 Refugee Convention.

3. Specific Issues

Abkhazia

Since 1993, more than 200,000 persons remain internally displaced as a result of the Georgian-Abkhaz conflict. Since Abkhaz de-facto authorities won control of Abkhazia, approximately 300,000 ethnic Georgians fled the province in 1993. Following the 1994 cease-fire up to 60,000 displaced ethnic Georgians returned spontaneously to their homes in Gali district, but tens of thousands were displaced again when fighting resumed in the district in 1998. Individual shelter and infrastructure rehabilitated by UNHCR was also destroyed.³ Of importance to note is that many of those displaced remain dependant on humanitarian assistance.

UNHCR remains committed to its engagement in Abkhazia and the return process. Upon the request of the Georgian and Abkhaz parties to the conflict, UNHCR plans to carry out an exercise to ascertain the number and concerns of those refugees and IDPs who are currently living in their homes in Gali District on a permanent or seasonal basis. This exercise is part of UNHCR's broader strategy to build confidence and trust between the concerned communities (including through community development projects, capacity building and small scale assistance activities) and thus pave the way for future returns.

South Ossetia

Conflict between ethnic Georgians and ethnic Ossetians in the breakaway Georgian region of South Ossetia - bordering Russia's North Ossetia - during 1991 and 1992 also produced tens of thousands of refugees (who fled to Russia) and internally displaced persons (who were displaced within the conflict zone). At the time, thousands of ethnic Georgians fled their homes in South Ossetia to other regions of Georgia, and thousands of Ossetians in Georgia fled to North Ossetia and South Ossetia.

The hostilities ceased upon the arrival of the Joint Peace-Keeping Forces (JPKF) in July 1992, and soon after the conflict resolution process gradually started. In 1993 a cease-fire agreement was signed and efforts were made by the parties (Georgia, South Ossetia, Russia and OSCE) to find amicable solution to the conflict resolution through Joint Control Commission (JCC) process and facilitated by OSCE, in which UNHCR is invited to be the observer.

In 2002, a Joint Control Commission (JCC) adopted a draft Russian-Georgian Interstate Program for "return, accommodation, integration, and reintegration of refugees, displaced persons, and other persons who suffered as a result of the Georgian-Ossetian conflict." However, minimal progress has taken place: little has been done by the authorities to support the return of internally displaced and little progress was made either toward resolving the underlying conflict or restoring the property rights of displaced persons.

³ It is reported by the Government of Georgia that current figures may be inflated due to migration of numbers of these IDPs outside Georgia.

In 2004, UNHCR received an extra-budgetary contribution of €800,000 from the European Commission (through: OSCE) to implement an 18-month project to provide basic shelter assistance and repatriation support to refugees and IDPs displaced as a result of the Georgian-Ossetian conflict.

Renewed hostilities in the second half of 2004, however, resulted in a decrease of refugees and IDPs willing to return to their original homes, especially to areas where they are in as the (ethnic) minority. This has had a direct influence on UNHCR's voluntary repatriation programme. Number of IDPs/refugee returnees who returned in 2004 was 156 families/474 persons which is at the same level as the previous year (2003; 145 families/494 persons).

Overall, the situation in South Ossetia continues to be tense. The remaining challenges in regard to return and the alleviation of the overall dire humanitarian situation in the conflict zone, call for improved security, confidence building, economic development, housing rehabilitation, as well as the rule of law and the restitution of property rights in particular.

Chechen Refugees

The Georgian authorities continued to extend prima facie recognition to Chechen refugees. According to the national law, refugees - both recognised individually or on a group basis - are required to participate in the annual re-registration organised by the government. New arrivals and newborns are registered by the MRA and cases recognised previously are re-registered. As of June 2005, 2,532 Chechen refugees were registered.

The majority of the Chechen refugees fled between October 1999 and January 2000. Georgia does not conduct any individual status determinations for Chechens. Since early 2000, UNHCR has coordinated assistance on behalf of Chechen refugees in the Pankisi Valley and provided food and non-food items to meet all basic, life-sustaining needs.⁴

Some instances of expulsion and attempted expulsion of refugees and asylum-seekers from Chechnya were reported.⁵ UNHCR has also expressed concerns about arrests of prima facie refugees from Chechnya during security sweeps in the Pankisi Valley. Such incidents have resulted in increased anxiety among the refugee population regarding their future. The closure of the OSCE border monitoring mission further complicates matters. It should be acknowledged that after six years of displacement the refugees are

⁴ UNHCR currently provides food items to complement the WFP food basket, hygiene items, firewood, woodstoves and blankets to the Chechen refugees. Projects implemented in cooperation with UNHCR include emergency and primary health care, school supplies distributions, water chlorination, small-scale income generation activities, pre-schools, human waste disposal, psycho-social rehabilitation, legal services, and a community centre offering such activities as English, computer, cooking, dance/music classes, and sports activities. Some 10 refugee students from Chechnya benefit from DAFI scholarship. In June 2005, distribution of WFP food assistance expanded to Chechen refugees living in Tbilisi.

⁵ Human Rights Watch, "Georgia and the European Neighbourhood Policy," *Human Rights Watch Briefing Paper*, June 15, 2005

increasingly tired of their living conditions. Possibilities for self-reliance are fairly limited, thereby increasing concern regarding prospects for the future. Efforts are thus needed to integrate refugees into the overall developmental plan of the country, so that longer term solutions can be realised.

UNHCR does not promote the repatriation of Chechens to the Russian Federation since it does not consider conditions in Chechnya are conducive to safe and sustainable return. However, in May 2005, some 20 Chechen refugees repatriated from the Pankisi Valley in an organised manner at the initiative of the Russian government, with no apparent involvement of the Georgian authorities. UNHCR was not involved in this return process.

Meskhethians

The repatriation and reintegration of Meskhethians remains a politically sensitive issue. The Meskhethians were deported en masse from southern Georgia to Central Asia during the Stalin era. Thousands fled persecution or were expelled a second time from Central Asia at the time of the break-up of the Soviet Union and were living as stateless persons in Ukraine, Azerbaijan, and elsewhere in the CIS. In 1999, when joining the Council of Europe (CoE), Georgia committed itself to the adoption within two years of its accession, a legal framework permitting repatriation and integration, including rights to Georgian citizenship, for the Meskhethian population deported during the Soviet Regime, the launch of a repatriation process within three years and its completion within twelve years of accession. In view of the extraordinary circumstances that occurred in Georgia in particular related to the "Rose Revolution", the CoE in January 2004 reconsidered these deadlines and called for the completion of these commitments by 2011. To date, neither commitment has been fulfilled. The Georgian authorities consider the fulfilment of this commitment conditional on the creation of appropriate conditions in the country. In March 2005, the President of Georgia issued an ordinance on the creation of a commission to study the issue and consider elaborating a work plan in that respect.

4. Main Points for Consideration

- Assisting in creating an asylum system which is in accordance with international law and standards;
- Continue to provide support to the refugees and internally displaced persons returning to South Ossetia;
- Assist Chechen refugees within Georgia and seek durable solutions for them;
- Support the Georgian government and particularly the MRA in improving the access to rights and living conditions of internally displaced persons from Abkhazia and South Ossetia and in developing strategies for longer-term self-reliance and finding durable solutions.

**UNHCR
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