



Protection of Internally Displaced Persons in Georgia: A Gap Analysis

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List of Abbreviations

ACH	Acción Contre el Hambre
AGDM	Age, Gender, Diversity Mainstreaming
APLR	Association for Protection of Landowners' Rights
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CIS	Commonwealth of Independent States
CRINGO	Caucasian Refugee and IDP NGO Network
DRC	Danish Refugee Council
ECHR	European Convention on Human Rights
ExCom	Executive Committee
GYLA	Georgian Young Lawyers' Association
HRC	Human Rights Committee
HLP	Housing, Land and Property Rights
ICCPR	International Covenant on Civil and Political Rights
ICESC	International Covenant on Economic, Social and Cultural Rights
ICLA	Information, Counselling and Legal Aid
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person
IMF	International Monetary Fund
IOM	International Organization for Migration
JCC	Joint Control Commission
MDG	Millennium Development Goal
MRA	Ministry of Refugees and Accommodation
NGO	Non-governmental Organization
NRC	Norwegian Refugee Council
OSCE	Organization for Security and Cooperation in Europe
SDC	Swiss Development and Cooperation
SGBV	Sexual and Gender-based Violence
SPCP-SC	Strengthening Protection Capacity Project – Southern Caucasus
SRSG	Special Representative of the Secretary-General
UN	United Nations
UNCT	United Nations Country Team
UNDP	United Nations Development Programme
UNICEF	United Nations Children Emergency Fund
UNHCR	United Nations High Commissioner for Refugees
UNOMIG	United Nations Observer Mission in Georgia
UNHROAG	United Nations Human Rights Office Abkhazia Georgia
UXO	Unexploded Ordinance
VCT	Voluntary Counseling and Testing for HIV
WHO	World Health Organization
WV	World Vision

Foreword

Over 220,000 registered IDPs have been living in limbo in Georgia for more than fifteen years. These IDPs fled secessionist conflicts in the two break-away regions of Abkhazia and South Ossetia in the early 1990s. The second wave of displacement swept over Georgia in August 2008 as armed conflict broke out between Russian and Georgian troops over South Ossetia. Reportedly the total number of the persons displaced during the August conflict reached 138 000 out of which around 108,600 persons returned to their places of origin while approximately 30, 000 remained to face possible long-term displacement. This gap analysis highlights the main protection concerns of IDPs originating from the 1992 and 2008 conflicts, as well as conflict affected population in Shida Kartli and South Ossetia, as well as an estimated 45,000 IDPs who have spontaneously returned to Gali, Ochamchire and Tkvarcheli districts in Abkhazia since 2000.

This gap analysis should be viewed as complimentary to the State Strategy for Internally Displaced Persons -Persecuted, which was adopted in February 2007 and the IDP Action Plan for Implementation of State Strategy for IDPs, which at the time of drafting this report has been adopted by the Government of Georgia on 28 May 2009. The State Strategy for IDPs as amended in December 2008 lists the main avenues of Government intervention in meeting the durable housing needs of IDPs. The concomitant Action Plan further develops these avenues tying them to the socio-economic measures to be implemented by the Government of Georgia in cooperation with the international community.

The added value of this report is that protection gaps, and recommendations to address these gaps, are elaborated in more detail than in the aforementioned documents. Furthermore, the analysis and recommendations in this report rise from the internationally accepted standards and criteria which Georgia strives to embrace. Voluntary return in safety and in dignity even before the 2008 August conflict was not feasible as the conflicts remained frozen and peace elusive. Recent developments, whereby the Russian Federation has recognized the independence of Abkhazia and South Ossetia, has called the issue of return into a greater question.

The initial draft of the analysis was in the process of being published when the second wave of displacement struck Georgia in August 2008. With the view to reflecting the chronology of current developments and respective protection gaps, as well as major changes after the conflict, the gap analyses is presented in two sections touching upon concerns of IDPs displaced in early 90s and the new caseload forced to flee hostilities in 2008.

This gap analysis was undertaken as part of UNHCR larger Strengthening Protection Capacity Project – Southern Caucasus (SPCP-SC), which aims to strengthen protection responses to forced displacement in the region.

This project is financed by the European Union. The views expressed in this report do not reflect the official opinion of the European Union.

Executive Summary

Following the disintegration of the Soviet Union and Georgia's declaration of independence in 1991, secessionist conflicts broke out in two of Georgia's regions: South Ossetia (1991-92) and Abkhazia (1992-93). These conflicts displaced over 300,000 persons or about 6 % of Georgia's total population. The vast majority of the IDPs are from Abkhazia and predominantly ethnic Georgian while about 60,000 Ossets and ethnic Georgians fled due to the conflict in South Ossetia.

As of April 2008, there were 212,000 registered IDPs in Georgia, of which 12,300 were from South Ossetia and the remainder from Abkhazia. In addition, there were about 10,000 IDPs - both Osset and ethnic Georgian - in South Ossetia and an unknown number of Abkhaz IDPs in Abkhazia. The majority of IDPs from Abkhazia live in regions bordering Abkhazia while IDPs from South Ossetia live in Gori, which lies between Tbilisi, and South Ossetia. About 44 % of these IDPs live in state-owned collective centres, which were not constructed to provide long-term accommodation. The remaining IDPs live in the private sector with relatives or friends, in rental properties or have purchased their own homes. Despite significant economic growth since 2003, IDPs are over-proportionately represented among the approximately 11.3 % of the population which continues to live below the poverty line.

Ceasefires have been signed by parties to the conflict in the early 90s and peacekeeping forces have been deployed to monitor these agreements but peace remained elusive. Several frameworks have been developed to broker peace in Abkhazia and to promote return, including the 1994 Quadripartite Agreement on the Voluntary Return of Refugees and Displaced Persons [hereinafter referred to as the Moscow Agreement] signed by the Abkhaz and Georgian sides, the Russian Federation and UNHCR; the "Geneva process" led by the UN Special Representative of the Secretary General (SRSG), the Group of Friends of the Secretary General¹ and the "Sochi framework"². These initiatives developed in 2003 have not resulted in significant result favourable to the return of IDPs. The *de facto* authorities maintain a ban on the return of a large number of Georgians who are accused of treason for participating in clashes in 1992-93, and restrict return to the Gali district. On 15 May 2008, the UN General Assembly passed a non-binding resolution on the return of Georgian IDPs to Abkhazia which was immediately dismissed by Russia and the *de facto* authorities of Abkhazia. The latter stated that the international community should assist them in facilitating the return of ethnic Abkhazians who were deported by Russia in the late 19th century and early 20th century. In the April 2008 report on the situation in Abkhazia, the UN Secretary General reported about an escalation in the conflict between the two sides as well as human rights violations against returnees to Gali.

In South Ossetia, the Joint Control Commission (JCC) was established by the 1992 "Agreement on the Principles of the Settlement of the Georgian-Ossetian Conflict between Georgia and Russia". The JCC consisted of representatives from Georgia, Russia, North and South Ossetia as well as from the Organization for Security and Cooperation in Europe (OSCE). Its mandate was to supervise the observance of the Moscow Agreement, draft and implement conflict settlement measures as well as to develop and implement measures to facilitate the return of displaced persons. In addition, it was tasked with the monitoring of human rights and with promoting economic development. However the JCC format has become inoperative following hostilities in South Ossetia between the Russian and Georgian troops.

The situation in Georgia has dramatically changed since 7/8 August 2008 when war broke out in South Ossetia with the Russian troops occupying South Ossetia and a number of locations including the nearby

¹ The Group of Friends consists of France, Germany, Russia, the UK and the USA.

² In March 2003 working meetings between V. Putin and E. Shevardnadze (at that time the president of the Russian Federation and the president of Georgia), were held in Sochi. The discussions on the practical issues were attended by the delegation of the Abkhaz side. The following issues were discussed at the meetings: dignified return of refugees and IDPs to Abkhazia, opening of Sochi-Tbilisi railway communication, renovation of the Inguri hydro power station cascade, the role of the CIS peacekeeping forces in the region, and preparation of a comprehensive "Framework" Agreement on the foundation of friendly relations between Georgia and the Russian Federation. It was decided that appropriate working groups or committees should be set up for the implementation of the tasks assigned at the Sochi meetings.

town of Gori, the Black Sea port of Poti, the towns of Senaki and Zugdidi in Western Georgia and Upper Abkhazia (Kodori gorge).

Following the return of an estimated 78% of all displaced persons from the August conflict, some 30, 000 remained to face possible longer term displacement.

As already mentioned, the main protection concerns of IDPs in protracted displacement, originated as the result of conflicts in the early 90s on the one hand and the changed circumstances since August 2008 on the other one, are considered in two separate sections of this gap analysis. Given the differences in time as well as the conditions of the displacements in the 92-93 and 2008, this approach is more feasible in providing a sound understanding of the different gaps in protection for the two caseloads.

The main protection concerns of IDPs are as follows:

Context

In keeping with the policy of the Government of Georgia which focused on the right of IDPs to return to their homes, long term solutions to the protection needs of IDPs were neglected until 2007. The international community criticized parties to the conflict in Abkhazia, Georgia and South Ossetia, Georgia for politicising the plight of IDPs in Georgia. Political considerations with respect to the conflicts in Abkhazia and South Ossetia often blur the humanitarian problem, and have a negative impact on humanitarian action, including mainstreaming IDP protection into social and economic development strategies and interventions. Both the *de facto* Abkhaz and South Ossetian authorities oppose significant IDP return to territories under their effective control, owing to their demographic concerns and the political implications at stake.

Institutional Protection Framework

Domestic legislation on internally displaced persons (IDPs) does not fully meet with international human rights standards in several key areas including: registration, legal status, access to social benefits, agricultural lands, and protection from arbitrary and illegal eviction. The Government of Georgia's focus on return up until 2007 has to a large extent prevented the integration of IDPs into Georgian society and has negatively affected their socio-economic situation contributing to their marginalization. This was also a major obstacle to improving the living conditions of IDPs in their sites of displacement or in promoting IDP self-reliance.

In February 2007 the Government adopted the *State Strategy for Internally Displaced Persons* which, next to the creation of conditions of dignified and safe return, acknowledges integration and the improvement of the socio-economic conditions of IDPs as one of its key goals. It also provides a more comprehensive framework for assistance to IDPs and moves towards IDP reintegration. The concomitant IDP Action Plan drafted by the IDP Secretariat (with UNHCR support) and in close consultations with UNHCR and its partners, translated the goals of the State Strategy for IDPs into concrete measures. Negotiated for more than a year and adopted on 30 July 2008, the Action Plan lost its relevance with the armed conflict launched in August 2008 over South Ossetia. When a clearer picture of the conflict impact emerged, the Government declared the Action Plan as "null and void" with the view of an updated Action Plan being drafted and adopted in 2009. The new Action Plan, adopted 28 May 2009, focuses on the durable housing solutions of the IDPs but also contains socio-economic measures aiming at the full integration of IDPs. UNHCR continues to coordinate input and advice from the international community and to contribute to this process, promoting a human rights based and vulnerability focused approach.

Security from Violence and Exploitation

In some respects IDPs are like the rest of the Georgian population, with similar protection issues related to poverty, violence, and crime. Generally they do not face a greater risk of security than the rest of the non-displaced population.

The situation with regards to the general security in the country was aggravated by the armed conflict in August 2008. IDPs, just like the Georgian population at large, were exposed to the same security risks during the 5 days of warfare which extended far beyond the South Ossetia border and engaged a number of locations around Eastern and Western Georgia. The security situation remains tense in regions bordering with South Ossetia, mainly in Shida Kartli and the village of Perevi in Western Georgia, and Abkhazia. Consequently, IDPs and returnees along with the host communities are under higher security risks mainly because of unexploded cluster ordinances and informal armed groups. Cases of looting as well as attacking, beating, and kidnapping civilians have been regularly reported from the areas adjacent to South Ossetia and Abkhazia.

Generally speaking, in the break-away regions of Abkhazia and South Ossetia the rule of law is weak, giving rise to high rates of criminality. Even before the August conflict, Georgia UNHROAG reported cases of *de facto* law enforcement officers committing human rights abuses (arbitrary arrest and detention as well as mistreating detainees) in the areas of spontaneous return of Abkhazia. The *de facto* law enforcement officers in these districts rarely wore uniforms or other identification markers, which enabled them to act with impunity. The population of the Gali region has been facing greater security threats since August 2008 with the closure of the *de facto* border with the rest of Georgia. Cases of intimidation and restrictions imposed on civilians are endangering their livelihoods and access to social services.

There is little information on the incidence of sexual and gender based violence within IDP communities or within society at large. Georgian legislation on domestic violence is gradually being implemented in practice, but a lack of prosecution remains a problem as the police are reluctant to investigate cases. In addition, society's attitude towards sexual violence and the subordinate status of women and girls in Georgia lead to significant pressures on survivors not to bring cases before the courts. There are no measures in place to mitigate the potential stigmatization of women willing to take action against abusers. In 2008 UNHCR started rolling out an EC funded project on prevention and response to SGBV among refugee and IDP communities targeting Tbilisi, Gali, Zugdidi and Tshinkvali regions.

Child Labour

There are reports of IDP girls and boys drop out of schools early to work in order to supplement family income. Adolescent girls are sometimes forced to give up their education due to early marriages. National mechanisms responding to child labour or those which securing education, rest and leisure for children are weak.

Persons with disabilities, older persons and other IDPs with specific needs

Although persons with disabilities, older persons and others with specific needs are included in national IDP programmes, there are few targeted measures to identify and respond to their particular needs.

Equality before law

The Government has introduced a specific law governing the status of Internally Displaced Persons (*Law of Georgia on Forcibly Displaced Persons – Persecuted adopted on 28 June 1996, last amended 9 June 2006*³). This law introduces a number of privileges and specific protections granted to the registered IDPs, including a modest cash assistance, provision of free electricity in collective centres, a degree of protection against arbitrary eviction from collective centres, and counting periods of displacement for the calculation of pensions.

³ Since 1992 more than 200 normative and individual legal acts on IDPs has been adopted to date.

In 2007 the government carried out a re-registration exercise of all IDPs originating from the early 90s. However, flaws in the process raised concern that the data collected may not be accurate. Nevertheless the overall registration exercise was providing a profile of IDPs living in CCs and private accommodation. Therefore today, the Ministry of Refugees and accommodation invests considerable effort in upgrading the IDP data base that would aggregate data collected in the profiling exercises which are planned to be carried out in 2009.

Basic Needs and Essential Services

The living conditions of many thousands of IDPs are deplorable and have been found inadequate. About 45 % of the 220,000 IDPs, originated back in early 90s, live in collective centres, an estimated 70% of which do not meet minimum shelter standards, lacking adequate privacy, access to water, proper insulation and functional sewage systems. Poor and overcrowded living environments breed tension and make studying difficult for IDP children.

An unknown number of IDPs living in the private sector face similarly difficult living conditions. Many returnees in Gali, Ochamchire and Tkvarcheli districts live in (partly) destroyed houses and fear rehabilitating their houses in the current unstable environment or cannot afford the cost of rehabilitation.

IDPs in Georgia are entitled to various benefits, including a monthly allowance for the registered IDPs and a one- time cash assistance for the newly displaced population. However, these are insufficient to cover basic needs. Status-based allowances do not address the needs of the most vulnerable IDPs. As citizens of Georgia, IDPs can also enrol in the voluntary targeted social assistance program for families living under the poverty line but benefits under this program are also inadequate.

As a consequence, IDPs lack sufficient food to maintain good health while they can access health services, they are often unable to afford essential medicine. Education in IDP and return areas suffers from the absence of sufficiently qualified teachers and school premises are in urgent need of repair, especially in the break-away regions. The language of instruction remains a problem in return areas of Abkhazia: returnee children generally do not master Russian or Abkhaz, which are favoured over the Georgian language. This may lead to learning difficulties and affect their access to higher education or employment.

Community Participation and Self-Management

There have been to date some ad hoc attempts to seek the input of IDPs to their problems, including in the development of the State Strategy for IDPs and the IDP Action Plan. However there remains a need for more systematic involvement of IDPs, including women and children.

Georgia suffers from high unemployment rates, and IDPs are more vulnerable than the local population due to the very fact of being displaced and having less access to information about job opportunities as a result of their marginalization. IDPs also have fewer assets and therefore are less able to get credit to start their own business. IDP dependency on external assistance has increased along with their passivity. Financial worries and an uncertain future have imposed enormous psychological strain on adult IDPs. Children are also negatively affected by the tense environment at home, and have expressed regret that their parents are unable to pay for extra-curricular activities.

Durable Solutions

The new IDP housing needs were met by the Government's prompt response. The durable housing solution initiated by the Government was aimed at building cottages and refurbishing blocks of flats for newly displaced persons. The property is to be given to the newly settled IDPs under their ownership. Nevertheless, problems of access to social services, as well as sustainability problems still prevail in the new settlements. The IDPs from 92-93 living in CCs have an option of benefiting from the Government initiated process of ownership transfer of their living units in CCs for which a symbolic sum of one GEL is paid by IDPs themselves. The first wave of self-privatization started in state owned CCs occupied by the old caseload. However no standard operational procedures have been developed to guide the self-privatization process.

IDPs in protracted displacement (1992-93 caseload)

1. Context ⁴

1.1. Demographic profile

It is difficult to obtain accurate IDP figures. The government registration process was flawed, as the available official figures also include persons who would not be considered eligible for IDP status under the Guiding Principles, due to them living abroad.

During the 2007 re-registration exercise, which commenced in April 2007 and was completed in April 2008, a total of 218,858 IDPs were registered in Georgia of which 206,538 are mainly ethnic Georgians who fled from Abkhazia, while, another 12,320 IDPs from South Ossetia also consists predominantly of ethnic Georgian. An estimated 50.5 % of Georgia's IDP population is female. In addition, there are reportedly about 10,000 IDPs within South Ossetia⁵ itself and an unknown number of Abkhaz IDPs in Abkhazia.

The majority of IDPs from Abkhazia live in regions bordering Abkhazia. IDPs from South Ossetia live in Tbilisi, Georgia's capital, or in Kaspi and Gori, which lies between Tbilisi and South Ossetia. An estimated 70 % of all IDPs live in urban areas. About 44 % of IDPs live in mostly state-owned collective centres, while the remaining IDPs live in private accommodation with host families, friends, in rental properties or have purchased their own homes.

There is little information on IDPs living in private accommodation, and in 2009 the Government of Georgia plans to conduct a comprehensive profiling of IDPs living in Private Accommodation.

1.2. Meaningful participation

Generally IDPs are not sufficiently involved in decisions affecting their lives. There is not enough explanation about policies launched by the government and insufficient encouragement of IDP participation. IDPs, especially in rural areas or in the small towns, live in completely isolated circumstances without access to information relating to them.

During the development of the State Strategy for IDPs and the IDP Action Plan, IDP input was encouraged through IDP associations and civil society. Few IDPs however, are truly familiar with these documents which show that more outreach is needed to inform IDPs who are not connected to any organization or association.

Due to long-lasting deprivation, IDPs have often become passive, indifferent, and apathetic with low inspiration. In 2007, UNHCR conducted a small scale participatory assessment which was a limited exercise due to limited resources and staff. Focus group discussions and individual interviews with IDPs in Gori, Rustavi and Tbilisi were held to gain a better understanding of their main protection concerns and what solutions they proposed to overcome their concerns. Most IDPs welcomed the discussions, although some refused to participate as they felt the discussions would not lead to any improvement in their lives.

The conflict in August 2008 has also extremely affected interests and thoughts about the situation of the persons displaced as the results of the conflicts in early 90s. Frustration arose about the attention and aid being directed to the population affected by the recent conflict; the government providing the new caseload with housing and appliances, and ad hoc financial support. The Commissioner for Human Rights of the Council of Europe has stressed the importance of eliminating the discrimination between new and old displaced persons⁶. The continued lack of integration of the IDPs originating from the early 90s

⁴ This gap analysis generally follows the framework provided in the October 2007 pilot version of *Protection of Conflict-Induced IDPs: Assessment for Action* produced by the Interagency Standing Committee Protection Cluster Working Group and the Early Recovery Cluster Working Group.

⁵ About 60,000 Ossets fled from South Ossetia and rest of Georgia following the conflict in South Ossetia. The majority of these persons sought refuge in North Ossetia, the Russia Federation, where they enjoy refugee status.

conflicts, along with the shift of emphasis on the part of the government to the newly displaced was also highlighted by the Representative of the Secretary-General on the human rights of IDP⁷. The latter criticism the Government has responded to with the Amendment to the State strategy to IDPs in December 2008 and an Action Plan.

Hope of returning to their permanent place of residence (place of origin) faded after the August conflict, motivating the old caseload of IDPs to actively seek for the same model of durable solution for themselves. To respond to public expectations, the Georgian government has committed itself to finding a durable solution for all displaced persons by 2011, irrespective of whether they originate from the 2008 or 1992 conflicts⁸.

1.3. Solution Oriented Approach

1.5.1. Focus on return as the only durable solution

The Government of Georgia's policy shift was for the first time officially acknowledged when the State Strategy for IDPs was adopted on 2 February 2007 (Decree #47). This Strategy has as its two main objectives: 1) to "create conditions for a dignified and safe return of IDPs," and 2) to "support decent living conditions for the displaced population and their participation in society." The political environment had not been conducive to the adoption of the Action Plan to implement this strategy by mid summer of 2008: political unrest in November 2007, subsequent presidential elections in January 2008, and parliamentary elections in May 2008 as well as the reshuffling of MRA were major obstacles for the adoption of the Action Plan during this period. Finally, the Action Plan was adopted on 30 July 2008 just a week before hostilities broke out in South Ossetia. Before it could be put in action the Action Plan was abolished in December 2008 with the view to develop a new Action Plan to reflect the changed circumstances after the conflict and focus more on IDP integration and in particular on shelter.

1.5.2. Humanitarian space and access

Since the August 2008 conflict the international community does not enjoy access to South Ossetia, and with adoption of the Law on Occupied Territories by the Government of Georgia on 23 October 2008, access and project implementation in Abkhazia is further complicated.

2. Institutional Protection Framework

2.1 Applicable international and regional laws

Georgia is, *inter alia*, party to the 1966 International Covenant on Civil and Political Rights (ICCPR); 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR); 1979 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); 1989 Convention of the Rights of the Child (CCR); 1948 Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention); four 1949 Geneva Conventions and two 1977 Additional Protocols.

In terms of regional law, Georgia joined the Council of Europe and ratified the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) in 1999. Georgia has also ratified Protocols No. 1, 4, 6, 7, 12, 13, and 14 to the ECHR and has recognized the jurisdiction of the European Court of Human Rights.

⁶ Commissioner for Human Rights of the Council of Europe: Special Follow-Up Mission to the Areas Affected by the South Ossetia Conflict; December 2008.

⁷ Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, Addendum, Mission To Georgia, (1 to 4 October 2009) (New York, United Nations) A/HCR/10/13/Add.2.

⁸ *ibid.*,

The Constitution of Georgia provides for the direct application by the national courts of international treaties ratified by Georgia. Article 6 of the Constitution provides for the supremacy of international treaties and agreements signed by Georgia over national legislation as long as they do not contradict the Constitution or constitutional agreements. The article 7 of Constitution also stipulates that universally recognized human rights and freedoms must be recognized and protected.

International legal standards are not necessarily upheld by Georgian courts. In practice, the Constitutional Court of Georgia mainly refers to international law or ECHR case law. General courts and state officials are more reluctant to apply international treaties in the absence of national legislation or if national legislation contradicts international treaties. Hence, in practice direct application of international law is an exception rather than habit.

In addition to the above-mentioned international and regional law, the Preamble of the State Strategy for IDPs underscores that the state and local authorities must act in accordance with the Guiding Principles as well as with international human rights standards and international law.

2.2 National legal framework

Since 1992, the Georgian government has issued more than 200 legislative acts with provisions concerning internally displaced persons. These are either acts, which regulate conditions specific to IDPs, or, acts, which cover the entire population of Georgia, including IDPs. The main legislative act, which regulates the rights of IDPs and the responsibilities of the Government of Georgia towards IDPs is the *Law of Georgia on Forcibly Displaced Persons* [hereinafter referred to as the *Law on IDPs*], which was passed on 28 June 1996 and amended in 2001, 2005 and in 2006. As stated in its Preamble, this law ‘determines the legal status of IDPs, grounds and rules for recognition as an IDP, granting, suspension, termination and deprivation of IDP status, legal, economic and social guarantees as well as IDPs’ rights and obligations.’

Under the Article 5(2) of the *Law on IDPs*, registered IDPs are entitled to the following benefits: a monthly allowance, temporary shelter and plots of arable land, free primary and secondary education, health coverage under existing state programs and assistance in finding temporary employment in line with their profession and qualifications. The monthly IDP allowance amounts to about U\$13 for IDPs living in collective centres and approximately U\$15 for IDPs living in the private sector. Although increased since April 2008 the monthly IDP allowance is inadequate. In addition, they are status-based and not needs-based. IDPs living in collective centres are entitled to free electricity, water and waste disposal. MRA together with other executive and local authorities should also help IDPs find temporary employment in line with their profession and qualifications. IDPs are entitled to temporary agricultural land plots and are exempt from paying taxes related to these plots. The Government of Georgia provides health coverage to IDPs in line with existing state programs and free secondary education. The Government of Georgia is also responsible for assisting IDPs to return⁹.

As the *Law on IDPs* was adopted in 1996 before the UN Guiding Principles on Internal Displacement were developed, the law is not fully consistent with the broad principles expressed in the latter. For example, the Law on IDPs defines IDPs more narrowly than in the Guiding Principles excluding IDPs who were forced to flee their homes or places of habitual residence due to natural disasters, though in the same vein the Government protects so call “eco-migrants” (persons fleeing their homes due to ecological disasters) offering them durable housing and assistance support. The Law on IDPs state that IDPs are entitled to enjoy in full equality, the same rights and freedoms under domestic and international law as do other people in their country and they should not be discriminated in the enjoyment of any rights and freedoms on the grounds that they are internally displaced.

Legislative amendments and the adoption of new laws and regulations have increased IDP rights and protection, including restoring the right of IDPs to vote in local and parliamentary elections and to stand for elections themselves as well as to buy property without losing their national IDP status following a decision by the Constitutional Court.

⁹ Some of these entitlements will be discussed in the relevant sections below.

The legislation of Georgia does not yet fully comply with the international instruments providing for the protection of internally displaced persons, in particular UN Guiding Principles. The Government of Georgia should incorporate the UN Guiding Principles with detailed implementing legislation into national law, where these would strengthen existing legislation.

The following areas require amendment and/or elaboration to bring Georgian legislation in line with international standards and to contribute to effective application of the laws and regulations: IDP status; social benefits and allowances; shelter and protection from forced return or resettlement.

2.2.1 De facto legislation in Abkhazia

In Abkhazia, the *de facto* authorities have passed laws which have no force under international law, as they are not recognized internationally. The *de facto* laws discussed below, however, create at the very least a psychological obstacle to IDP return as well as potential administrative hurdles for returnees.

In October 2005, the *de facto* authorities passed the *de facto Law of the Republic of Abkhazia on Citizenship of the Republic of Abkhazia*. As this *de facto* law excludes the possibility of dual Abkhaz-Georgian citizenship, returnees are expected to renounce their Georgian citizenship which creates the risk of statelessness. This risk is somewhat mitigated by the fact that the *de facto* law allows dual Abkhaz-Russian citizenship and that while returnees formally renounce their Georgian citizenship, they retain their Georgian identity documents. In theory, this *de facto* law also limits the rights of the ethnic Georgian population in Abkhazia to participate in and stand for parliamentary and local elections²⁰¹⁰. In practice, however, UNHCR found that returnees in Gali, Ochamchire and Tkvarcheli districts were able to vote in the *de facto* March elections without Abkhaz citizenship or Abkhaz documentation. The returnees were also able to vote in *de facto* local elections.

In May 2006, the *de facto* parliament passed Decree No. 1327-C-XIV. The decree prohibits *de facto* courts from deciding on any existing or new property claims filed by owners who were forced to flee during the conflict. This makes it almost impossible for IDPs to claim their property which has been, or is in the process of, being illegally bought or sold while they have been displaced. Reportedly courts apply this decree on a very selective base. With adoption of a new *de-facto* Civil Code (entered into force in Nov.2008) it is debatable as to whether this decree has legal value.

The *de facto* parliament has discussed in 2007, but reportedly not yet adopted, a parliamentary decree entitled *The legal status of persons who left Abkhazia between 1992-4 due to armed conflict with Georgia*. The decree categorizes persons who left Abkhazia based on the different circumstances of their departure and defines certain acts, such as participation in the hostilities or treachery to the motherland, with the view of prosecuting individuals or perhaps denying them their right to return. If the decree is adopted, the *de facto* parliament would commence discussion on a corresponding law, which is likely to further hamper the return of ethnic Georgians, many of whom explained their part in the hostilities based on the exigencies of the situation when they felt they had to “defend their family and property.”

2.2.2 De facto legislation in South Ossetia

The *de facto* South Ossetian authorities adopted a *Law on IDPs* and a *Law on Refugees* in 1999. The *Law on IDPs* is not in line with the Guiding Principles or international standards. These laws use the term “refugees” to apply to persons whom UNHCR and the Guiding Principles would categorize as IDPs and consequently, the regulation and protection mechanisms envisaged in the law are the same as for refugees.

¹⁰ Allowing returnees to vote is in line with the *de facto* authorities’ stated wish to show the world that they meet “modern European [democratic] standards.” *De facto* Abkhaz Foreign Minister, Sergei Shamba, quoted in a BBC report entitled *Georgia rejects Abkhazia Elections* at <http://news.bbc.co.uk/2/hi/europe/6418229.stm> (accessed 30 March, 2008).

2.3 Institutional framework

2.3.1 MRA

As stated above, MRA is responsible for coordinating responses of other governmental agencies to internal displacement. Its IDP Department registers the displaced and grants IDP status in line with the *Law on IDPs*. It also ensures that IDPs receive their monthly allowances, temporary accommodation, emergency aid, support with finding temporary employment, etc.

In the provinces/districts, there are local branches of MRA but due to lack of staff and resources they are not always able to provide accurate information to IDPs, and in return to provide a comprehensive picture of their needs, hence the decisions on IDP cases residing in the regions have to be made centrally in Tbilisi. Therefore the MRA is in process of strengthening their presence in the regions with implementing a number of capacity building activities. In many places the ministry's offices are working in isolation and without close coordination with other government institutions.

2.3.2 Other institutional actors

The Ministry of Agriculture (MoA), the Ministry of Education and Science (MoEC), Ministry of Labour, Health and Social Affairs (MoLHSA) are also involved in assisting IDPs along with the local population, although distribution of responsibilities among the various levels and branches of Government addressing internal displacement are unclear and cooperation between them inefficient.

The Ombudsman produces independent bi-annual reports on the human rights situation in Georgia. In report for 2007, problems with IDP re-registration and eviction were reported but the Government of Georgia seems to have not yet acted on these reports and recommendations¹¹.

2.3.3 Monitoring of IDP rights

There is no national monitoring system or database of abuses against IDPs. However there are different organizations that maintain their own databases on cases handled by them (e.g. ICLA lawyers, GYLA, Public Defender's office, etc.). Generally local and international human rights groups work without government restrictions or interference.

UNHCR and partners monitored the human rights situation of returnees in Abkhazia, raising particular concerns directly with the relevant *de facto* local authorities. In March 2007, *de facto* Abkhaz authorities agreed to the establishment of a UN human rights office and the deployment of three UN civilian police personnel to Gali town. As an outcome of this initiative, Gali Human Rights Office chairs info-sharing meetings on key human rights issues, which take place every month.

The UNHROAG office in Sukhumi monitored human rights in Abkhazia, while the OSCE monitored the human rights situation in South Ossetia.

2.3.4 De facto authorities in Abkhazia and South Ossetia

In Abkhazia, humanitarian actors deal with the *de facto* Minister of Foreign Affairs as well as advocating to the relevant *de facto* local authorities about protection concerns. In South Ossetia, prior to the August 2008 conflict humanitarian actors dealt with the co-chair of the JCC, who was also the *de facto* prime minister. However after the conflict the situation changed drastically resulting in strictly limited humanitarian access in the region.

¹¹ See *Parliament's shuns Public Defender's report*, Civil Georgia, March 17, 2008 at <http://www.civil.ge/eng/article.php?id=17372>; and also *Parliament to hear Ombudsman's report*, Civil Georgia, July 14, 2008 at <http://civil.ge/eng/article.php?id=18771&search=public%20defender\s%20report>

2.3.5 Role of international and regional organizations

The Representative of the Secretary-General on the Human Rights of IDPs (RSG) visited Georgia in 2005 for a formal visit¹². His report highlighted the need for the Government of Georgia to improve living conditions of IDPs in their sites of displacement, as a voluntary return in safety and dignity is not feasible. In 2007, he advocated for the adoption of a human rights-based and vulnerability-focused IDP Action Plan. The RSG had been likely to visit Georgia following to the adoption of the IDP Action Plan. However his last visit was focused on the new wave of displacement caused by conflict in South Ossetia in 2008, along with the remained concerns about the continued lack of integration of IDPs originating from the early 90s¹³.

The Council of Europe's Parliamentary Assembly has issued various resolutions related to IDPs, highlighting the need for the Government of Georgia to facilitate IDP reintegration and for the parties to the conflict to cease using IDPs for political purposes, as this has negatively impacted peace initiatives and hence any voluntary return in safety and in dignity as well as IDP reintegration¹⁴.

2.4 Partnerships

2.4.1 National NGOs

There are a considerable number of national NGOs working with IDPs. The majority of the NGOs are based in Western Georgia, where most of the IDPs are located, or in Tbilisi. Some areas where IDPs are located are unserved by NGOs, particularly in the break-away regions and in rural areas. The capacity of NGOs varies considerably and coordination could be improved to limit duplication of efforts and to ensure that IDPs have access to the same information about their rights. In 2001, the DRC established the Caucasian Refugee and IDP NGO Network (CRINGO), a network of NGOs in the Caucasus, which includes 30 Georgian NGOs. CRINGO coordinated input of civil society into the State Strategy for IDPs and the IDP Action Plan.

A number of national NGOs have also developed credible advocacy initiatives to raise awareness about IDPs. Legal aid NGOs, such as the Georgian Young Lawyers' Association (GYLA) and NRC's ICLA partners, have successfully defended IDP rights, including through the courts. Given the politicization of the IDP issue however, some NGOs are not neutral. Numerous NGOs could benefit from capacity building to strengthen their research, reports and advocacy initiatives.

Local NGOs implement a range of programs, including legal aid, income-generation projects, medical assistance, psychosocial rehabilitation, extra-curricular education for IDP children, promoting human rights awareness and vocational training, confidence-building, community mobilization and firewood distribution. However, as yet the non-government sector is generally weak institutionally, financially and quantitatively. It is almost fully dependent on external financing, while local sources of financing are practically non-existent.

¹² United Nations Commission on Human Rights, *Report of the Representative of the Secretary-general on the human rights of internally displaced persons, Walter Kälin, Mission to Georgia (21 to 25 December 2005)* (New York, United Nations, 2006), E/CN.4/2006/71/Add.7.

¹³ Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, Addendum, Mission To Georgia, (1 to 4 October 2009) (New York, United Nations) A/HCR/10/13/Add.2.

¹⁴ Parliamentary Assembly of the Council of Europe, *Resolution 1497 Refugees and displaced person in Armenia, Azerbaijan and Georgia*. Text adopted on 13 April 2006.

2.4.2 International organizations

The following UN agencies and international organizations are present in Georgia: UNHCR,¹⁵ UNDP, UNICEF, WFP, UNFPA, WHO, FAO, IOM, ICRC, the World Bank, SDC, SIDA and the IMF. International NGOs with IDP programmes include the Norwegian Refugee Council (NRC), Danish Refugee Council and World Vision international (WV). The International Committee of the Red Cross (ICRC) had one of the biggest humanitarian and protection program in Western Georgia and the break-away regions. In 2007, it started to scale back its programs in Western Georgia, handing over its food distribution program to the Government of Georgia.

Donor funding for IDP programs is provided by the United States, Japan, Switzerland, Sweden and Norway. The European Union (EU) is the main donor in Georgia and it funds IDP protection and assistance in Georgia as well as in Abkhazia. It also finances UNHCR Strengthening Protection Capacity Project for the Southern Caucasus (SPCP-SC) of which this gap analysis is an integral part. In South Ossetia, the OSCE implemented an economic rehabilitation program which commenced in 2006 with funding from the European Commission. The programme aimed to improve infrastructure and therefore was able to benefited IDPs and returnees prior to the conflict in August 2008.

The Norwegian company, STATOIL, funded NRC and UNHCR in strengthening the capacity of the Government of Georgia to respond to IDP needs.

3. Protection from the effects of Armed Conflict

3.1 Security in IDP areas

Excluding returnees to the Gori districts, IDPs do not generally face greater security risks compared with the rest of the population. Their strong networks, especially in collective centres, are a form of protection, including against juvenile delinquency and petty crime. No specific community-based security mechanisms have been established by IDPs living in collective centres or in the private sector.

3.2 Security in return areas

The overall security in Gali, Ochamchire and Tkvarcheli districts and in South Ossetia was perceived as more or less stable, with the crime rate remaining fairly high in recent years before the outburst of hostilities in August, 2008. In Gali, Ochamchire and Tkvarcheli districts, UNHROAG reported that the *de facto* law enforcement officers committed human rights abuses (arbitrary arrest and detention as well as mistreating detainees). UNHROAG also reported that *de facto* law enforcement officers rarely wore uniforms or other identification markers, which enabled them to act with impunity. In Lower Zone of Gali district there is in particular a tense and insecure situation with robberies, kidnappings and a few rare cases of murders occurring on a periodic base. The weak rule of law in these regions has resulted in a sustained climate of impunity.

Mines also posed a degree of risk to returnees. As of June 2008, HALO Trust, the NGO responsible for demining Abkhazia over the last 10 years, reported that about 2 km² of land remained contaminated in the Kodori Valley and Sukhumi region, although the remaining mines were located in mountainous areas and therefore did not impact communities¹⁶ There was a significant decrease in injuries or fatalities caused by mines in Abkhazia with only one injury reported in 2007. However several cases of mine explosions

¹⁵ UNHCR established its presence in Georgia in May 1993 at the request of the Government of Georgia to provide emergency humanitarian assistance to IDPs who fled Abkhazia following the 1992-93 Abkhaz secessionist conflict. In April 1994, UNHCR was formally designated as the international lead agency for the return of displaced persons to Abkhazia, resulting in UNHCR establishing a presence in Abkhazia and extending its assistance programs to IDPs who had spontaneously returned to Gali, Ochamchire and Tkvarcheli districts. From 1997 on, UNHCR has also provided humanitarian assistance to the IDPs who remained displaced following the 1991-92 secessionist conflict in South Ossetia. In terms of its IDP operations, UNHCR has field offices in Gali and in Sukhumi, Abkhazia, Georgia; in Zugdidi and Kutaisi, Western Georgia; and in Gori, Eastern Georgia. The field office in Tskhinvali, South Ossetia, Georgia was closed due to the August conflict in 2008. UNHCR coordinates all operations through its country office in the capital of Georgia, Tbilisi.

¹⁶ International Campaign to Ban Landmines, *Landmine Monitor Report 2007: Toward a Mine-free World*. <http://www.icbl.org/lm/2007/georgia.html> (accessed on April 30, 2008).

resulted in casualties affecting livestock or the property of IDPs, and injuries of people were reported after the August 2008 conflict.

Even before the August conflict, South Ossetia was also contaminated by mines but the magnitude was unknown as no surveys had been conducted. In 2007, cases of civilian and members of the CIS injured by mines were reported¹⁷.

4. Security from Violence and Exploitation

4.1 *Forced and child recruitment*

According to UNHROAG, there are some concerns about alleged forced conscription of ethnic Georgians in the Abkhaz militia. It has not been possible to document how many cases of forced conscription have occurred, but it would seem to affect only a small number of men.

In Abkhazia, all men between the ages of 18 and 27 registered in Abkhazia have a mandatory two-year military service: there is no recognition of the right to conscientious objection. Men up to the age of 60 are also expected to serve as reservists. In 2007, the *de facto* authorities adopted a law entitled *Organization of Measures on Military Registration of Citizens*, which provides for the military registration of the population and bi-annual conscription periods (fall and spring).

The military conscription rule serves as a factor which deters the travel of male returnees to the Gali district, especially during the conscription period. Moreover, fearing military conscription in Abkhazia, many male returnees opt not to register officially with the *de facto* authority, which in turn precludes them from obtaining documentation and therefore limits their freedom of movement in their community. This lack of freedom of movement negatively affects their livelihood, as they are not able to sell their agricultural products in Gali or Sukhumi markets or access social services in Zugdidi. The threat of military conscription also undermines inter-community confidence-building by creating a psychological obstacle for young men to return to or remain in Gali, Ochamchire and Tkvarcheli districts.

4.2 *Sexual and gender-based violence (SGBV)*

4.2.1 SGBV prevalence and forms of SGBV

Violence against women is a problem in Georgia but there is little statistical data on the scope of SGBV or the forms it takes. Studies conducted by local NGOs estimate that reported rates of violence vary from 5% to 31% of families¹⁸. In 2007, the Ministry of Internal Affairs reported that the police responded to 2,056 cases of family conflicts, of which 545 involved reports of domestic violence where restrictive orders were issued. The UN Human Rights Committee (HRC) expressed concern that a “substantial number of women in Georgia remain subject to violence, in particular domestic violence ...”¹⁹. There are no country-wide Standard Operation Procedures (SOP) on SGBV and a clear referral system at the national level.

The reported cases, as in many other countries, are likely to reflect only the tip of the iceberg. Underreporting SGBV is common, as survivors are not always aware of their rights, and may lack faith in law enforcement mechanisms and/or medical providers. Talking openly about sex or SGBV is not culturally acceptable in Georgia. IDP children interviewed by UNHCR explained that they knew of individual cases of domestic violence but that it would require considerable trust for survivors to open to outsiders about such problems. IDP women interviewed by UNHCR did not report any cases of domestic

¹⁷ Ibid. “In January 2007 two Russian soldiers were seriously injured by a mine in the Georgian-Ossetian conflict zone, near the village Tsveriakho.”

¹⁸ Minnesota Advocates for Human Rights and the Institute for Policy Studies, *Domestic Violence and Child Abuse in Georgia: An Assessment of Current Standings of Law and Practice Regarding Domestic Violence and Child Abuse in Georgia, and Recommendations for Future United Nations Country Team Involvement*, December 2006, pg. 9.

¹⁹ Human Rights Committee, *Consideration of Georgia Country Report Submitted under Article 40 of the Covenant*, (Geneva, 26 October 2007), pg. 3.

violence but explained that their stressful living conditions and lack of money led them to sometimes behave towards their children in ways that they later regretted.

Attitudes towards sexual violence and the subordinate status of women and girls means that there is also considerable societal pressure not to bring cases before the courts in a way which could bring shame to the family. Survivors may also fear reprisal and lack the means to access the courts. Married women, especially IDP women, also lack the means to support themselves or their children if they were to divorce their abusive husbands and often have nowhere else to live. Cultural attitudes of women themselves also contribute to the climate of impunity: 6.9 % of women in Georgia feel that a husband has the right to beat his wife, mostly in cases when they neglect the children (5.9 %).²⁰ Single women heads of household are in a particularly vulnerable position, as women without a male partner have a lower status in the community.

There is no evidence that IDP women or girls were targeted by traffickers in Georgia. Incidents of sexual exploitation of children, particularly girls, were reported by the Ministry of Internal Affairs.

4.2.2 Legislation

Under Georgian legislation, rape is a crime.²¹ Marital rape, however, is not explicitly mentioned under criminal law. Criminal cases of rape can generally only be initiated following a complaint by the survivor. Commercial sexual exploitation of children and pornography are punishable by up to three years' imprisonment.

In June 2006, the *Law on the Elimination of Domestic Violence, Protection of and Support to its Victims* was adopted. Article 3 of this law defines domestic violence as a violation of the constitutional rights and liberties of one member of a family by another by means of physical, psychological, economic, or sexual violence or coercion but fails to specifically criminalize domestic violence. Perpetrators of domestic violence are prosecuted under existing criminal provisions against battery or rape, etc. Article 4(g) provides a broad definition of "family member," which extends the scope of protection.

The law allows survivors to file immediate protective orders against abusers and police to issue temporary restrictive orders against persons suspected of abusing a family member. The temporary order is then approved by a court within 24 hours.

The Law on Combating Human Trafficking aims to protect survivors of trafficking, including women who are forcibly displaced for the purposes of sexual exploitation and prostitution. Although prostituting oneself is not a crime per the Criminal Code, but an infringement of the Administrative Code, it is widespread, particularly in Tbilisi. Several NGOs claim that prostitution is common due to Georgia's poor economic conditions and large unaddressed gaps in social protection.²²

4.2.3 De facto laws in Abkhazia and in South Ossetia

De facto legislation in Abkhazia, and in South Ossetia is mostly inherited from the former Soviet Union, now the Russian Federation (e.g. in South Ossetia, these cases are stipulated under the Chapter 18: 'Crimes against sexual inviolability and sexual freedom of the individual' of the 500 *Criminal Code* of the Russian Federation). Domestic violence is not criminalized and despite the issue being regularly voiced by the women NGOs, so far the de facto authorities have not formally developed any policies or programs to protect survivors. In January 2009 the Law "On Guarantees of Equal Opportunities of Men and Women in the Republic of Abkhazia" was adopted by de-facto Parliament, which was advocated by the Women's Associations of Abkhazia.

²⁰ UNICEF, 2005 Multiple Indicator Cluster Survey: Georgia, pg. 19.

²¹ See, Article 137 of the Criminal Code of Georgia

²² Georgia: Country Reports on Human Rights Practices - 2006, Released by the Bureau of Democracy, Human Rights, and Labor March 6, 2007 available at <http://www.state.gov/g/drl/rls/hrrpt/2006/78813.htm>

4.2.4 Government response to SGBV

The HRC expressed regret that the Government of Georgia has been slow to establish safe house and services for SGBV survivors.²³ A 2007-08 action plan for the *Law on the Elimination of Domestic Violence, Protection of and Support to its Victims* was adopted in June 2007. The action plan sets out four objectives, namely updating the database on survivors, public awareness raising activities, the establishment of a hot-line and safe houses. A nation-wide awareness raising campaign on SGBV targeted at women and men would help increase awareness of women's human rights and could contribute to SGBV prevention. Widely publicizing cases of SGBV, which have been successfully prosecuted, would also serve to act as a deterrent to perpetrators and encourage more survivors to report SGBV.

Prosecution remains problematic, as police do not always investigate reports of rape and rarely take action in bride-kidnapping cases (a common local custom), even though kidnapping is a crime. A very small percentage of women call the police for help when they have been subjected to domestic violence due to shame for having to turn to outside help and lack of confidence that police could provide a constructive solution²⁴.

Police are also reluctant to intervene in cases of domestic violence, as these cases are seen as private cases, which should be dealt with by the family²⁵. Both the authorities and NGOs have identified the need to ensure that law enforcement officers, the judiciary and relevant medical personnel located throughout Georgia are trained on how to investigate, document and prosecute SGBV. Lack of shelter facilities limits police to separate a victim from the perpetrator. The *State Fund for Protection of and Assistance to (Statutory) Victims of Trafficking in Persons* reached agreement with the Georgian government to avail 6 places at the Trafficking Shelter specifically for the survivors of domestic violence.

The Ministry of Internal Affairs funded a centre for the rehabilitation of minors, which regularly provided medical and psychological assistance to child and adolescent survivors of sexual exploitation before returning them to their guardians.

Since the *Law on the Prevention and Combating Trafficking of Persons and on the Protection and Assistance of the Victims of Trafficking* was adopted, rehabilitation centres have been established in Batumi in 2006 and in Tbilisi in 2007. The action plan involves preventive mechanisms as well as the protection of victims through strengthening the legal framework, developing referral mechanisms and the voluntary and safe return of the victims of trafficking.

4.2.5 Response by UN and NGOs

The UNCT, including UNHCR, is actively lobbying for the full implementation of the *Law on the Elimination of Domestic Violence, Protection of and Support to its Victims*. Until adequate state mechanisms are established to assist displaced SGBV survivors, UNHCR continues to fund safe houses, legal counselling as well as medical treatment and psycho-social counselling for SGBV survivors.

A number of international organizations, including UNDP, UNIFEM, UNICEF, UNFPA, WHO, UNHCR, Amnesty International, the Council of Europe, OXFAM, Open Society Institute, and Kvina till Kvina have conducted surveys on SGBV and provided assistance, expertise and funding to governmental agencies and NGOs. They have also helped to develop policies, programs and have provided direct service to survivors of domestic violence.

In 2009 a SGBV survey among the displaced will be undertaken as part of the UNHCR EC-funded SGBV prevention and response project. The survey will focus on IDP living in collective centres and in the private sector as well as among the displaced in Abkhazia and South Ossetia.

²³ Human Rights Committee, *Consideration of Georgia Country Report Submitted under Article 40 of the Covenant*, (Geneva, 26 October 2007), pg. 3.

²⁴ See "Georgia: Thousands Suffering in Silence: Violence Against Women in the Family," Amnesty International <http://web.amnesty.org/library/index/engneur560092006> p. 7 (September 25, 2006).

²⁵ Ibid. pp. 7-8

4.3 Child risk prevention and response

4.3.1 Legislation

In addition to the Convention on the Rights of the Child, Georgia has ratified the following international instruments: 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Inter-country Adoption, 1999 ILO Convention No.182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour and 1973 ILO Convention No. 138 on the Minimum Age for Admission to Employment.

4.3.2 Protection concerns of IDP children

The Government of Georgia has not dedicated sufficient funding to provide the necessary services and facilities for children. The lack of a national monitoring system means that there is a lack of detailed information on the protection needs of Georgian children, including IDP children.

The deplorable living conditions in collective centres as well as in the private sector have negatively impacted the physical and mental health of IDP children. When they were interviewed by UNHCR, they complained about the lack of privacy and space which made studying difficult. IDP children were often too ashamed to invite other children to visit them in their homes given their terrible living conditions. IDP children also regretted that their parents lacked the money to pay for extra-curricular activities. IDP children naturally picked up on the financial strain that their parents are under. Fortunately, the strain that families are under does not seem to have led to increased domestic violence: an unpublished survey on violence against children, including IDP children living in collective centres showed that the latter experienced less violence than non-displaced children²⁶.

The existence and educational standards and facilities for IDP children enrolled in the IDP schools managed by the Abkhaz Government in exile give rise to serious concern. These schools are generally under-funded: the buildings need urgent repair and there is a lack of necessary equipment, including teaching and learning materials, which has negative implication on the quality of education.

The inferior quality of education is likely to contribute to these IDP children being further marginalized as they seek to enrol in higher education and obtain jobs²⁷. IDP children should ideally attend mainstream schools, as this will facilitate their reintegration.

Despite the fact that the *de facto* Constitution of Abkhazia guarantees respect of the rights of all ethnicities residing in Abkhazia to use freely their languages²⁸, in schools in Gali, Ochamchire and Tkvarcheli districts the preferred language of instruction is Russian and Abkhazian rather than Georgian²⁹. Returnee children the generally do not master these languages well and therefore are at risk of developing learning difficulties which could impact their future.

For returnee children, it is also destabilizing to commute between Gali, Ochamchire and Tkvarcheli districts and Western Georgia or for the family to be split because of this travelling.

As already mentioned, there is virtually no information on IDP children with special needs. According to the 2008 Statistical Yearbook of Georgia There are reportedly 1597 children with disabilities in Georgia, but the real number is likely to be much higher. As there are no special services to meet needs of the disabled children, they are usually forced to stop attending school. Children with more serious disabilities are not attending school at all, which may lead to their further isolation, low self-esteem and depression. There are no reports on measures to mitigate their situation.

²⁶ The survey was conducted by UNICEF.

²⁷ IDP Education profile review in Georgia, Anna Matiashvili, Tbilisi 2004, UNDP p. 8

²⁸ See *De facto Constitution of the Republic of Abkhazia (Apsny) adopted in November 20, 1994, Article 6*

²⁹ See State Strategy on IDPs

4.4 Persons with disabilities and older persons

Georgian law prohibits discrimination against persons with disabilities, however implementation of the legal norms need to be encouraged and generally at least state public objects needs to be built in acceptable way to persons with physical difficulties.

There is little information on IDPs with special needs, as no surveys have been conducted to establish their total number or what their precise needs may be. Given the strong family ties and networks among IDPs, there is an assumption that IDPs with special needs are taken care of by relatives and friends, but this care might not be adequate and might need complimenting. National social services are inadequate, especially for disabled persons and the elderly.

The proportion of older residents and people with disabilities among population in Gali, Ochamchire and Tkvarcheli districts of Abkhazia is higher than for the rest of Abkhazia, Georgia. Such factor could be explained by poor social protection, the lack of access to medical service, widespread poverty and insufficient transportation communication. High rate of unemployment and other factors lead to the situation that generally young population prefers to leave Gali after school graduation in order to seek better life opportunities.

5. Equality before the Law

5.1 Identity documents

There is no *de jure* discrimination against IDPs in terms of obtaining individual documentation; however IDPs are facing some practical problems related to their specific situation. During displacement many IDPs have lost, left or had confiscated their identity documents, educational records, or employment record cards which attest to their educational achievements or working experience, a loss which may result in difficulties proving their qualification, working experience, or entitlement to a war veteran's pension, etc.

Without ID cards, IDPs cannot obtain IDP status and related benefits nor can they participate in elections or be a party of any civil-law relations etc.

The archive in Abkhazia with birth and death records was burnt during the conflict.

IDPs have to go before the courts to prove their identity, but going to court entails additional expenses for travel, especially for those living in rural areas, as well as court fees which many IDPs can not afford. They also require the identification of the IDP by two witnesses. IDPs, similarly to other citizens who are enrolled in the state social assistance program, do not have to pay certain court fees.

Resident permits and passports are regulated by the *Law on the Registration and Issuance of Resident Permits and Georgian passports for Georgian citizens and foreigners* (#323). Under Article 3(1) of this law, all Georgians citizens and foreigners living in Georgia over the age of sixteen must be registered at their place of residence and obtain a resident permit. IDPs like other citizens of Georgia can obtain a resident permit and a passport from the civil registry at their temporary place of residence³⁰.

5.2 Birth certificates and other civil status documents

Obtaining civil documents becomes problematic for returnees with documentation issued by the *de facto* Abkhaz authorities, as the Government of Georgia does not recognize these documents. It is also a problematic if a birth certificate was issued during the former Soviet regime in Russian and/or Abkhaz language.

Starting in early 2008, the process of distribution of de-facto Abkhaz internal passports appears to be an additional pressure on returnees, since applicants for Abkhaz passports in the Gali district are expected to

³⁰ Article 29(1) of Decree #1398 on *Instruction of the rule for approving resident permits for Georgian citizens and foreigners living permanently in Georgia and the Issuance of Passports for Georgian citizens and travel documents for foreigners living permanently in Georgia*.

repudiate their Georgian citizenship by signing a declaration. The Georgian residents of Gali generally are not in favour of signing the above mentioned declaration but having no other choice they do apply for Abkhaz passports.

Thus, returnees need to go before the courts to obtain Georgian ones, which is an added expense that they can often not afford. Without a birth certificate, IDPs can not obtain a resident permit or IDP card, which in turn means they can not claim IDP benefits.

It is quite common in Georgia, for people not to initially register their marriages because of various reasons, such as marriage between under-age couples, bride-kidnapping or marriage in church. Later couples have to prove their marriage before the court which brings additional expenses. Absence of marriage and death certificates are linked to the right to obtain heritage, alimony after divorce, a widow's pension after the death of a guardian/custodian etc.

5.3 IDP Registration

The Government of Georgia first registered the IDPs in 1996 and has re-registered IDPs in subsequent years, except for 2004-06. As stated in the *Law on IDPs*, MRA is responsible for IDP registration. In May 2006, regulations governing IDP registration were amended and adopted in August 2006³¹.

Under these amended regulations, all IDPs must register in person: formerly an IDP could register her/his family members by presenting their card to the registration commissioners. This amendment is meant to limit fraud. People considered IDPs while living abroad could in theory return to Georgia to register and retain their IDP status, although under regulations governing IDP registration, their monthly IDP allowances would be suspended if they leave Georgia for more than two months³².

Observers from international organizations and civil society can monitor the registration process. Persons with special needs (elderly, sick or prisoners) can request that their registration take place in their residence or place of detention. In theory, a legal representative of a minor or otherwise incapacitated IDP can obtain an IDP card for the latter. In practice, however, this does not work, as a photo of the IDP must be taken.

The observations noted during the monitoring of the 2007 re-registration process are mentioned below and will be aggregated and forwarded for consideration of the MRA before the next registration exercise commences. During the last registration IDPs reported that they were not informed adequately about registration dates, especially as these were changed partially due to the inordinate amount of time it took MRA to conduct the re-registration process. IDPs complained that they lacked information concerning the registration procedures, redress mechanisms if their application was rejected or that by law, they could register within 10 days after the registration deadline in their area. IDPs complained that the commissioners were not always able to answer their questions. IDPs were also not aware that registration commissioners can be requested to register incapacitated IDPs (sick, elderly, disabled, etc.) in their homes or for IDPs detained in the prison. The problems in identification of the most vulnerable IDPs have not been solved by this registration process.

In several locations, IDPs had to line up for more than one day to register or spent the night in front of the building where the registration took place to be assured they would not have to come back the following day to be registered. The travelling was an added financial burden for IDPs.

At the moment the re-registration process of IDPs temporary place of residence is blocked. The slow registration process and subsequent delays may result in IDPs either receiving their monthly IDP allowance late, or, not at all. Even though the monthly IDP allowance is a token amount, many IDPs rely on this money.

Another concern with the results of the registration process relates to the fact that the IDPs are not registered at their current addresses but at their 2004 addresses, even if they have since moved. As reported by ICLA partners, this creates difficulties for IDPs in terms of claiming their monthly IDP

³¹ MRA ministerial order #124.

³² *Ibid.*, Article 4(5).

allowance or having the communal expenses covered if they live in a collective centre. The correct address should appear on the IDP cards, as having the wrong address may prevent IDPs from obtaining compensation or alternative housing during the self-privatisation process or from being protected against eviction. For IDPs residing in privately owned collective centres, the problem of readdressing becomes even more difficult; in order to indicate the address of the actual residence during the registration IDPs need permission from the owner of the property.

The IDP registration is linked to “My House” programme, which is a voluntary program enabling IDPs to register their houses and land in their place of origin with MRA to protect their rights³³. However, reportedly some IDPs were not allowed to register until they had signed up to “My House” program.

IDPs living abroad are not able to register themselves as there is a lack of legal acts on the registration by consulates of Georgia.

5.4 Policing

IDPs in areas adjacent to South Ossetia and spontaneous returnees in Gali, Ochamchire and Tkvarcheli districts face certain problems related to law enforcement structures. Even before the conflict in August 2008, the *de facto* law enforcement officers had limited training and the rule of law was weaker resulting in higher criminality in these areas.

There is no gender balance among law enforcement officers or other law enforcement branches in Georgia, Abkhazia and South Ossetia, although it seems more women are joining these forces and other law enforcement branches.

5.5 Access to the national justice system

IDPs as citizens of Georgia have access to legal remedies; this right is enshrined in Article 42 of Georgia’s Constitution as well as in the *Law on IDPs*. Under Article 9(2) of this law, IDPs have the right to appeal any illegal action of the authorities to the higher authorities or to the court according to applicable legislation. Under Article 11, any violation of the *Law of Georgia* on IDPs is punishable according to applicable legislation.

A number of NGOs provided IDPs with information and training on their rights, but many IDPs - like other citizens of Georgia – remain ignorant of their rights or how to claim them. A public information campaign needs to be developed to explain the State Strategy for IDPs and IDP Action Plan to displaced people and the general population to contribute to raising awareness of IDP rights.

The Government of Georgia passed a *Law on Legal Aid* and by the end 2007, state legal aid branches had reportedly been opened in most regions. The Government of Georgia needs to increase its effort to inform its citizens about these services and law, so that they can access the services. In 2008, UNHCR and partners monitored the implementation of this law as it affects IDPs.

A number of local legal aid NGOs, including GYLA and NRC’s ICLA partners, provide legal information, counselling and legal aid to IDPs, which help them claim their rights. In late 2007, UNHCR provided additional funding to ensure more ICLA lawyers could be hired to protect IDPs against eviction. Access to legal aid in rural areas is inadequate.

5.6 Freedom of movement and choice of residence

Under Article 22 of the Georgian Constitution, IDPs, as citizens of Georgia, are guaranteed the right to freedom of movement and to choose their place of residence. IDPs’ right to freedom of movement in practice was restricted due to political stalemates and the *de facto* authorities in Abkhazia and South Ossetia obstructing return. In addition, checkpoints established by the *de facto* militia often hinder internal movement within these regions and from these regions to areas controlled by the Government of Georgia.

The *de facto* Abkhaz authorities reduced the number of official crossing points to six by the end of 2007, of which only one was open for vehicular traffic. Some exceptions were made for medical emergencies or funeral at other checkpoints. The possibility to move across the administrative border in Abkhazia and South Ossetia has been ruled out with the increase of tension in the region due to the conflict in 2008. The

³³ For more detailed information on “My House,” see pg.32

de facto South Ossetian authorities closed the Transcaucasian Highway through a string of Georgian-administered villages to the north of Tskhinvali during much of 2007 long before the renewal of the hostilities.³⁴

In July 2008 the movement across CFL was also restricted by the *de-facto* Abkhaz authorities. The only exceptions have been made for the staff of international organisations and Inguri hydro-power station. The local residents are allowed to cross CFL on an ad-hoc basis with the special permission of the *de-facto* local authorities. However, at some points the *de-facto* border is still passable. *De facto* Abkhaz militia at checkpoints has been reported to be extorting money and valuables from ethnic Georgians for “illegal” crossing.

The traditional movement between South Ossetian and Georgian villages have been restricted by the border officials of the two sides. Returnee, IDP and Ossetian population can move only through the *de facto* border crossing points. In most cases they have to request these officials to organise their movements. To prevent such movement, armed Ossetians have also blown up two bridges connecting Gori villages with South Ossetians.

6. Participation in Public Life

6.1 Participation in political processes and in public life

The *Unified Election Code of Georgia* was amended in August 2001, removing restrictions on IDP voting in local elections. It was further amended in August 2003 to enable IDPs to vote in parliamentary elections. The right of every citizen 18 years and older to vote in all local, parliamentary and presidential elections is explicitly stated in Article 5 of the revised code. The revised code also affirms the right of every citizen to stand for local or parliamentary elections. Despite the favourable legal framework and progress done with regard to enhancement of IDPs’ political rights, their political participation is limited to voting for the parliamentary and presidential elections. IDPs rarely run for the elections as candidates. The main reasons hampering IDPs from active political participation are lack of adequate financial resources, limited access to political networks, lack of leadership skills and passivity. The constant struggle for survival everyday life in a precarious economic situation is such a challenge that the question of participation in politics hardly arises.

Returnees were able to vote in the March 2007 *de facto* presidential and parliamentary elections in Abkhazia, Georgia, even though they lacked the proper documentation.

6.2 Internal community structures

IDPs in collective centres are less likely to be part of a wider community than IDPs in the private sector, as they are less integrated, especially adults. Given that IDPs share common languages (Georgian and Russian) as well as a shared history and religion with the local population, there are more commonalities than divisions between the two communities.

Community mobilization among IDP living in collective centres varies and in many cases is informal in nature based on the strong networks formed amongst people living in crowded conditions and sharing the same fate. The level of community mobilization often depends on the abilities and commitment of the community leaders. Although there are some strong IDP women leaders, women still tend to take a back seat to men in Georgia. Few children are involved in decision-making.

UNHCR and its implementing partners maintain a community-based approach in their work and actively seek IDP ownership in their programmes.

IDPs can generally freely practice religion, celebrate their culture and form social and political associations without discrimination.

³⁴ Bureau of Democracy, Human Rights, and Labor of the US Department of State, *Country Reports on Human Rights Practices: Georgia*, March 11, 2008. <http://www.state.gov/g/drl/rls/hrrpt/2007/100560.htm> (accessed April 2, 2008).

7. Right to Food, Water, and Housing

7.1 Right to food

No large scale nutritional studies of IDPs have been conducted in Georgia while the need to identify the most vulnerable prevails. The International Federation of the Red Cross and Red Crescent Movement (IFRC) conducted nutritional surveys in Western Georgia, but these surveys were too small-scale for the results to be extrapolated³⁵.

Adult IDPs interviewed by UNHCR explained that due to their poverty, they are not able to purchase all the food they need in terms of quantity or of variety. Mothers said that their teenage children in particular often asked for more food than they could provide. IDPs interviewed by UNHCR in Gori in early 2008 stated that they appreciated being given livestock from an NGO to supplement their diet and income, but they often lacked money to pay for veterinary bills should the animals fall ill. The participatory assessments conducted in Gali, Ochamchire and Tkvarcheli districts showed that IDPs appreciated the agricultural inputs they were given, as they lacked money to buy tools, seeds and fertilizer themselves.

WFP and ICRC are the main organizations providing large-scale food assistance to vulnerable persons in Georgia, including IDPs. In 2007, IDPs also benefited from WFP's food-for-work and food-for education programs.

All stakeholders need to do more to identify the most vulnerable IDPs and make sure their nutritional needs are met as well as expand their programs to help IDPs become more self-sufficient through the provision of agricultural inputs and livestock.

7.2 Right to potable water

Most Georgians, including IDPs, have access to safe water. According to the UNICEF's 2005 MICS survey, 94.2 % of the population uses an improved source of drinking water. Even among the poor households, 89.3 % have access to safe water.

7.3 Adequate housing

7.3.1 Living conditions

National legislation specific to IDPs establishes a right for IDPs to be provided with temporary accommodation³⁶.

The lack of adequate living conditions remains the biggest protection concern of IDPs. About 44 % of the IDPs live in over 1,600 collective centres, while the remaining live in the private sector with relatives or friends, in rental properties or their own home. Little is known about the living conditions of IDPs in private accommodation but they may be as precarious as those of IDPs living in collective centres.

During his visit in 2005 to Georgia, the RSG was "shocked by the miserable living conditions of many IDPs in Georgia" and concluded that these conditions violate the right to adequate housing. The issue was once again brought up during the RSD's following visit to Georgia in October 2008, noting that "almost half of the "old" IDPs are still residing in public buildings of a deplorable standard and that their economic situation is similarly grave"³⁷. The collective centres, which were originally hospitals, factories, schools, hotels and kindergartens, were only meant to provide temporary shelter but have become permanent shelters. An estimated 70 % of these centres do not meet minimum shelter standards: they lack adequate access to water, proper insulation and functional sewage systems. An electrical wiring in many collective

³⁵ IFRC, *Internally Displaced Persons: A Socio-Economic Survey*, (Tbilisi: Polygraph Service Ltd.) November 2000, p. 47.

³⁶ Law on IDPs, Articles 3(3)(a); Article 5(2)(g) and (k), Article (3) and (4); and Decree #2387 of Parliament on the Provision of IDPs with Living Space (6 June 2003).

³⁷ Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, Addendum, Mission To Georgia, (1 to 4 October 2009) (New York, United Nations) A/HCR/10/13/Add.2.

centres is also unsafe. Furthermore, an unknown number of CCs are structurally unsound and most have broken windows and leaking roofs.

IDPs in collective centres also live in overcrowded conditions, with an average 8m² of living space compared to 18m² for the general population³⁸. IDPs in collective centres often do not have their own bathroom or kitchen and have to share these with other IDPs. IDPs living in rural areas are the worst off in this respect: only 6% have their own toilet and 30% their own kitchen³⁹. In numerous collective centres, make-shift kitchens have been built in hallways to conserve room for sleeping space. Some collective centres are isolated and not located near essential services.

In Gali district, the 2005 DRC housing assessment showed that 25% of pre-war houses were damaged and 45% of the damaged houses were inhabited, even though they needed structural rehabilitation. Some returnees are reluctant to rehabilitate their houses in the absence of a political settlement and the weak rule of law. In many cases, returnees do not have enough sources to rehabilitate houses on their own as a result of high poverty rate in the region.

The Government should keep in mind all the above while implementing the process of ownership transfer to the IDPs and rehabilitation of CCs as the ensure that these huge Government undertakings are implemented in a way that ensures and provides dignified housing solution to IDPs, and to maximise the impact of the investment and efforts of the Government. The latter would be ensured with adoption of the rehabilitation standards and space allocation criteria, of which respect and adherence to would be imposed on both the Governmental and non-governmental rehabilitation efforts.

7.3.2 Utilities

The Government of Georgia pays a set amount per IDP for communal expenses, such as electricity and water consumption, waste disposal, etc. Often this money is not enough to cover electricity bills, which is generally used for heating, especially in the colder areas of Georgia. Collective centres either have a common electricity meter or no meter, which facilitates abuse by IDPs or by others living near collective centres. The energy companies frequently cut off electricity when bills are higher than the government subsidy and debts have accrued. With the process of ownership transfer resulting in the fact that IDPs will become owners of their living spaces in former CCs (now condominiums), the need for installation of electrical, gas and water meters will become acute.

8. Right to Health Care and Education

8.1 Access to health care

Georgia's health care system, which has been under-funded for years, is currently being restructured and privatized. It remains to be seen whether this will increase or decrease access to health care for IDPs. While the Ministry of Labour, Health and Social Affairs has opened ambulance stations, first-aid posts, emergency services, and in certain locations even hospitals and at the same time (according to the ordinance # 232 by the GoG issued on 24th May 2009) the GoG continues financing the healthcare institutions relocated from the occupied territories from the State Budget, several monitoring NGOs report on widespread problems in practice for IDPs to access healthcare services they are entitled to.

Georgia's health care system is more geared toward cure than prevention; although IDPs have benefited from a number of trainings and awareness rising session conducted by international and national humanitarian organizations and NGOs on health and on the prevention of major diseases, hygiene and sanitation.

Under Article 5(2) (c) of the *Law on IDPs*, IDPs are entitled to the same health care in state-owned medical facilities as other citizens as well as to free emergency aid in Georgia under Article 5(2) (k). IDPs

³⁸ IFRC, *Internally Displaced Persons: A Socio-Economic Survey*, (Tbilisi: Polygraph Service Ltd.) November 2000.

³⁹ *Ibid.*,

can also enrol in the state voluntary social assistance program, if they meet the eligibility criteria. Thereby a great number of IDPs enrol in the “The health insurance state program for the population below the poverty line”. While according to the MLHSA the cost of the medicines shall be reimbursed by the State in accordance with the respective procedures, in practice deficits in the availability of medicines are observed and IDPs often are not aware of the reimbursement practices. For example, in order to avoid long wait times for certain treatments, IDPs, like other citizens of Georgia, are obliged to pay for private health care, which often forces them into debt.

Since February 2009 IDPs, like other Georgian citizens aged 3-60, can sign up for the health insurance 67% co-financed by the State⁴⁰. Although the health insurance policy covers 100% of accident, out-patient and primary treatment, as well as 50% of emergency inpatient treatment, it does not cover the purchase of medicines⁴¹. IDPs interviewed by UNHCR complained that they often could not afford to buy medicine, especially for chronic diseases like diabetes or high blood pressure.

While hospitals involved in the state healthcare programs have clear contractual obligations to provide services IDPs report obstacles in receiving healthcare services in some of these hospitals. Some IDPs also said that some medical clinics who are supposed to provide services under the voluntary social assistance program refuse to do so, because the required administrative agreement between them and the Government of Georgia had not been concluded.

Health services in Abkhazia and South Ossetia are inadequate. UNICEF reported that immunization rates were lower and malnutrition was a serious problem in these break-away regions. The lack of adequate health care in returnee areas of Gali, Ochamchire and Tkvarcheli districts has led local population to travel to Western Georgia to receive better health care services.

8.2 HIV/AIDS

Georgia’s HIV prevalence rate is estimated to range 0.1% to 2.7% among 15-49 years olds⁴². There is no information on HIV/AIDS prevalence rate among IDPs or how HIV/AIDS may be spread among IDPs. IDP youth may be at risk due to intravenous drug use. IDP men who frequent prostitutes may also be at risk of HIV/AIDS infection.

Georgian legislation prohibits discrimination on the basis of HIV/AIDS status but there is no penalty for violating this prohibition.

Anti-retroviral therapy in Georgia is funded by the Global Fund and provided free of charge by the state. UNICEF is the lead agency on HIV/AIDS. A joint UN program on HIV/AIDS was launched in 2006, with each agency responsible for a particular field of activity. More VCT services became available in 2007, as UN agencies increased their HIV/AIDS-related programs and UNAIDS funding provided for additional VCT test kits for South Ossetia and Abkhazia.

8.3 Education

In Georgia, primary and secondary education is compulsory from age six or seven up until 14. Secondary education up to 16 is not compulsory but virtually all Georgians have a secondary school certificate. There is gender parity for attendance at primary and secondary school among the general population. During the first nine years of schooling, education is free. IDPs benefit from further exemptions under Article 5(2) (d) of the *Law of IDPs*, which guarantees the constitutional right of IDPs to education and free secondary education in public schools. Other regulations enable IDPs to make a one-time purchase of school materials⁴³.

⁴⁰ Government of Georgia, Decree No. 33 on “Approval of targeted state program to support covering population with the voluntary health insurance”. Issued 26 February, 2009.

⁴¹ Ministry of Labor, Health and Social Affairs of Georgia; “Inexpensive health insurance” targeted state program, at www.moh.gov.ge

⁴² UNDP, 2007/8 Human Development Index at <http://hdrstats.undp.org/indicators/338.html> (accessed on 11 April, 2008).

⁴³ World Bank, *Poverty and Vulnerability among Internally Displaced Persons in Georgia: An Update on their Current Status and Circumstances*, (Washington: World Bank, 2002), pg. 31.

IDPs interviewed by UNHCR complained that they often could not afford all the school books or school supplies their children needed and parents were expected to pay some form of “tuition fee” to support the schools. An unknown number of students may have not been able to continue their studies at high school or at tertiary level due to lack of money, although studies have shown that generally IDPs have the same access to education as non-displaced, which is reflected in enrolment figures for primary, secondary and higher education⁴⁴.

IDP children face a particular problem linked to the government voucher they are given to study for free at a designated state school. The voucher can not be used in another school should the child’s family move elsewhere. ICLA lawyers successfully intervened in one case through lobbying the school principals in question as well as the Ministry of Education to allow children to transfer to another school without losing the benefit of free education. It is unclear whether this case will serve as precedent for others.

Most IDP children attend mainstream schools, where they are faced with an overall decline in Georgia’s education standards due to the Government of Georgia cutting its education budget since the country gained independence. This means that in some areas school facilities were not adequate with schools lacking heating, libraries, and blackboards.

In some schools in Gali, Ochamchire and Tkvarcheli districts, the language of instruction remains a problem, as Abkhazian and Russian languages of instructions are favoured over Georgian, which is discriminatory against ethnic Georgians, particularly as the language of instructions in Armenian villages remains Armenian. Text books in Armenian are in compliance with the curriculum of the *de facto* Ministry of Education which is not the case with textbooks in Georgian language. There are 11 schools in Lower Gali operating in Georgian language, with the exception of four “sensitive” subjects. As returnee children do not master these languages well, this may cause learning difficulties and affect their access to higher education or employment. Schools in these districts are generally in poor condition and in need of rehabilitation. A number of international organizations, including UNHCR, UNICEF, DRC and NRC, have rehabilitated schools in these districts as well as distributing firewood, but all schools in the region are still in great needs.

There are reported cases of children dropping out from schools in the returnee areas in Abkhazia mainly due to economic reasons and the vulnerability of the families. School attendance is also affected by the fact that in some cases children, who live in remote parts of villages, have to walk 3-7 km one way each day and schools and administrations of villages are not always able to provide transportation for those children.

Some IDP parents express concern over the lack of recreational facilities available and were concerned that this could give rise to drug abuse, which is a problem in Georgia, as well as to juvenile delinquency.

8.4 Safe and non-discriminatory educational facilities

Children with disabilities in IDP communities are generally not prevented from attending schools as a matter of government policy. In practice, however, they are often not able to attend school due to the lack of necessary facilities and support which is needed given their special needs.

International and national NGOs and organisations include children with disabilities in their programs as much as possible, but there is no systematic approach for inclusion of disabled IDPs in the education system.

8.5 Higher education and vocational training

As mentioned above, IDPs have equal access to higher education and are eligible to attend state universities free of charge if they pass the entrance examinations. Due to the high poverty rate among IDPs, not all IDP youth are able to continue with higher education, if it means moving to large urban centres, such as Tbilisi.

⁴⁴ IFRC, pg. 55-60.

Qualifications obtained by IDPs before their displacement are generally recognized, although IDPs find it difficult to obtain employment linked to their academic and professional qualifications, as many have been unable to apply their knowledge or update their skills during their long period of displacement. International and national organizations have implemented vocational training programs but these are relatively small scale in terms of the huge needs. In some areas, particularly rural areas, poverty is so endemic that there is virtually no market even if skills were provided.

9. Right to work, social security, land and property

9.1 Legislation related to IDP employment

Article 5(2)(a) of the Law on IDPs provides that MRA together with other executive and relevant local authorities should assist IDPs to find temporary employment in line with their profession and qualifications. This provision, however, is of little practical application, given the high unemployment among IDPs. The continued employment of the displaced civil servants of the Abkhaz Government in exile has served to reduce unemployment among IDPs to a certain degree.

9.2 High unemployment

Georgia continued to experience double-digit unemployment rates, with urban centres, where most of the IDPs live, the hardest hit. The IFRC survey showed that IDPs living in collective centres are three times more likely to be unemployed than the local population, while the unemployment rate of IDPs in the private sector is twice as high as that of the local population⁴⁵.

IDPs have less access to formal sector employment than the local population due to lack of information, established networks and marginalization. Due to scarce social linkages and limited access to the information on the qualification demands at the national labor market and perspectives for obtaining those skill/qualification in demand, many IDPs find difficult to get, if at all, stable employment. Given their lack of collateral and background of sparse own resources, IDPs have limited access to bank loans and can not afford the high interest rates, which prevents them from starting their own businesses. There are several organizations which are allocating grants or giving loans for income generation activities, however IDPs rarely address them due to lack of information about existence of such organizations or misperception that grants are allocated unfairly. Many IDPs do not have relevant skills and experience with entrepreneurial activities; however they refuse to participate in the vocational and business training, even if offered, unless they are guaranteed with the business grant or possibility to work further. Majority of credit companies provide loans for existing business to support the business enlargement. Only a few NGOs support the businesses of beginners. IDPs do not usually have the relevant skills needed to adjust to the requirements of the new economic system, such as English language and computer knowledge and skills.

IDPs' limited access to land also means they are less able to cultivate products both for sale and for their own consumption. Their limited funds also prevent them from buying agricultural inputs, such as equipment and livestock.

In terms of socio-economic integration, the majority of IDPs are much more vulnerable than the general population, mainly due to their protracted displacement and availability for them of more limited opportunities for sustainable income generation. As time passed, IDPs' dependency on the minimal external assistance increased along with their passivity. Their lack of self-reliance has especially affected the self-esteem of IDP men who generally find it more difficult to find employment, partially because they are less willing than women to do menial work. Women in Georgia still tend to be trapped in low-paying and low-skilled positions, regardless of their professional and academic qualifications. Protracted despair would lead to further degradation of their coping skills and productive assets which leads to exclusion.

⁴⁵ IFRC, pg. 15.

9.3 Access to Land

According to art 5 (h) of Georgian Law on IDPs, they have a right to have a land plot for temporary use which is exempt from land tax. However, practically, IDP could not exercise this right, since the amendment in tax code incorporating such exemption is not passed. Thus, Georgian law on Internally Displaced Persons, which exempts IDPs from paying the land tax, comes into collision with the Tax Code, and in practice IDPs are paying land tax depending on will of local authorities.

With regard to temporary use of land, local authorities (mayors or the heads of local government in villages, and regional centres) identified land that could be used by IDPs and are responsible to ensure its usage upon IDPs' request. If IDPs stop using the land temporarily allocated to them for some reason (e.g., relocation to another place), the land is transferred back to the local authorities.

Under the same law, the government should provide IDPs with access to land; however, the land allocated to them is of a very poor quality and too far from the place of their residence. In accordance with the Law on IDPs, selecting the plots and actually allocating them is usually the matter left to discretion of local authorities. There is not taken into account additional needs of those IDPs who have accepted land for "temporary use". To have a harvest and to produce food, IDPs need additional help, such as fertilizers, equipment for cultivating land, transport, fuel etc. This issue is not addressed; hence leaving such allocation formality since IDPs couldn't cultivate the land. There is no publicly available information about location and quality of the land which is allocated to IDPs. However to date the local NGO - Assosiation for Protection of Landowners' Rights implements the project for IDP property registration for the population displaced after the conflict in August 2008.

There is also no information about access to land among IDPs in private accommodation i.e. those who are living with host families or renting apartments. There are no statistics or data on how many IDPs in Georgia sought allotment.

In addition, IDPs are currently not able to participate in the special auctions held for the sale of agricultural land, as IDPs are only registered with a temporary address and not in the community registries. IDPs can only participate in the open auction if the special auction fails to sell the land.

Some 8,322 families have lost access to their pasture land as, in about 22 villages of Shida Kartli, they are situated on the other side of the ABL, while in 13 villages they lost access due to security concerns. Furthermore, some 1,712 families have lost access to their arable land mainly due to the fact that land is located on the South Ossetian side, and therefore they cannot access due to security concerns or the presence of the UXOs.

9.4 Income and livelihood schemes

Job creation generally seemed to be a low priority for the Government of Georgia. Humanitarian actors, including UNHCR, DRC, ACF, PU, and ICRC have implemented pilot livelihood programs (agricultural and carpentry) and provided vocational training (carpentry and masonry), grants and micro-credit.

More donor funding is needed to expand livelihood programs to help IDPs become more self-reliant and to improve the Georgian labour market. There are a number of unexplored niches (alternative energy sources, eco-tourism and recycling plants, etc.) with considerable employment potential.

9.5 Property restitution mechanisms

In December 2006, the Government of Georgia adopted the *Law of Georgia on Property Restitution and Compensation on the Territory of Georgia for the Victims of Conflict in the former South Ossetia Region*. UNHCR provided comments on the draft law. A six-member commission consisting of two representatives each from Georgia, South Ossetia and the international community was to have been established by mid-2007, but was not formed.

In Abkhazia, housing, land and other property owned by IDPs have been destroyed or illegally occupied, purchased and sold. To protect the HLP rights of IDPs, President Saakashvili issued a presidential decree entitled *Measures to Register the Rights to Immovable Property located in the Abkhazian Autonomous Region and Tskhinvali Region* (#124) in February 2006. This decree established a property registration

program (“My House”) with funding from the President’s office to register ownership of properties owned since 23 September 1993, irrespective of the owner’s nationality. IDPs must fill in a form and once ownership is proven will receive a certificate signed by the Minister for Refugee and Accommodation as proof of ownership.

As of late October 2006, a total of 52,615 IDP families had registered of which 3,345 originated from South Ossetia. This program has antagonized the *de facto authorities* and has raised the hopes of IDPs that they will one day be able to reclaim their property or receive compensation.

According to the APLR within the scope of the GoG initiative of property restitution for the refugees emerged as a result of conflict in South Ossetia in early 1990s the GIS (Geographic Information System) database was created for about 4890 property units (houses and land parcels) abandoned by ethnic Ossetians in Georgian proper.

10. Durable solutions

10.1 Free and informed choice

IDPs have been living in limbo for more than fifteen years, as the Government of Georgia has until recently considered return as the only durable solution notwithstanding the lack of progress in reaching peaceful settlements to the conflicts. The State Strategy for IDPs officially states that return and reintegration are not mutually exclusive goals. The *de facto* authorities also continue to block large scale return, moreover after recognition of Abkhazia and South Ossetia as independent states by the Russian Federation in August 2008.

Given the protracted situation of people displaced in early 90s in Georgia, all IDP men, women, boys and girls interviewed by UNHCR expressed their expectations for a durable solution to their situation, stating that the preferred solution was the return to their place of origin.

Should a voluntary return in safety and dignity be feasible, it will be necessary to systematically consult with IDPs on the modalities of return to ensure that their views and needs of are taken into account for planning purposes. UNHCR has been accorded a key role in the return processes, including developing formal frameworks. IDPs will also need reliable up-to-date information on conditions in their places of origin as well as Go & See Visits so that they can see for themselves what the conditions are.

In addition to peaceful settlements, a property restitution mechanism and concomitant legislation will have to be in place to ensure that IDPs’ property rights are restored. Return will also only be durable once infrastructure has been rehabilitated and social services are available. In addition, a considerable investment in job creation schemes and income-generating activities will be essential.

10.2 Return and relocation travel

In April 1994, UNHCR was formally designated as the international lead agency for the return of displaced persons to Abkhazia under the Quadripartite Agreement on the Voluntary Return of Refugees and Displaced Persons signed in Moscow [hereinafter referred to as the Moscow Agreement]⁴⁶. This agreement enabled UNHCR to establish a presence in Abkhazia and extend its assistance programs to IDPs who had returned to the Gali, Ochamchire and Tkvarcheli districts. The Moscow Agreement inspired IDPs to spontaneously return to Gali region,⁴⁷ which is considered the initial area of return in Abkhazia as stated in the Moscow Agreement and reiterated in Security Council resolutions. The new violence in May, 1998 has driven out some 40,000 people from the conflict area for a second time. Despite this incident, most IDPs who lacked adequate housing, land, jobs, social services and healthcare after their second displacement, decided to return to their pre-war homes soon afterwards. To date, an estimated 45,000 ethnic Georgians have spontaneously “returned” to the Gali district. The returnees who did not have any security guarantees have maintained their IDPs status, thus remaining eligible for the benefits the

⁴⁶ The signatories to this Agreement are the Abkhaz and Georgian sides, the Russian Federation and UNHCR.

⁴⁷ See Quadripartite Agreement on Voluntary Return of Refugees and Displaced Persons, para. 5

government provides. As for now the situation of ethnic Georgians in the Gali region it is even more precarious with the burst of hostilities over South Ossetia in August 2008. The population of the Gali, Akhgori and Perevi districts are living under psychologically stressful conditions because of the uncertainty of their future, and the ethnic security situation in the region. Spontaneously returned IDPs are particularly vulnerable in terms of their access to basic needs and essential services. Increasing scale of assistance to IDPs in Georgia proper may further lead to secondary displacement from the return areas.

In more recent years, other frameworks have been developed in an attempt to broker peace and promote return, including the “Geneva process,” led by the UN SRSG and Group of Friends, and the “Sochi framework.” These initiatives developed in 2003 deal with return, rehabilitation and security of returnees but have not born any essential outcomes to this date. After August 2008 these initiatives have not been pursued further but a new forum “Geneva talks” was established.

In terms of South Ossetia, UNHCR had observer status in the JCC, which monitored the ceasefire in South Ossetia and promoted peace as well as being a member of the *ad hoc* Working Group on the Promotion of Voluntary Repatriation of Refugees and IDPs prior to the renewal of hostilities in 2008⁴⁸.

Some ethnic Georgian IDPs from South Ossetia used to visit Tskhinvali and other areas under the control of the *de facto* authorities before the tensions took place over the region. Even so they were not able to remain as their houses had been destroyed or occupied.

Return will not be sustainable until peaceful settlements have been reached and returnees’ civil, political, economic, social and cultural rights are guaranteed⁴⁹.

The Government of Georgia has relocated some 22,000 IDPs from South Ossetia displaced with August 2008 conflict within 38 newly constructed settlements in Georgia (Mtskheta /Mtianeti, Kvemo Kartli and Shida Kartli).

⁴⁸ The JCC was established under the 1992 ‘Agreement on the Principles of the Settlement of the Georgian-Ossetian Conflict Between Georgia and Russia.’ The JCC consisted of representatives from Georgia, Russian and North and South Ossetia as well as from the Organization for Security and Cooperation in Europe (OSCE). Its mandate was to supervise the observance of the agreement, draft and implement conflict settlement measures, promote dialogue as well as to develop and implement measures to facilitate the return of refugees and IDPs. It was also tasked with monitoring human rights, promoting economic development and coordinating the activities of the Joint Peace Keeping Forces (JPKF).

⁴⁹ See *When Displacement Ends: A Framework for Durable Solutions* and the IASC *Benchmarks for When Displacement Ends*.

The Impact of the Conflict in August 2008

11. Context

11.1 Causes of displacement

The situation in Georgia has dramatically changed since 7/8 August 2008 when war broke out in South Ossetia. Hostilities between Russian and Georgian forces in the region eventually resulted in Russian troops occupying a number of locations outside South Ossetia, including the nearby town of Gori, the Black Sea port of Poti, the towns of Senaki and Zugdidi in Western Georgia and Upper Abkhazia (Kodori Gorge), the only part of Abkhazia, Georgia that was still under Georgian control.

Initially the conflict caused the displacement of 138 000 people from South Ossetia, Georgia and other conflict affected areas within Georgia. Some 10 000 – 15 000 were displaced within South Ossetia itself. In addition 36 000 were displaced from South Ossetia to North Ossetia – Alania in the Russian Federation, most of whom are now believed to be returned⁵⁰.

The EU brokered ceasefire agreement signed on 13 August between Russia and Georgia, anticipated that Georgian - Russian troops withdrew to their pre-August 7 positions and the displaced population returned to their place of origin.

A clearer displacement picture emerged as the situation stabilized. Around 25 August Russia completed troops' withdrawal from Gori, Senaki and other locations across Georgia, although they retained control over the so called "buffer" or "security zone" - a zone along the administrative boundary of South Ossetia which contains some 50 villages with an estimate population of 24 000⁵¹. Russian forces began their withdrawal of this area on 8 October and Georgian civilians began to return to their homes in some settlements of the so called "adjacent area"⁵².

11.2 Demographic profile

Reportedly the August 2008 conflict in Georgia led to displacement of over 189 000 including those displaced both within Georgia and to North Ossetia - Alania, the Russian Federation. As of 15 January 2009 there were approximately 138 000 registered conflict affected persons in Georgia according to MRA estimates. The immediate return turned out to be a durable solution for most of the population displaced from Shida Kartli which includes the regions of Gori, Kareli, Khashuri, Kaspi, and Samegrelo-Zemo Svaneti regions in the Western Georgia, as control was handed back by the Georgian authorities. The overall return to the area adjacent to South Ossetia is estimated as 108,600 – approximately 78% of all displaced during the conflict (out of which 28,800 returned to the villages of former buffer zone).

The number of IDPs facing long term displacement due to occupation, as well as more general security problems destruction and damage to infrastructure and housing fluctuate due to an on-going return process. However the final number is approximated at 30, 000 IDPs. The ongoing IDP status-granting exercise led by MRA will provide more accurate insight into the final numbers.

The displacement process persisted in the Akhlagori and Perevi villages – in Western Georgia due to an uncertain security situation.

People displaced in 2008 took refuge with friends and relatives or gathered in so called "Collective centres", which are mostly public buildings such as kindergartens, schools, cultural centres and administrative buildings. With the on-going process of providing durable housing to the newly displaced persons, initiated by the Government of Georgia, the number of IDPs living in collective centres, new settlements or privately accommodation is constantly changing. As at mid May 2009 the numbers stand as listed in the table below:

⁵⁰ Georgia Crisis Flash Appeal 2008, Revision; United Nations Office for the Coordination of Humanitarian Affairs (OCHA)

⁵¹ Georgia Joint Needs Assessment; The United Nations, The World Bank, October 9, 2008

⁵² Amnesty International, Civilians in the line of fire: the Georgia-Russia Conflict; Amnesty International publication 2008

Resettlement type	# of IDPs
New settlements + IDPs opting for monetary compensation	21,308
Collective centres located in Tbilisi	4,329
Collective centres located in other regions	974
IDPs in Private Accommodation	2,776
Total	29.387

The CRA registered some 2,860 IDPs in private accommodation in mid January 2009

According to information supplied to Amnesty International on 27 August by the Russian Federal Migration Service (FMS) 33,000 people were registered as crossing into Russia as a result of the conflict. Reportedly, several hundred women and children had left South Ossetia prior to 7 August due to increased tensions around Tskhinvali. The majority of those who had fled to the Russian Federation returned to their places of origin in South Ossetia. Some 6 800 are reported by the Russian emergency services to have remained in private accommodation in North Ossetia⁵³.

12. Humanitarian space and access

The role and involvement of the international and regional organization has increased since the August conflict.

Georgian and Russian authorities committed themselves to allowing free access to humanitarian aid (13 August ceasefire agreement) and after Russian troops withdrew from Gori, humanitarian access to the city and surrounding areas improved.

The initial humanitarian response was focused on providing essential support to newly displaced people in Georgia including to some 36 000 IDPs in 382 CC and setting up a camp for 2500 IDPs in Gori.

Later on humanitarian organizations were able to enter the conflict-affected areas including the so called “buffer zone” on a regular basis. Despite the overall state of lawlessness, insecurity and difficulty of getting access through the checkpoints to areas that were not under Georgian control, international organizations managed to gain an access for monitoring, humanitarian needs assessment and assistance⁵⁴.

However for South Ossetia, currently only EMERCOM and the ICRC are operating in the Tskhinvali region. Humanitarian access is being hampered by both sides; the de facto authorities of South Ossetia took a stand that any international assistance would have to enter the region from the North, through the Roki tunnel, while the Georgian Parliament adopted the Law on Occupied Territories⁵⁵ unambiguously stating that all international actors needed to enter South Ossetia and Abkhazia from the South rendering no exceptions in this regard.

During his conversations with the de facto authorities on the one hand and Georgian officials on the other, the EC commissioner for Human Rights has stressed the significance of free access to humanitarian aid. He emphasized that the issue is highly politicized, posing additional obstacles to the displaced persons as well as hampering international organizations activities. The Commissioner called upon all concerned authorities “to grant unimpeded access from all directions to all areas affected by conflict for humanitarian and early recovery actors, so that they can reach internally displaced persons and other civilians at risk without delay”⁵⁶.

⁵³ Amnesty International, *Civilians in the line of fire: the Georgia-Russia Conflict*; Amnesty International publication 2008

⁵⁴ Georgia Crisis Flash Appeal 2008, Revision; United Nations Office for the Coordination of Humanitarian Affairs (OCHA)

⁵⁵ pls. see the chapter “*National legal framework (changes after August 2008 conflict)*”

⁵⁶ Commissioner for Human Rights of the Council of Europe; Special Follow-Up Mission to the Areas Affected by the South Ossetia Conflict; December 2008.

The problem of free access was also highlighted by the Parliamentary Assembly of the Council of Europe Resolution on 28 January 2009, which deplored the restriction placed on the delivery of international humanitarian aid by both sides. The Assembly also condemned using humanitarian access as tool for political considerations by the parties to the conflict.

Access to the Kodori Gorge (Upper Abkhazia) was granted to the International Committee of the Red Cross and the United Nations High Commissioner for Refugees, which was beneficial for the approximately 100 persons (mostly of Georgian ethnicity) who remained in the Kodori valley after it was occupied by the Abkhaz forces in August 2008. Nevertheless due to the harsh climate civilians remaining in this territory faced an extremely difficult winter⁵⁷.

13. Institutional protection framework

13.1 National legal framework (changes after August 2008 conflict)

Based on the findings of his follow up mission in the conflict affected areas, the Commissioner for Human Rights of the Council of Europe recommended the Government of Georgia “start implementing the Action Plan for Internally Displaced Persons which it adopted in July 2008 without any further delay”. However legislation adopted by the Government of Georgia in 4 December 2008 declared null and void the Government Action Plan for the Implementation of the State Strategy on IDPs ordinance #489 of 30 July 2008. Instead the Ministry of Refugee and Accommodation was tasked to further develop the Action Plan for the implementation of the State Strategy on Internally Displaced Persons and people that became homeless as a result of military aggression of the Russian Federation⁵⁸. Although the deadline of one month was not met, nevertheless the cooperation between the GoG, international community and non-governmental organizations, with regards to the new AP development, has been launched at full speed resulting with 13th May adoption of the Action Plan by the MRA led Steering Committee, and eventually adopted by the Government of Georgia on 28th of May.

With the view of mirroring the consequences of the August conflict the GoG approved the Annex to the IDP State Strategy. As stated in the Annex the document “sets out a holistic vision” on how to address the problems of people left homeless as a result of August conflict as well as ensuring adequate living conditions for the IDPs displaced in the early 90s. The main areas of activities outlined by the Annex are as follows: a) Addressing humanitarian problems which evolved as the result of the conflict over South Ossetia and gradually ensure the adequate settlement and full integration of the homeless people; b) Finding a long-term solution to the voluntary and dignified placement of some 78 000 IDP families and decrease their dependence on state assistance; c) Inclusion of IDPs and homeless people affected by the August conflict in a unified database of socially vulnerable people.

The Annex to the IDP State Strategy anticipates appropriate legal changes and MRA has been appointed to coordinate the due implementation of the strategy.

On 23 October 2008 President Saakashvili signed the Law on Occupied Territories, which defines the status of territories which were occupied during the military aggression of the Russian Federation and establishes a special legal regime for the territories of the Abkhazian autonomous republic, and the Tskhinvali region (former Autonomous region of South Ossetia), the Black Sea – Georgian inland territorial waters and the territorial sea from the state border between Georgia and the Russian Federation on the Psou River, south along the administrative border along the Enguri River, and for the air space above these territories.

The law prohibits foreign nationals or stateless persons entering occupied territories, except from Zugdidi and Gori Municipalities, without special permission issued by the Government of Georgia. It also touches upon the rights on immovable property in the occupied territories declaring any immovable property transaction done in violation of Georgian legislation annulled. As stated by the law acquiring immovable

⁵⁷ Resolution 1648 (2009); The humanitarian consequences of the war between Georgia and Russia; The Parliamentary Assembly of the Council of Europe; 28 January, 2009.

⁵⁸ Ordinance of the Government of Georgia #854 ratified as of 4 December 2008, On making additions to Ordinance #47 as of 2 February 2007 on Approving State Strategy for Internally Displaced Persons,

property rights on the occupied territories is possible only through inheritance in accordance with corresponding legislation.

The law prohibits any type of commercial and non-commercial economic activities on occupied territories and complicates the work of international organizations although it contains an exception clause for humanitarian actions⁵⁹. Furthermore it imposes the responsibility for human rights violation on the Russian Federation within the aforementioned occupied territories.

13.2 Institutional framework

As the leading state agency dealing with IDP issues, MRA is responsible for coordinating responses of other governmental agencies to meet the needs of newly displaced people. Along with the other governmental agencies traditionally being involved in IDP assistance (the Ministry of Agriculture (MoA), the Ministry of Education and Science (MoEC), the Ministry of Labour, Health and Social Affairs (MoLHSA)), the Ministry of Internal Affairs of Georgia (MIA) has also been put in charge of protection for new IDPs. MIA was responsible for the construction of cottages for the conflict affected people in Shida Kartli.

The role of the Civil Registry Agency (CRA) under the Ministry of Justice⁶⁰ increased significantly as the agency has been put in charge of registering people displaced during the August 2008 conflict.

Persons displaced in August 2008 and residing in collective centres were registered directly at the CCs by one of the 50 mobile CRA groups, while displaced populations in private accommodation could report to the special centre for registration. Certain concerns emerged during the registration process; for example IDPs from Upper Abkhazia (Kodori gorge) were refused registering by the head of MRA local department in Imereti, Racha-Lechkhumi and Lower Svaneti as they had already had IDP status and ID cards granted by MRA in 2007⁶¹.

On a local level, the responsibility is shared by local government officials (Gamgebeli) to handle problems with the new IDPs. While they are actively involved in the resettlement process of these people with the limited decision making authority, the local government staff as well as local MRA representatives lack capacity and experience to respond to the IDP problems on the ground.

13.3 International organizations, NGOs and Partnerships

One of the main challenges faced by international community was the threat of closure of the OSCE mission in Georgia. Moscow, having recognized the independence of South Ossetia and Abkhazia, refused to accept any linkage between OSCE activities in South Ossetia and the rest of Georgia. Further talks on OSCE observers' deployment to South Ossetia, along with increasing the number of the observers, were vetoed by the Russian Federation that eventually resulted in the OSCE mission declaring it was closing down in late December 2008⁶². It was only on 12 February 2009, when participants to the permanent council of the OSCE reached consensus to extend the mandate of OSCE's unarmed military monitoring mission to Georgia until 30 June 2009. However, OSCE decided on 14 May 2009 to postpone the discussions over the presence of OSCE in Georgia until further notice.

The OSCE has a duty to observe and report on what is happening in the disputed territories and has been in place since 1991. Since 2006, the OSCE has also been conducting an Economic Rehabilitation Programme in the zone of the Georgia-Ossetian conflict. On 19 August the Permanent Council of the OSCE authorized the deployment of a further 20 military observers (in addition to the original eight) to the area adjacent to South Ossetia under Russian control.

⁵⁹ Commissioner for Human Rights of the Council of Europe; Special Follow-Up Mission to the Areas Affected by the South Ossetia Conflict; December 2008 (refers to article 4(3) 3)

⁶⁰ The other agency under the Ministry of Justice of Georgia is National Agency of Public Registration (NAPR) involved in self-privatization process initiated by the GoG to respond the shelter needs of the population displaced in early 90s. For more details pls. see chapter 7.3.4. "Risk of Eviction" pg.35.

⁶¹ Public Defender of Georgia, Interim Report on the Results of the War between Russia and Georgia. September, 2008

⁶² OSCE press release, "OSCE Chairman regrets disagreement on OSCE future in Georgia", Helsinki, 22 December, 2008

Moscow was pushing for a similar approach for the UN Observer Mission in Georgia (UNOMIG), which deals with the Abkhaz issues⁶³. A four months extension for the mandate of its presence in Abkhazia was negotiated for the UNOMIG, which significantly contributes to the security situation in Abkhazia, particular in Gali and Kodori valley (Upper Abkhazia) through regular patrols in the areas⁶⁴.

With the deployment of another monitoring body - the European Union Monitoring Mission (EUMM), many displaced persons were able to return to their homes in the former “buffer zone”. Nevertheless the situation in the area adjacent to South Ossetia remains tense, with persons continuing to be kidnapped or killed in sniper fire, mines, unexploded ordnance and booby traps⁶⁵. Around 225 EU monitors from EUMM were deployed as of 1 October as negotiated between the Russian, French and Georgian governments on 15 September. The mission’s mandate is 12 months with the first review after six months. It is recognized throughout all of Georgia, within its internationally recognized borders⁶⁶ but has not been granted any access to South Ossetia itself. According to the head of the European Union Monitoring Mission long-term success of the mission hinges on the right of entry to this region⁶⁷. Currently the overall personnel of the mission numbers around 340, including headquarters, field officers and observers. Besides monitoring the overall security situation in the conflict affected territory and the implementation of the ceasefire principles, the EU observers mandate also covers monitoring human rights, rule of law and the return of displaced population. The mission includes a small number of human rights experts⁶⁸. Nevertheless several actors, including non-governmental organizations, stated that the monitoring of the human rights situation in the areas affected by the conflict should be extended.

Other international organizations have deployed a number of ad hoc missions to Georgia in response to the conflict. The Secretary-General of the United Nations sent a humanitarian assessment mission to Georgia (17-20 August), led by the UN Office for the Coordination of Humanitarian Affairs and comprising experts from UNHCR, the United Nations Development Programme and the Office of the High Commissioner for Human Rights, which focused on current humanitarian and human rights concerns. The UN Secretary-General’s representative on the human rights of internally displaced persons visited Georgia on 1-4 October. The Commissioner for Human Rights of the Council of Europe has been several times in Georgia since the August events. The Commissioner visited the town of Gori and the former “buffer zone”, where he listened to the concerns of returnees. He also met with displaced persons from Tskhinvali region, Georgian state officials and representatives of international missions operating in Georgia. During his fourth follow up mission to the areas affected by the South Ossetia conflict in February 2009, the EC Commissioner for Human Rights visited Tbilisi, Sokhumi and Gali. At the end of his visit he underlined the significance of continued UN presence noting that, “a mere technical extension of the UN mission for some months is not enough”⁶⁹.

To respond to the humanitarian needs of the country, a Joint Needs Assessment document was developed to serve as a basis for the UN, World Bank and European Commission donor conference on 22 October 2008. As stated in the document “the JNA examines the overall impact of the conflict, and needs for early and medium-term recovery based on losses and damages resulted from the conflict, and presents an overall strategy for recovery as well as priority actions and investments”. The JNA requested the commitment of 3¼ billion USD and identified the need for donor support in three major areas: Reestablishment of economic growth in Georgia through supporting the rapid restoration of confidence, support for social needs of internally displaced and other conflict affected population, thereby contributing to economic and social recovery, and maximizing recovery opportunity through supporting certain high value investments and in this way filling the gap until the private sector resumes investing. The assessment covers the whole

⁶³ Civil Georgia, Tbilisi/20 November 2008

⁶⁴ Resolution 1648 (2009); The humanitarian consequences of the war between Georgia and Russia; The Parliamentary Assembly of the Council of Europe; 28 January, 2009.

⁶⁵ *ibid.*

⁶⁶ For the detailed information about the EUMM please visit <http://www.eumm.eu/>

⁶⁷ Commissioner for Human Rights of the Council of Europe; Special Follow-Up Mission to the Areas Affected by the South Ossetia Conflict; December 2008

⁶⁸ *ibid.*

⁶⁹ CoE Press Release – 106 (2009) Strasbourg, 13 February, 2009

territory of Georgia however, due to the difficulties of access the JNA does not fully reflect the latest situation in South Ossetia and Abkhazia (the latter was relatively spared from conflict-related damage)⁷⁰.

A considerable number of international humanitarian organizations and local NGOs have been providing assistance to people displaced as the result of the August conflict. The table below demonstrates the organizations operational in conflict affected areas of Gori, Khashuri, Kareli and Kaspi district along with the sector activities they have been involved in as of January 2009.

Organization/agency	Sectoral activity
Action Contre le Faim (ACF)	WASH ⁷¹
Care international (CARE)	Food Distribution/ Non Food Items/Shelter
CARITAS	Health
Charity Humanitarian Centre Abkhazeti (CHCA)	Education/Child Protection/Psychological/
Community Habitat Finance International (CHF)	Livelihoods/Cash Assistance to Host Families, Returnees etc.
CLARITAS XXI	Health
Citizens Network for Foreign Affairs (CNFA)	Livelihoods
Children of Georgia (CoG)	Health
Danish refugee Council (DRC)	Livelihoods/Non Food Items/Shelter
Elizabeth Gast Foundation (EGF)	Education
Gori Information Centre (GIC)	Legal Aid, Information and other services
Georgian Red Cross Society (GRCS)	Health
Georgian Young Lawyers Association (GYLA)	Legal Aid, information and other services
Halo Trust	Mine action
Hellenicare	Health
International Committee of the Red Cross (ICRC)	Food Distribution/Non Food Items/WASH/Shelter/Health
International Orthodox Christian Churches (IOCC)	Education
International Organization for Migration	Livelihoods/Health
International Rescue Committee (IRC)	Education/Child Protection/Psychological/WASH
International Relief and Development (IRD)	Cash Assistance to Host Families, Returnees etc.
Mercy Corps (MC)	Child Protection/Psychological/Livelihoods/ Non Food Items/
Merlin	Child Protection/Psychological
Médecines Sans Frontières (MSF)	Health
Norwegian Refugee Council (NRC)	Education/Legal aid, information and other services/
People in Need (PIN)	Health/Education/Non food Items
Psychosocial Rehabilitation and Training Centre at the Patriarchate of All Georgia and D. Uznadze Institute of Psychology (PIP)	Health/Child protection/Psychological
Premier Urgence (PU)	Non Food Items/ Education
Save the Children (SC)	Child Protection/Psychological/Education
Terre des Hommes (TDH)	Child Protection/Psychological
United Nations Development Programme (UNDP)	Livelihoods/Legal aid, information and other services
United Nations Population Fund (UNFPA)	Health
United Nations High Commissioner for Refugees (UNHCR)	Coordination, Shelter/ Protection and Legal aid, information and other services
United Nations Children's Fund (UNICEF)	Education/WASH/Health/
World Food Program (WFP)	Food Distribution
World Vision International (WV)	Food Distribution/WASH/Education/Child Protection/ Psychological

⁷²

⁷⁰ Summary of Joint Needs Assessment Findings, Prepared for the Donors' Conference of October 22, 2008, Brussels.

⁷¹ Water, Sanitation and Hygiene Sector

⁷² OCHA map as of November 2008

14. Security in the conflict affected areas and the right to life

IDPs located in Tbilisi face less security risks than those accommodated or having returned to the area adjacent to South Ossetia. The Government pursued a policy aimed at locating the new IDP caseload to CCs and settlements outside Tbilisi as a part of a plan of resettlement and durable housing solutions for of the newly displaced people from SO and Kodori Gorge.

According to an assessment conducted in 87 collective centres located in Tbilisi, Rustavi and Gori some 52% of the respondents reported that there were no dangerous areas at the territory of their collective centre. The most unsafe areas around the collective centres were named as the basements, staircases, exposed electricity wires and the balconies⁷³.

It is the IDPs and returnees, among them women and children in particular, in Shida Kartli - the so called “adjacent area” or former “buffer zone” – who are exposed to greater security risks. As of mid May 2009 an estimated 108,600 persons have been returned to the areas adjacent to South Ossetia.

Serious threat derives from unexploded cluster bombs which remain hazardous long after its deployment. Amnesty International has reported accidents where mines killed a woman in her garden in the town of Gori on 24 August, and injured a man in Tirdznisi village. So far the abandoned UXOs killed 3 and injured 9 individuals in the villages of return in Gori. Returnees in about 35 villages stated that they are hearing shootings either on daily basis on two three times a week. There were some 38 targeted attacks against the Georgian police that has killed 12 and injured 14. Returnees also reported Russian helicopters flying close to their villages, the kidnapping of 17 individuals for the ransom or release of detained individuals by Tbilisi offices and facts of stealing cattle and computers from Adzvi school in Akhalubani by criminal elements coming from the Ossetian side.

Swift clearance of UXOs is an essential component of any stabilization and normalization process as well as to facilitate returns in safety. Non-governmental organizations like Halo Trust and Norwegian People’s Aid are continuously engaged in this important task. With the help of some 150 locally trained civilian volunteers, these organizations removed some 900 UXOs pieces and destroyed over 380 cluster munitions in the areas adjacent to South Ossetia. Nevertheless the Commissioner for Human Rights of the Council of Europe identified the need of more work to secure all inhabited and cultivated areas in the adjacent zone⁷⁴. Halo trust has already visited 180 schools and provided lectures on mine awareness. To respond to the existing security gap, mine risk education has been included in the national curriculum by the Ministry of Education of Georgia.

According to a survey implemented by the child protection and education sub-cluster covering around 23% of villages located in the adjacent area (nearly 40 villages out of total 172), 41% of assessed villages were recognized to be clear of contamination; 7.7% of villages fall under “high risk” category, and another 15.4% as “medium risk” areas. Police stations were located in 10% of the assessed villages, while in around half of them police was seen patrolling the streets⁷⁵.

Although a Convention on Cluster Munitions, prohibiting the use, production, stockpiling, transfer or trade, was adopted by 107 countries in May 2008, neither Russia nor Georgia have signed it.

Armed groups known as “South Ossetian militia” pose another risk to returnees in the adjacent areas. According to eye-witnesses, militia consists of individuals from different ethnic groups sharing the common Russian language. Reportedly the groups were initially attacking, beating and threatening

⁷³ Interagency child protection assessment of collective centers for internally displaced persons ; CHCA, IRC, NRC, SC, WV, Terre des homes. December, 2008.

⁷⁴ Commissioner for Human Rights of the Council of Europe; Special Follow-up Mission in the Areas Affected by the South Ossetia Conflict. 12-14 November 2008, Tbilisi, Tskhinvali, Gori

⁷⁵ Child protection coping mechanisms in rural Shida Kartli before and after August 2008; rapid assessment; Child protection and education sub-cluster. Published December 2008

civilians and looting in the villages in South Ossetia. Later on, in the immediate aftermath of the conflict violence has been progressively extended to the “buffer zone” settlements and along the main road of Georgia and forcing civilians to flee⁷⁶. In response, the European Union Monitoring Mission plans to increase the number of its patrols, including those at night⁷⁷.

Due to tense security situation and the presence of UXOs in 31 villages of Gori and Kareli districts, 8322 families have lost access to pasture land and 1,712 to arable land. In addition, most of them have also lost their access to forest and firewood for the winter and this remains as one of the biggest concerns as most of the villages lack a gas supply system.

The security issues concerning the population on the territories currently not under the GoG control is fragile. In this respect there is no mechanism to cover the existing gaps. The security situation remains unstable in South Ossetia and is even more aggravated by the lack of access by international humanitarian aid and human rights monitors. The shortage of food and non-food items, as well as absence of communal services poses significant hardship to the local population. Reportedly, the few ethnic Georgians remaining in South Ossetia face explicit security threats under the pressure to give up the Georgian citizenship⁷⁸.

15. Equality before the Law

According to the law of Georgia on Forcibly Displaced Persons the new caseload displaced in 2008 due to the August conflict is fully entitled to IDP status, and the MRA led IDP status exercise is currently ongoing. Although the monitoring exercise revealed that some newly displaced IDPs fail to undergo the registration for getting an IDP status due to the lack of respective documents to be issued by the national authorities replacing those left behind or lost.

16. Right to Food, Water, and Housing

16.1 Right to food

After the very first days of the conflict, on 15 August the Government of Georgia allocated some 2 million GEL to MRA’s budget to meet urgent nutritional needs of the new caseload⁷⁹.

In the beginning of September 2008, the head of WFP in Georgia, former minister of Refugee and Accommodation Ms. Tamar Martiashvili and Mr. Koba Subeliani who at that time was a member of a parliament gave a briefing about the nutritional needs of the population displaced in August 2008: that at collective centres in Tbilisi an average ration for 10 days per person included around 1.5 kg macaroni, 0.5 kg french-beans, 0.3 kg sugar, 0.3 litre vegetable oil, 0.05 kg salt, and 0.5 kg high energy cookies. The amount was reportedly increased by 1.5 according to MRA following complaints about the initial quantities⁸⁰.

The conflict over South Ossetia has affected the food security of IDPs and the local population. According to a survey by the Institute for Policy Studies supported by UNIFEM, food deficiency was mentioned as the one of the basic needs by IDPs accommodated in collective centres as at end September 2008. The most dramatic situation turned out to be in Tbilisi where about 86% of interviewed IDPs complained about food shortage, compared to Kutaisi – 59% and Gori 11%. Another concern of the IDPs was the lack of hot meals, dairy products and fruits, especially for small children, pregnant and lactating

⁷⁶ Amnesty International, *Civilians in the line of fire: the Georgia-Russia Conflict*; Amnesty International publication 2008

⁷⁷ Commissioner for Human Rights of the Council of Europe; *Special Follow-Up Mission to the Areas Affected by the South Ossetia Conflict*; December 2008

⁷⁸ Resolution 1648 (2009); *The humanitarian consequences of the war between Georgia and Russia*; The Parliamentary Assembly of the Council of Europe; 28 January, 2009.

⁷⁹ Decree #540 by the Government of Georgia on applying amendments to the decree # 529 on financing activities pertinent to martial law

⁸⁰ Public Defender of Georgia, *Interim Report on the Results of the War between Russia and Georgia*. September, 2008

women, and elderly in need of balanced food and a richer diet. One of the recommendations based on the study findings was the provision of minimal facilities for cooking in the collective centres since about 85 % of the interviewed IDPs preferred to receive food and cook for their own families⁸¹.

In subsequent monitoring and assessment exercises, IDPs residing in collective centres reported being supplied with basic food products. Nevertheless concerns were raised with regards to the quality and quantity of the food provided (63% of IDPs resided in 87 CCs around Tbilisi, Gori and Rustavi). Emphasis fell on the lack of diverse food, a shortage of food of nutritional value and some specific types of food, especially baby and infant food. Time and again the lack of vegetables, dairy problems and particularly fruit was stressed as an absolutely necessary for children's diet⁸².

Returnees also face the threat of relying on food aid as many of them are small farmers who are not able to support their families. As assessed by the Food and Agriculture Organization (FAO) in September – October 2008 much of the harvest has been lost or damaged as the result of conflict due to several reasons: no access to the fields for pest control measures during the hostilities, interruption in water supply for irrigation purposes from South Ossetia⁸³. Agricultural damage in the Gori plain is significant effecting about 40 000 families owning small farms⁸⁴.

Monitoring teams from Norwegian Refugee Council (NRC) examined the living circumstances in 14 of the new government built settlements. Although the conditions vary in detail there are important findings that apply to most of the settlements. NRC monitoring exercises in the period from 22 December 2008 to 16 January 2009 did not reveal any obvious lack of food supply in the majority of the settlements where food has been supplied on a regular basis. Nevertheless some settlements still face nutrition problems who have received food only once when the IDPs moved to the settlement. The problem is aggravated with the nearest markets often located far away from the settlements.

In certain cases lack of cooking stoves and kitchen sets hampers IDPs from using the distributed food like flour. Reportedly weaning food for babies also composes problem for IDPs resided in the new settlements⁸⁵.

The food needs of IDPs in private accommodation in Tbilisi and surrounding areas were met by establishment of registration & information & food distribution centre in Gldani with partnership of WFP, MRA and CRA. In order regions like Kakheti town of Gurjaani where the basic needs of the IDPs residing with the host families were met by local municipal services⁸⁶.

The distribution of standard food package and lack of baby food especially to the families, who lacked family, relative and community support, put the life of most women and children at risk mainly in the CCs and New Settlements. The food was considered to be not enough and lacking vegetable. There were also delays in the delivery of food distribution and therefore such mothers and babies suffered.

As assessed by the Norwegian Church Aid the food supply for urban areas is relatively secure and more predictable than for the rural areas in South Ossetia⁸⁷.

de facto South Ossetian and Russian authorities are responsible for distributing food, including free bread (from the restored bakery plant in Tskhinvali) and potable water. Allegedly the food supply delivered to the region has been even greater than is necessary, and the surplus is being held in storage in Tskhinvali⁸⁸.

⁸¹ Rapid Needs Assessment of Internally Displaced Women. Institute for policy studies with UNIFEM support. September 30 2008

⁸² Interagency child protection assessment of collective centers for internally displaced persons: CHCA, IRC, NRC, SC, WV, Terre des Hommes; December 2008.

⁸³ Georgia Crisis Flash Appeal 2008, Revision; United Nations Office for the Coordination of Humanitarian Affairs (OCHA)

⁸⁴ Georgia Joint Needs Assessment; The United Nations, The World Bank, October 9, 2008

⁸⁵ Norwegian Refugee Council, Monitoring Visits to the IDP Resettlement area, 19, January, 2009. Tbilisi

⁸⁶ Public Defender of Georgia, Interim Report on the Results of the War between Russia and Georgia. September, 2008

⁸⁷ The assessment was done in between August 29 - September 5, 2008

⁸⁸ International Actions by Churches Together; Post Conflict Relief and Recovery Appeal; Geneva: November 2008

16.2 Right to potable water and sanitation

Access to portable water is available for the majority of IDPs in collective centres who have permanent water supply (74.5% of the interviewed IDPs). According to assessments of collective centres in Tbilisi, Gori and Rustavi the percentage of respondents reporting that they have access to water increased up to 98%⁸⁹. Some collective centres face problems like getting water on schedule or occasionally shortage of functioning water taps. Access to warm water remains a greater concern for IDPs for taking a shower, doing laundry, and bathing children⁹⁰.

Access to water was a problem in some of the new settlements occupied by IDPs. For example in village Akhalsopeli, the NRC monitoring team discovered that running water was unavailable and residents had to fetch it from a nearby village. The quality of water is not good in some other settlements (Akhalsopeli, Prezeti, Tselkani) and people from the 3rd, 4th, 5th floors of building types of settlements in Khashuri and Gori settlements have to fetch it from the ground floors.

Similar to the collective centres, access to hot water represents an acute problem for IDPs in the new settlements as well. In certain cases the required equipment for heating water is not installed in many building-type settlements as well as in new villages, bathing facilities are not in place or are not connected with the main sewage system, causing additional troubles for the residents.

Sanitation issues are also problematic in the IDP settlements. Lack of garbage containers is creating sanitation problems in the majority of the new settlements⁹¹. Sanitation problems are expected to be aggravated with the arrival of the spring/summer. IDPs residing in collective centres also face sanitation problems such as unavailability of toilets in the premises, insufficient number of toilets, and bad sanitary conditions⁹².

Access to water poses certain troubles to returnees in the areas north of Gori, where water for drinking and irrigation purposes came from South Ossetia and was cut might have critical impact on the population if a proper arrangement not found⁹³ (at least for 8 villages of return in Shida Kartli water for irrigation is cut). The South Ossetian authorities discussed the issue of having the Georgian villages pay tariff for potable and irrigation water from early in spring 2009⁹⁴.

16.3 Right to adequate housing

On 12 October, UNHCR was able to close its temporary IDP camp in Gori, which had accommodated up to 2500 displaced persons. This was accompanied by the return of 108,600 displaced persons to their homes in the former “buffer zone” by mid May 2009. Consequently the number of new IDPs living in collective centres or in the private sector has decreased. There were still some 25 000 displaced persons living in Tbilisi in November 2008 although this was reduced to some 7014 in December 2008 due to the government led resettlement process.

As for the IDPs located in Shida Kartli, 850 persons were CC residents and about the same number of IDPs – 644 were privately accommodated according to mid May 2009 statistic estimates.

⁸⁹ Interagency child protection assessment of collective centers for internally displaced persons; CHCA, IRC, NRC, SC, WV, Terre des Hommes; December 2008

⁹⁰ Rapid Needs Assessment of Internally Displaced Women. Institute for policy studies with UNIFEM support. September 30, 2008

⁹¹ Norwegian Refugee Council, Monitoring Visits to the IDP resettlement area, 19, January, 2009. Tbilisi

⁹² Interagency child protection assessment of collective centers for internally displaced persons; CHCA, IRC, NRC, SC, WV, Terre des Hommes; December 2008.

⁹³ Georgia Crisis Flash Appeal 2008, Revision; United Nations Office for the Coordination of Humanitarian Affairs (OCHA)

⁹⁴ Civil Georgia, Tbilisi / 17 February, 2009.

Overview with Location and type of accommodation breakdown			
Place of displacement	Update as of 8 May 2009		
	CCs	PA	Total
Tbilisi	4,329	1612	5,941
Shida Kartli	850	644	1,494
Other Regions in Georgia	124	520	644
Settlements			18,173
Monetary Compensation			3,135
Total:			29,387

Based on the assessment done by the Institute for Policy Studies as at the end September 2008, the living conditions in 58.8% of shelters were estimated as moderate, 33.9% as poor, and 7.4% as good. Rooms were shared by 6 persons in average with variations from 10 to 3 persons per room. Correspondingly the lack of private space was on the priority list of the majority of IDPs interviewed⁹⁵. Further shortcomings in the collective centres are due to poor living conditions, such as defective sanitary and water-pipe systems. With the arrival of the winter, heating has proven to be one of the most pressing concerns.

The situation of the returnees to the adjacent area is characterized by a climate of instability. Remnants of war are still present in the area. Apart from security, a second urgent need which needs to be addressed is adequate shelter. The houses of the displaced persons have in many cases been damaged or destroyed. Reportedly some compensation in the amount of 15 000 USD would be paid for a totally destroyed house, while 10 000 USD for partially damaged houses. Nevertheless amongst the IDPs there is a big uncertainty about how to apply for financial assistance from the Georgian Government⁹⁶.

UNHCR and its implementing partners provided support to about 400 returnee families (approximately 1600 returnees) whose houses were partially or totally destroyed during the hostilities in August. The shelter support included construction of small one-room cottage houses for the conflict affected population in Shida Kartli in their own yard next to the damaged house. The work has been conducted with the aim of supporting and securing a warm room cottage for people that preferred to return to their land during winter and spring months before their damaged houses can be rehabilitated, so as they had an opportunity to maintain their self-reliance mechanisms, social links and access to local infrastructure.

It was underlined by the international community that IDPs who were returned by the GoG to the former “buffer zone” were given little information and a choice. Some of these returns were made at very short notice at the expense of due protection of right to voluntary return in safety and in dignity⁹⁷.

16.3.1 The Government response to the 2008 IDP housing needs

To address the housing needs of those expected to be in long-term displaced population the Government of Georgia launched a durable housing project. The effort was aimed at building cottage houses and refurbishing blocks of apartments for estimated 7000 families benefiting around 30 000 IDPs⁹⁸.

⁹⁵ Rapid Needs Assessment of Internally Displaced Women. Institute for policy studies with UNIFEM support. September 30 2008

⁹⁶ Commissioner for Human Rights of the Council of Europe; Special Follow-Up Mission to the Areas Affected by the South Ossetia Conflict; December 2008

⁹⁷ Resolution 1648 (2009); The humanitarian consequences of the war between Georgia and Russia; The Parliamentary Assembly of the Council of Europe; 28 January, 2009.

⁹⁸ UNHCR data as of 11 November 2008

According to MRA data around 38 locations sites for new IDP settlements were identified in Shida Kartli, Kvemo Kartli, and Mtskheta-Mtianeti.

*Housing for 2008 IDPs * as of 30 November 2008*

Region	# of houses in new villages	# of dwellings in apartment buildings	# of houses/ dwelling uncertain	Total
Kvemo Kartli (# of apartment buildings 4, # of uncertain dwellings 3)	-	604	320	924
Shida Kartli (# of apartment buildings 12, # of new villages 9)	1 086	402	-	1488
Mtskheta-Mtianeti (# of apartment buildings 1, # of new villages 3, # of uncertain dwelling 3)	2 700	102	141	2 943

Reportedly the GoG planed to fully refurbish and build the dwellings for the IDPs as well as equip them with home appliances by the end December 2008.

As the process continued a total of 3960 houses have been built and 1500 flats have been rehabilitated for new IDPs under the leadership of the Ministry of Interior with funds provided by the GoG. Additional houses have been built by bilateral donors, while international agencies addressed the urgent winterization and quick rehabilitation needs of collective centres where newly displaced were and have been awaiting a durable housing solution⁹⁹.

As of February 2009 over 18 000 newly displaced were allocated in new settlements in different locations around Eastern Georgia.

New settlements for 2008 IDPs as of 17 February 2009¹⁰⁰*

District	Region	# of settlements	# of IDPs
Kakheti	Kakheti	3	204
Kvemo Kartli	Kvemo Kartli	4	2109
Dusheti	Mtkheta-Mtianeti	1	311
Mtskheta	Mtkheta-Mtianeti	8	8878
Gori	Shida Kartli	8	2620
Kareli	Shida Kartli	6	903
Kaspi	Shida Kartli	2	293
Khashuri	Shida Kartli	5	555
Total		37	15873

Although several sites have already been settled there were no clear standard procedures outlining the main principles of the settlement process. According to state officials the current resettlement process is conducted on a voluntary, non-discriminatory basis aiming to ensure adequate housing and integration opportunity for each IDP family. As verbally declared by the MRA representative, IDPs will have an opportunity to sell or change their dwelling or resettle to a different area in the long-term perspective. Nevertheless the only document that IDPs sign during the settlement process is a handover certificate.

The lack of transparency with regard to the management of the resettlement process and of clarity on the criteria for the allocation of housing was underlined by the international monitors and humanitarian

⁹⁹ UNCT advocacy paper. The resettlement of new IDPs – Progress and Challenges ahead- Tbilisi, 2009

¹⁰⁰ OCHA map; new settlements – Internally Displaced, 17 February 2009

organizations operating in Georgia¹⁰¹. Based on UNHCR monitoring results no application procedure exists as such to apply for resettlement. IDPs have been given some options to choose, for instance, however “Go and See” visits to the villages or apartment buildings where they are offered to be settled were not organised in all situations. IDPs are either verbally informed about the resettlement in the collective centres or consulted when addressing the local government in exile in Tbilisi. The lack of transparency in the allocation of living space should be remedied by a more informative and participatory approach integrating the views of the IDPs¹⁰².

Once settled the IDP families are entitled to a one time cash assistance in the amount of 200 GEL granted by the Agency of Social Subsidies of the Ministry of Labour, Health and Social Affairs. To get this financial assistance IDPs have to go to a People’s Bank branch where they can receive the allowance on the basis of their IDs and family code. IDPs in the majority of settlements stated that they have collected this amount of money during the first days of their relocation to the new settlements. The other once-only cash assistance in the amount of 100 GEL has been assigned for school-children from the new IDP caseload. Although the assessment of collective centres in Tbilisi, Rustavi and Gori revealed that not all children received the government assistance assigned for school-enrolled IDP children¹⁰³.

The monitoring exercise revealed certain grievances aired by IDPs residing in the new settlements. Reportedly once moved, IDPs must sign the non food items handover document while according to IDPs they often lack some items listed in the document. Even some items included in NFI package and distributed among the IDPs in the new settlements are faulty and can not be utilized. For example in the village Berbuki some 154 people could not assemble beds, because pieces were missing. In some settlements IDPs face security problems. Absence of door locks on the entrance doors as well as no light in the corridors and entrances pose challenges for the safety and privacy.

As mentioned above some 18 000 new IDPs have been assigned durable shelter solutions in the new settlements as of January 2009. Some financial support in amount of 10 000 USD is anticipated for those who refuse to be re-settled in government built settlements but, according to MRA this is not a compensation but kind of monetary support. So far 3,135 IDPs have applied for this support. In order to assure the IDPs have a continuous financial income, income-generating projects are urgently required. The allocation of farmland is a crucial aspect in restoring the self-reliance of returnees¹⁰⁴.

17. Right to Health Care and Education

17.1 Access to health care

The August conflict has had a destructive impact on the healthcare capacity and infrastructure in Shida Kartli and South Ossetia on the one hand and affected severely the local population on the other.

The officially registered number of citizens of Georgia killed during the conflict is 391, and with 234 injured. Some health care facilities suffered from looting and physical damage, while others were totally destroyed such as the Gori emergency centre¹⁰⁵.

People displaced in August suffer from the enduring impact of the conflict. According to the findings of the survey by the Institute for Policy Studies, after the August conflict the percentage of IDP women

¹⁰¹ Resolution 1648 (2009); The humanitarian consequences of the war between Georgia and Russia; The Parliamentary Assembly of the Council of Europe; 28 January, 2009.

¹⁰² Commissioner for Human Rights of the Council of Europe; Special Follow-Up Mission to the Areas Affected by the South Ossetia Conflict; December 2008

¹⁰³ Interagency child protection assessment of the collective centers for internally displaced persons; CHCA, IRC, NRC, SC, WV, Terre des Hommes, December 2008

¹⁰⁴ Commissioner for Human Rights of the Council of Europe; Special Follow-Up Mission to the Areas Affected by the South Ossetia Conflict; December 2008

¹⁰⁵ Georgia Joint Needs Assessment; The United Nations, The World Bank, 9 October 2008

evaluating their health condition as bad raised by 15% (from 26% up to 41%) and IDP men by 6% (from 15% up to 21%)¹⁰⁶.

The conflict also has had a significant psychological effect on the IDPs and returnees as both groups have been subject to trauma caused by the hostilities. Reportedly flashback episodes, sleep disturbances, increased hyper-vigilance, startled responses, angry outbursts, and other mental disorders are common psychological problems amongst the conflict affected population¹⁰⁷. Apparently the need to treat conflict and post-conflict trauma among the IDPs and returnees has been inadequately met by the end of September 2008. The percentage of IDPs being consulted by a psychologist was comparatively low reaching 24% among IDP women and 16.5 % IDP among men in Shida Kartli¹⁰⁸.

The assessment exercise in the collective centres revealed as identical set of physiological problems caused by the conflict, such as schizophrenia, depression, extreme worries, sleep disturbances, heart problems, increased irritability and several trauma-related disturbances and possibly including post-traumatic stress disorder (PTSD). In the CC where IDPs have access to a psychologist's support, the achievements of some positive results were reported by both children and adults. IDPs residing in CC who do not have the same opportunity reported a strong need for individual psychological support services¹⁰⁹. Although IDPs living in collective centres in urban area report unhampered access to several healthcare services, free medication remains to be a problem for them¹¹⁰.

According to monitoring exercises in 14 of the new governmental built settlements, IDPs face serious problems related to a limited access to healthcare services. In many cases the problem derives from healthcare facilities located too far from the new settlement; in some cases the nearest health facility is situated 15- 20 km. away from the IDP settlement¹¹¹.

An assessment of 40 villages in the adjacent area by the child protection and education cluster organizations indicates that the area mostly affected by the August conflict is insufficiently covered by the health care facilities. The number of operating health clinics was not high even before the conflict (around 47% of the villages) and this low rate is now reduced after the conflict to 45%. However the main problem is the decreased capacity of healthcare facilities with almost half of them needing to be entirely repaired or partially refurbished¹¹².

Provision of free medical services is also a big problem for the returnee villages in the former buffer zone. The personnel in some of the health centres have not received salaries for several months and in some other villages they do not have human resources to do the administrative work. Health officials even in Tbilisi are not aware of free health service policies for returnees and IDPs as in several cases they have charged the patients for payment of more that GEL 1000.

The humanitarian organizations operating in Georgia have been addressing the issue of increased access to medical care for the population in the conflict affected area in order to compensate for the lack of supplies in hospitals and medical clinics. The ICRC runs mobile clinics in the Gori district targeting people with limited access to healthcare facilities. A joint ICRC/Norwegian Red Cross team provides free medical consultations mainly targeting elderly people suffering from chronic diseases. The team also works with

¹⁰⁶ Rapid Needs Assessment of Internally Displaced Women , Institute for policy studies with UNIFEM support, September 2008

¹⁰⁷ International Actions by Churches Together; Post Conflict Relief and Recovery Appeal; Geneva: November 2008

¹⁰⁸ Rapid Needs Assessment of Internally Displaced Women, Institute for policy studies with UNIFEM support, September 2008

¹⁰⁹ Interagency child protection assessment of collective centers for internally displaced persons; CHCA, IRC, NRC, SC, WV, Terre des Hommes. December 2008 Tbilisi

¹¹⁰ *ibid.*

¹¹¹ Norwegian Refugee Council, Monitoring Visits to the IDP Resettlement area, 19 January, 2009. Tbilisi

¹¹² Child protection coping mechanisms in rural Shida Kartli before and after August 2008; Rapid assessment; Child protection and Education sub-cluster; Published December 2008

local medics and local authorities in the Gori area. Reportedly, the mobile clinics have provided 6300 consultations so far¹¹³.

The returnee situation has been aggravated by the Government's decision to cut off free medical assistance to people who remained in the conflict area by 15 November 2008. Medical services like surgery, chronic illness, long-term treatment or hospitalization are barely affordable for them. When visited by the EC Commissioner for Human Rights, returnees were asking for basic health facilities in the villages to care for their elderly, pregnant or physically disabled family members who could not travel long distances¹¹⁴. The need for the extension of the provision of free medical aid for the conflict affected population over the winter has been underlined by the Parliamentary Assembly of the Council of Europe¹¹⁵.

17.2 Access to education

The educational infrastructure in Shida Kartli suffered seriously during the hostilities. Reportedly some 99 schools were damaged in the conflict zones, of which six were burned down. The State University of Gori was also heavily damaged.

An assessment done by children and education sub-cluster organizations in around 40 villages in the adjacent area revealed that nearly 70% of existing school buildings need partial or entire rehabilitation, and 40% of the Education Resource Centres¹¹⁶. The number of cultural centres/libraries decreased to 40% in the surveyed villages. Majority of existing facilities needs complete or partial refurbishment¹¹⁷.

The educational system in Tbilisi was paralyzed from August until mid September, 2008 as the population which was forced to flee the hostilities from the occupied territories in South Ossetia and Shida Kartli sought for shelter in schools and kindergartens. However, the new school year was not delayed in the majority of the schools around Georgia; as civilians began to return to their permanent place of residence in Shida Kartli so the double shifts were introduced in some schools to cope with the numbers¹¹⁸.

A collective centres assessment in Tbilisi, Gori and Rustavi (December 2008) the school enrolment among IDP children was fairly high with around 99% of IDP children residing in CCs. Transportation mostly for IDP children from Tbilisi CCs were mentioned as an obstacle by the respondents. Although public transportation is free for IDPs, children can not benefit from the services due to absence of an IDP card. Lack of personal space and learning environments poses additional problems for CC resident schoolchildren, which is being reflected in the quality of their learning and in their academic achievement¹¹⁹.

The survey of 18 schools in the war affected zone and 3 schools in Tbilisi revealed that IDP children were enrolled in ordinary classes and the attendance of the IDP children or returnees was similar to that of other children. The lack of textbooks, tables and chairs was reported as the greatest need by the school principals. Considering the findings of the survey, the IDP children integration process did not face any major obstacles. The educational gaps reported by the IDP children were similar to those identified by the principals and included the shortage of school books, school materials, cloths and shoes¹²⁰.

¹¹³ International Committee of the Red Cross (ICRC) ; Three months later, the impact of the conflict endures; November 2008

¹¹⁴ Commissioner for Human Rights of the Council of Europe; Special Follow-Up Mission to the Areas Affected by the South Ossetia Conflict; December 2008

¹¹⁵ Resolution 1648 (2009); The Parliamentary Assembly of the Council of Europe; The humanitarian consequences of the war between Georgia and Russia; January 2009

¹¹⁶ An Executive body in a local territory of the Ministry of Education and Sciences of Georgia.

¹¹⁷ Child protection coping mechanisms in rural Shida Kartli before and after August 2008; Rapid assessment; Child protection and Education Sub-cluster, Published in December 2008

¹¹⁸ Georgia Joint Needs Assessment; The United Nations, The World Bank, October 9, 2008

¹¹⁹ Interagency child protection assessment of collective centers for internally displaced persons; CHCA, IRC, NRC, SC, WV, Terre des Hommes; December 2008

¹²⁰ Education needs of the conflict-affected children in Georgia; Rapid assessment; UNICEF, IRC, CHCA, SC, HALO Trust, Terre des Hommes; December 2008

There are several factors hindering IDP children from receiving adequate education in the new settlements. Distant location of schools from the settlements represents a major challenge for IDP children. For example in the villages of Khurvaleti and Bazaleti the distance between the IDP settlement and schools is some 4 kilometres, and they have problems attending because of the transportation issue. In the settlements this does not represent a problem due to the close vicinity of the schools. However the education process is hampered by a scarcity of school items, equipment, textbooks, etc in the settlements, as well as in some schools of the war affected zone and in Tbilisi. Sometimes textbooks provided to IDP children as a state assistance do not prove useful in the local schools.

Lack of warm clothing as well as appropriate shoes often hinders IDP children from attending school. Absence of pre-school education, child friendly spaces and play-grounds is also a problem in some of the new IDP settlements¹²¹.

The pre-school education mainly in Tbilisi remained paralyzed as IDPs still live in kindergartens. The problem has been so acute especially for the local population with parents forced either to pay for expensive private kindergartens or quit their job to look after their children.

According to the Public Defender some 900 parents complained about the decision by the Government of Georgia to house the displaced population in kindergartens for an uncertain term¹²².

According to the International Actions by Churches Together the school year in the majority of schools around South Ossetia started without any delay with 51 out of 55 schools in South Ossetia opening. However school buildings have been damaged during the hostilities and the schools currently are situated in small, unheated facilities and which poorly equipped and schoolchildren have to attend schools in three shifts¹²³.

18. Right to Return

IDPs' right to freedom of movement and choice of residence was restricted in practice due to the political stalemates and the *de facto* authorities in Abkhazia and South Ossetia obstructing return. The August events have complicated the situation even further. Nevertheless the *de facto* authorities indicated that under certain conditions they would accept and respect the principle of the right of return. These were non-participation in the hostilities and becoming a citizen of South Ossetia.

According to the European Convention on Human Rights and its Protocols the right to return applies to all persons displaced, irrespective of their ethnicity or nationality. A free and informed choice must be the only criteria of significance. The right persists even when sovereignty over the territory is contested or has changed hands. The dispute about the future status of South Ossetia is therefore no justification for denying any displaced person the right to return.

The position expressed by the *de facto* authorities in South Ossetia contradicts the unconditioned right to return. It discriminates against the IDPs and puts them under a real danger of becoming stateless¹²⁴.

19. Livelihood opportunities for 2008 IDPs

The conflict over South Ossetia in August 2008 posed serious threat to the self sufficiency of people in the regions affected. The situation is more aggravated by the recent sharp increase in unemployment and financial shortage in Georgia caused by the world crisis.

The current policy tends to resettle 'new' IDPs in settlements located in economically underdeveloped rural areas, with low quality of housing, inadequate social infrastructure and sanitary conditions, local schools at a distance and the most important – little access to sustainable income generating and

¹²¹ Norwegian Refugee Council, Monitoring Visits to the IDP Resettlement Area, 19, January, 2009. Tbilisi

¹²² Public Defender of Georgia, Interim Report on the Results of the War between Russia and Georgia. September, 2008

¹²³ International Actions by Churches Together; Post Conflict Relief and Recovery Appeal; Geneva: November 2008

¹²⁴ Commissioner for Human Rights of the Council of Europe; Special Follow-Up Mission to the Areas Affected by the South Ossetia Conflict; December 2008

employment opportunities. Many of the new settlements are constructed under time pressure, and thus without proper planning and appropriate consideration of livelihoods, social infrastructure and essential services, therefore creating a risk that those settlements will become slum areas or will be deserted for urban settlements shortly.

Persons displaced as a result of August 2008 conflict face major problems as they were forcibly deprived of their property, agricultural tools and possibility of harvesting their crops. As the majority of displaced people did farming before their displacement, they mainly represent a homogeneous group which will probably fall into poverty if not re-involved in the agricultural activities. Some of the IDPs resettled in the newly built settlements were granted access to the land plots allocated in the outskirts of the settlements, however not all of the settlements were given the same opportunity. As outlined by the EC Commissioner for Human Rights very little farmland has been allotted for the IDPs who feel unable to support themselves¹²⁵. Nevertheless even for those with access to nearby land plots the problem still persists because they have no means to work the land¹²⁶. There were certain efforts to meet this need, for example in February 2009, plots of land were handed over to the 54 IDP families settled in the villages of Teliani, Kaspi district and according to MRA each family received about 3800 square meters outside their cottages with the provision of fuel and other articles necessary for cultivation¹²⁷.

According to the APLR the GoG has already transferred residential and arable land parcels to about 4 370 new IDP households. Although the parcels have been titled so far to only 880 households, the titling process is ongoing and aims to cover all land plots allocated to the population displaced as a result of conflict over South Ossetia in 2008.

IDPs living in collective centres also reported a high level of unemployment, despite their willingness to be involved in any income-generating activities. Lack of job opportunities in the surrounding area of CCs, jobs available mainly only for the local population, and difficulties in finding a job without influential personal contacts and recommendations were listed as the major employment problems by the collective centre residents in Tbilisi, Gori and Rustavi¹²⁸

The same concerns are shared by returnees since their work tools and harvest had been stolen or lost and they were unable to harvest. Irrigation water comes from the conflict zone and its supply is being interrupted for several villages which place additional difficulties on rural development. There are also threats posed by the security situation in the area as many arable fields are still affected by the UXOs and most of them will not be safe for agricultural purposes for a considerable period. Based on the monitoring of the returnee situation it was underlined by the EC Commissioner for Human Rights that the allocation of farmland along with the income –generating projects is a crucial element in restoring the self-reliance of returnees¹²⁹.

As declared by the MRA, state employees from the conflict zone villages of South Ossetia, formerly administered by Georgia, as well as Upper Abkhazia (Kodori gorge) have retained their jobs and are receiving salaries even for the months they were unable to perform their duties due to the hostilities. Nowadays they are working in the new IDP settlements. Reportedly only a few people affected by the conflict were working on reconstruction works, employed by private companies. The humanitarian assistance provided does not cover the affected population with cash to pay for communal services like electricity, gas supply and transportation. According to monitoring missions there were the cases when a collective centre and/or a village had its electricity cut off due to non-payment.

¹²⁵ *ibid*

¹²⁶ Norwegian refugee Council; Monitoring Visit to the IDP Resettlement Area, 19 January, 2009, Tbilisi

¹²⁷ Caucasus Press, Tbilisi, 13, February. 2009

¹²⁸ Interagency child protection assessment of collective centers for internally displaced persons; CHCA, IRC, NRC, SC, WV, Terre des Hommes; December 2008.

¹²⁹ *Ibid*, footnote 160

The monitoring exercise also revealed the problem of unpaid liabilities of the people affected by the conflict. Unemployment and lack of self-reliance mechanisms directly impacted their obligations with banks where they had taken out loans or house mortgages before hostilities broke out. The issues of *force majeure* and restructuring loans for displaced people, or granting them a grace period for payments were raised by the EC Commissioner¹³⁰. The problem might have even affected the property of the newly displaced persons allocated by the GoG. If given under IDP ownership a cottage/flat can be sequestered in return for unpaid liabilities by an IDP. Finding solutions to mitigate concerns of those who have lost their property and/or income and have no means to repay the banking loans was repeatedly underlined by the international community as well as local NGOs in Georgia.

To alleviate the urgent need of IDPs for complementary food, children food and winter clothing for children and adults, three sister UN agencies, UNHCR, UNICEF and WFP, launched a three-month joint program for people displaced during the August 2008 crisis in Georgia in early 2009 with support from European Commission Humanitarian Office (ECHO), USAID and other donor organizations, in collaboration with MRA and CRA. The program targets up to 30 000 new IDPs from South Ossetia and Upper Abkhazia, registered in the Civil Registry Agency of Georgia and provides them temporary cash assistance.

The livelihood standards in the returnee area in Abkhazia have also declined as the result of the August 2008 conflict, especially following the recognition of the independence of the two breakaway regions of Abkhazia and South Ossetia by the Russian Federation. The main obstacles were created by the restrictions on movement between western Georgia and Abkhazia. Significant intervention is needed to foster the development of coping mechanisms for the returnee population once access to the area is granted.

¹³⁰ Commissioner for Human Rights of the Council of Europe; Special Follow-up Mission to the Areas Affected by the South Ossetia Conflict; December 2008

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Annex I: UN Guiding Principles on Internal Displacement

Guiding Principles on Internal Displacement

Introduction - Scope and Purpose

1. These Guiding Principles address the specific needs of internally displaced persons world-wide. They identify rights and guarantees relevant to the protection of persons from forced displacement and to their protection and assistance during displacement as well as during return or resettlement and reintegration.

2. For the purposes of these Principles, internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.

3. These Principles reflect and are consistent with international human rights law and international humanitarian law. They provide guidance to: (a) The Representative of the Secretary-General on internally displaced persons in carrying out his mandate; (b) States when faced with the phenomenon of internal displacement; (c) All other authorities, groups and persons in their relations with internally displaced persons; and (d) intergovernmental and non-governmental organizations when addressing internal displacement.

4. These Guiding Principles should be disseminated and applied as widely as possible.

Section I. General Principles

Principle 1:

1. Internally displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced.

2. These Principles are without prejudice to individual criminal responsibility under international law, in particular relating to genocide, crimes against humanity and war crimes.

Principle 2:

1. These Principles shall be observed by all authorities, groups and persons irrespective of their legal status and applied without any adverse distinction. The observance of these Principles shall not affect the legal status of any authorities, groups or persons involved.

2. These Principles shall not be interpreted as restricting, modifying or impairing the provisions of any international human rights or international humanitarian law instrument or rights granted to persons under domestic law. In particular, these Principles are without prejudice to the right to seek and enjoy asylum in other countries.

Principle 3:

1. National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction.

2. Internally displaced persons have the right to request and to receive protection and humanitarian assistance from these authorities. They shall not be persecuted or punished for making such a request.

Principle 4:

1. These Principles shall be applied without discrimination of any kind, such as race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth, or on any other similar criteria.
2. Certain internally displaced persons, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.

Section II. Principles Relating to Protection From Displacement

Principle 5:

All authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons.

Principle 6:

1. Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.
2. The prohibition of arbitrary displacement includes displacement:
 - (a) When it is based on policies of apartheid, "ethnic cleansing" or similar practices aimed at/or resulting in altering the ethnic, religious or racial composition of the affected population;
 - (b) In situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand;
 - (c) In cases of large-scale development projects, which are not justified by compelling and overriding public interests;
 - (d) In cases of disasters, unless the safety and health of those affected requires their evacuation; and
 - (e) When it is used as a collective punishment.
3. Displacement shall last no longer than required by the circumstances.

Principle 7:

1. Prior to any decision requiring the displacement of persons, the authorities concerned shall ensure that all feasible alternatives are explored in order to avoid displacement altogether. Where no alternatives exist, all measures shall be taken to minimize displacement and its adverse effects.
2. The authorities undertaking such displacement shall ensure, to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated.
3. If displacement occurs in situations other than during the emergency stages of armed conflicts and disasters, the following guarantees shall be complied with:
 - (a) A specific decision shall be taken by a State authority empowered by law to order such measures;
 - (b) Adequate measures shall be taken to guarantee to those to be displaced full information on the reasons and procedures for their displacement and, where applicable, on compensation and relocation;
 - (c) The free and informed consent of those to be displaced shall be sought;
 - (d) The authorities concerned shall endeavor to involve those affected, particularly women, in the planning and management of their relocation;
 - (e) Law enforcement measures, where required, shall be carried out by competent legal authorities; and

(f) The right to an effective remedy, including the review of such decisions by appropriate judicial authorities, shall be respected.

Principle 8:

Displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected.

Principle 9:

States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.

Section III. Principles Relating to Protection During Displacement

Principle 10:

1. Every human being has the inherent right to life which shall be protected by law. No one shall be arbitrarily deprived of his or her life. Internally displaced persons shall be protected in particular against:

- (a) Genocide;
- (b) Murder;
- (c) Summary or arbitrary executions; and
- (d) Enforced disappearances, including abduction or unacknowledged detention, threatening or resulting in death.

Threats and incitement to commit any of the foregoing acts shall be prohibited.

2. Attacks or other acts of violence against internally displaced persons who do not or no longer participate in hostilities are prohibited in all circumstances. Internally displaced persons shall be protected, in particular, against:

- (a) Direct or indiscriminate attacks or other acts of violence, including the creation of areas wherein attacks on civilians are permitted;
- (b) Starvation as a method of combat;
- (c) Their use to shield military objectives from attack or to shield, favour or impede military operations;
- (d) Attacks against their camps or settlements; and
- (e) The use of anti-personnel landmines.

Principle 11:

1. Every human being has the right to dignity and physical, mental and moral integrity.

2. Internally displaced persons, whether or not their liberty has been restricted, shall be protected in particular against:

- (a) Rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault;
- (b) Slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation, or forced labor of children; and
- (c) Acts of violence intended to spread terror among internally displaced persons.

Threats and incitement to commit any of the foregoing acts shall be prohibited.

Principle 12:

1. Every human being has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.

2. To give effect to this right for internally displaced persons, they shall not be interned in or confined to a camp. If in exceptional circumstances such internment or confinement is absolutely necessary, it shall not last longer than required by the circumstances.

3. Internally displaced persons shall be protected from discriminatory arrest and detention

as a result of their displacement.

4. In no case shall internally displaced persons be taken hostage.

Principle 13:

1. In no circumstances shall displaced children be recruited nor be required or permitted to take part in hostilities.

2. Internally displaced persons shall be protected against discriminatory practices of recruitment into any armed forces or groups as a result of their displacement. In particular any cruel, inhuman or degrading practices that compel compliance or punish noncompliance with recruitment are prohibited in all circumstances.

Principle 14:

1. Every internally displaced person has the right to liberty of movement and freedom to choose his or her residence.

2. In particular, internally displaced persons have the right to move freely in and out of camps or other settlements.

Principle 15:

Internally displaced persons have:

(a) The right to seek safety in another part of the country;

(b) The right to leave their country;

(c) The right to seek asylum in another country; and

(d) The right to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk.

Principle 16:

1. All internally displaced persons have the right to know the fate and whereabouts of missing relatives.

2. The authorities concerned shall endeavor to establish the fate and whereabouts of internally displaced persons reported missing, and co-operate with relevant international organizations engaged in this task. They shall inform the next of kin on the progress of the investigation and notify them of any result.

3. The authorities concerned shall endeavor to collect and identify the mortal remains of those deceased, prevent their despoliation or mutilation, and facilitate the return of those remains to the next of kin or dispose of them respectfully.

4. Grave sites of internally displaced persons should be protected and respected in all circumstances. Internally displaced persons should have the right of access to the grave sites of their deceased relatives.

Principle 17:

1. Every human being has the right to respect of his or her family life.

2. To give effect to this right for internally displaced persons, family members who wish to remain together shall be allowed to do so.

3. Families which are separated by displacement should be reunited as quickly as possible. All appropriate steps shall be taken to expedite the reunion of such families, particularly when children are involved. The responsible authorities shall facilitate inquiries made by family members and encourage and co-operate with the work of humanitarian organizations engaged in the task of family reunification.

4. Members of internally displaced families whose personal liberty has been restricted by internment or confinement in camps shall have the right to remain together.

Principle 18:

1. All internally displaced persons have the right to an adequate standard of living.
2. At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to:
 - (a) Essential food and potable water;
 - (b) Basic shelter and housing;
 - (c) Appropriate clothing; and
 - (d) Essential medical services and sanitation.
3. Special efforts should be made to ensure the full participation of women in the planning and distribution of these basic supplies.

Principle 19:

1. All wounded and sick internally displaced persons as well as those with disabilities shall receive to the fullest extent practicable and with the least possible delay, the medical care and attention they require, without distinction on any grounds other than medical ones. When necessary, internally displaced persons shall have access to psychological and social services.
2. Special attention should be paid to the health needs of women, including access to female health care providers and services, such as reproductive health care, as well as appropriate counselling for survivors of sexual and other abuses.
3. Special attention should also be given to the prevention of contagious and infectious diseases, including AIDS, among internally displaced persons.

Principle 20:

1. Every human being has the right to recognition everywhere as a person before the law.
2. To give effect to this right for internally displaced persons, the authorities concerned shall issue to them all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions, such as requiring the return to one's area of habitual residence in order to obtain these or other required documents.
3. Women and men shall have equal rights to obtain such necessary documents and shall have the right to have such documentation issued in their own names.

Principle 21:

1. No one shall be arbitrarily deprived of property and possessions.
2. The property and possessions of internally displaced persons shall in all circumstances be protected, in particular, against the following acts:
 - (a) Pillage;
 - (b) Direct or indiscriminate attacks or other acts of violence;
 - (c) Being used to shield military operations or objectives;
 - (d) Being made the object of reprisal; and
 - (e) Being destroyed or appropriated as a form of collective punishment.
3. Property and possessions left behind by internally displaced persons should be protected against destruction and arbitrary and illegal appropriation, occupation or use.

Principle 22:

1. Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of the following rights:

- (a) The rights to freedom of thought, conscience, religion or belief, opinion and expression;
- (b) The right to seek freely opportunities for employment and to participate in economic activities;
- (c) The right to associate freely and participate equally in community affairs;
- (d) The right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right; and
- (e) The right to communicate in a language they understand.

Principle 23:

- 1. Every human being has the right to education.
- 2. To give effect to this right for internally displaced persons, the authorities concerned shall ensure that such persons, in particular displaced children, receive education which shall be free and compulsory at the primary level. Education should respect their cultural identity, language and religion.
- 3. Special efforts should be made to ensure the full and equal participation of women and girls in educational programmes.
- 4. Education and training facilities shall be made available to internally displaced persons, in particular adolescents and women, whether or not living in camps, as soon as conditions permit.

Section IV. Principles Relating to Humanitarian Assistance

Principle 24:

- 1. All humanitarian assistance shall be carried out in accordance with the principles of humanity and impartiality and without discrimination.
- 2. Humanitarian assistance to internally displaced persons shall not be diverted, in particular for political or military reasons.

Principle 25:

- 1. The primary duty and responsibility for providing humanitarian assistance to internally displaced persons lies with national authorities.
- 2. International humanitarian organizations and other appropriate actors have the right to offer their services in support of the internally displaced. Such an offer shall not be regarded as an unfriendly act or an interference in a State's internal affairs and shall be considered in good faith. Consent thereto shall not be arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance.
- 3. All authorities concerned shall grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to the internally displaced.

Principle 26:

Persons engaged in humanitarian assistance, their transport and supplies shall be respected and protected. They shall not be the object of attack or other acts of violence.

Principle 27:

1. International humanitarian organizations and other appropriate actors when providing assistance should give due regard to the protection needs and human rights of internally displaced persons and take appropriate measures in this regard. In so doing, these organizations and actors should respect relevant international standards and codes of conduct.
2. The preceding paragraph is without prejudice to the protection responsibilities of international organizations mandated for this purpose, whose services may be offered or requested by States.

Section V. Principles Relating to Return, Resettlement and Reintegration

Principle 28:

1. Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavor to facilitate the reintegration of returned or resettled internally displaced persons.
2. Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration.

Principle 29:

1. Internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced. They shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services.
2. Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.

Principle 30:

All authorities concerned shall grant and facilitate for international humanitarian organizations and other appropriate actors, in the exercise of their respective mandates, rapid and unimpeded access to internally displaced persons to assist in their return or resettlement and reintegration.

Annex II: List of relevant International Instruments to which Georgia is a party

Convention	Date of Accession
International Covenant on Economic, Social and Cultural Rights (1966)	3 August, 1994
International Covenant on Civil and Political Rights (1966) including its Optional Protocol (1966) and its Second Optional Protocol aimed at the abolition of the Death Penalty (1999)	3 August, 1994 3 August, 1994 22 June, 1999
Convention on the Rights of the Child (1990) including its Optional Protocol on the Rights of the Child on the involvement of children in armed conflict (2000) and its Optional Protocol on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000)	2 July 1994 No action 28 July, 2005
Geneva Conventions (1949)	14 September, 1993
Convention relating to the Status of Refugees (1951)	28 May, 1999
Protocol to the 1951 Convention relating to the Status of Refugees (1967)	28 May, 1999
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990)	No action
International Convention for the Protection of All Persons from Enforced Disappearance (2006)	No action
Convention on the Elimination of All forms of Discrimination against Women (1979) including its Optional Protocol (1999)	25 November, 1994 01 November, 2002
Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)	No action
Convention relating to the Status of Stateless Persons (1954)	No action
Convention on the Reduction of Statelessness (1961)	No action
Convention on the Prevention and the Punishment of the Crime of Genocide (1948)	11 October, 1993
International Convention on the Suppression and the Punishment of the Crime of Apartheid (1973)	21 March, 2005
Convention on the non-applicability of Statutory Limitations to War Crimes and Crimes against Humanity (1968)	31 March, 1995
International Convention on the Elimination of all forms of Racial Discrimination (1965)	2 June 1999
Convention against torture and other cruel, inhuman or degrading treatment or punishment (1984) including its Optional Protocol (1992)	25 November, 1994 8 July, 2005

In 1999 Georgia joined the Council of Europe and ratified the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). Georgia has also ratified Protocols No. 1, 4, 6, 7, 12, 13, and 14 to the ECHR and has recognized the jurisdiction of the European Court of Human Rights.