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REFUGEES AND ASYLUM SEEKERS FROM

Georgia

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1. Introduction

Georgia is located in the region known as the Transcaucasus that also comprises Armenia and Azerbaijan. Georgia stretches from its Western coastline along the Black Sea to the mountainous terrain in the East Caucasus. It shares borders with Turkey to the South West, the northern border with several of the Russian Federation's autonomous republics such as Dagestan, Chechnya and Ingushetiya as well as a frontier with Armenia and Azerbaijan to its South.¹ The Transcaucasus has been described as the literal and symbolic border between Europe and Asia. Its location has made the Transcaucasus an area of great ethnic, cultural and religious diversity.²

Due to the lack of official governmental monitoring of migration and emigration in the mid-1990s, no official data is available to trace the population movements in Georgia. The former USSR conducted the last official census in 1989. According to this census, the *de facto* resident population of Georgia in 1989 was 5,443,359. Its population is said to be composed of some 94 nationalities.³ At the time of the 1989 census, the population consisted of 437,211 Armenians (8.1%), 341,720 Russians (6.3%), 307,556 Azerbaijanis (5.7%), 164,055 Ossetians (3%); 100,342 Greeks (1.9%); 33,333 Kurds (0.6%) and 24,795 Jews (0.5%). Ethnic Georgians comprise about 70% (3.8 million) of the population. Included in the Georgian ethnic and national groups are a number of sub-groups such as the Ajars, Khevsur and Mingrelians.⁴

Although these groups were initially distinct ethnic groups, they have been absorbed into the Georgian ethnic groups, speak Georgian and, with the exception of the Muslim Ajars, are predominantly Christian. In 1995, the population was estimated to number 5,368,700. Despite the lack of official data to document the fluctuation in the population, it is said to have declined from 5,447,300 in 1992 to 5,368,000 in 1996. Emigration is said to have markedly increased since 1989, contributing to a decline in population growth.⁵

Georgia formed part of the former Soviet Union from 1921 to 1971. The Soviet Union was composed of a mosaic of intermingled ethnic groups, and it is in the Caucasus that ethnicity has proven most disruptive.⁶ Since the late 1980s, the Caucasus region has experienced a volatile instability, resulting *inter alia* in a sizeable population flow and over one million internally displaced persons.⁷ Georgia has also encountered mass population movements due to internal instability and conflict with its secessionist republics of Abkhazia and South Ossetia.

¹ Eastern Europe and the Commonwealth of Independent States, A Political and Economic Survey, Europa Publications 1999

² Minority Rights Groups International, The World Directory of Minorities 1997

³ United Nations, International Human Rights Instruments, HRI/CORE/1/Add.90, 2 February 1998

⁴ Ethnic Groups Worldwide, Levinson 1998

⁵ *ibid.*

⁶ Displacement in the CIS, UNHCR Publications for the CIS Conference, May 1996, *Refworld* January 1999

⁷ Deng, F., Cohen, R., The Forsaken People, 1998

Under Soviet rule, ‘nationality’ (*nasional’nost*) was separated from the concept of ‘citizenship’,⁸ thereby enabling the multitude of ethnic minorities in the USSR to retain their national identity as well as their political status as Soviet citizen.⁹ However, once states began to secede from the former USSR, conflict arose from opposing claims to sovereignty on the basis of titular nationalism.¹⁰

The incursion of Soviet troops into Georgia in February 1921 led to its incorporation into the USSR and the process of ‘sovietization’. From 1922, Georgia was party to the Soviet Transcaucasian federation and in 1936 became a separate full union republic.¹¹ The Soviet period thereafter was “marked by mass repression during the 1930s and later years”.¹² The rule of Stalin from 1924 to 1953 was characterised by a rigid ideological conformity and terror that led to the killing of almost the entire pre-revolutionary elite in Georgia.¹³

Throughout the era of the USSR, attempts to assert Georgian national sentiments were repressed by the authorities. Changes occurred when in 1985, Mikhail Gorbachev was appointed General Secretary of the Communist Party of the Soviet Union. The new political signals that followed based on *glasnost* (openness) and *perestroika* (restructuring) led to the formation and mobilisation of nationalist groups in Georgia.¹⁴

On 9 April 1989, a peaceful demonstration for the independence of Georgia was crushed by Soviet troops in Tbilisi, the capital of Georgia, resulting in 19 dead.¹⁵ The event left a bitter memory for the Georgians and the Soviet Union was discredited. In November 1989, the Supreme Soviet of Georgia declared the supremacy of Georgian law over all Union (USSR) laws and abolished the article in the Georgian constitution that had hitherto safeguarded the monopoly of the Georgian Communist Party over Georgia.

In October 1990, multi-party elections to the Supreme Soviet of Georgia were held. The Round Table-Free Georgia bloc, a coalition of pro-independence parties, was victorious over the Communist Party of Georgia (CPG). On 14 November 1990, Zviad Gamsakhurdia, a former dissident and a leading figure in the independence movement, was elected as the chairman of the newly elected Supreme Soviet of Georgia or the head of state.¹⁶

The state was subsequently renamed the Republic of Georgia. Gamsakhurdia’s political strategy was anti-communist and nationalistic. The latter to such an extent that he became known for having created the slogan ‘Georgia for Georgians’.¹⁷ The slogan articulated the discrimination against minorities that formed a vital component of his

⁸ Minority Rights Group International, *The World Directory of Minorities 1997*

⁹ Nodia, G., *Contested Borders in the Caucasus, 1996*

¹⁰ Greene, T., *Refugee Policy Group, October 1995*

¹¹ Economist Intelligence Unit (EIU), *Country Profile 1998-99, Georgia*

¹² United Nations, *International Human Rights Instruments, HRI/CORE/1/Add.90, 2 February 1998*

¹³ Eastern Europe and the Commonwealth of Independent States, *A Political and Economic Survey, Europa Publications 1999*

¹⁴ *Ibid*; EIU, *Country Profile 1998-99, Georgia*

¹⁵ United Nations, *International Human Rights Instruments, HRI/CORE/1/Add.90, 2 February 1998*

¹⁶ Eastern Europe and the Commonwealth of Independent States, *A Political and Economic Survey, Europa Publications 1999*

¹⁷ Tchiaberashvili, Zurab, *Tunnel Vision, 8 September 1999, [Internet]*

political agenda and in the entanglement in the conflicts that broke out with the secessionist republics of South Ossetia and Abkhazia in 1990 and 1992 respectively.¹⁸

On 31 March 1991, a referendum was held to determine the population's will towards independence. The result was overwhelmingly in favour of independence. The referendum was held throughout the country including the autonomous areas of Abkhazia and South Ossetia and confirmed "Georgia is an independent, unitary and indivisible State"¹⁹. The declaration of independence was further consolidated with the approval of the Georgian Supreme Soviet through: the Restoration of State Independence of Georgia Act of 9 April 1991.²⁰ Georgia was the first republic formally to secede from the USSR. Gamsakhurdia was formally elected President of Georgia in the elections held in May 1991.²¹

The armed conflicts with the autonomous regions of Abkhazia and South Ossetia, the continuing economic turmoil and international isolation, however, in January 1992, led to the downfall of President Gamsakhurdia. His stringent policies on the secessionist regions aggravated, rather than reduced tensions between Georgia and these republics. His autocratic rule, which led to the concentration of power in his own hands, proved unpopular and veritable national support was never obtained. Subsequent to months of civil unrest, demonstrations demanding his resignation, fighting broke out in Tbilisi in December 1991 between supporters and opponents of President Gamsakhurdia.²²

On 2 January 1992, a coalition of opponents and former supporters overthrew President Gamsakhurdia from power. He fled to Chechnya, from where he and his supporters also known as 'Zviadists' attempted to wage a guerrilla war against the Government in Tbilisi. In December 1993, Zviad Gamsakhurdia reportedly committed suicide when cornered by Government troops in West Georgia.²³

2. Overview of the Political Developments in the 1990s

Subsequent to the removal of President Gamsakhurdia from office, Eduard Shevardnadze returned to Georgia and was appointed chairman of the newly created State Council in March 1992.²⁴ Mr. Shevardnadze was former First Secretary of the Central Committee of the Georgian Communist Party and USSR Foreign Minister under President Mikhail Gorbachev.

The State Council replaced the former Military Council and had 50 members from various political factions which Eduard Shevardnadze succeeded in reconciling as well as obtaining the loyalty of the leaders of the two main military bodies, the National

¹⁸ Nodia, G., *Contested Borders in the Caucasus*, 1996; United Nations, *International Human Rights Instruments*, HRI/CORE/1/Add.90, 2 February 1998

¹⁹ United Nations, *International Human Rights Instruments*, HRI/CORE/1/Add.90, 2 February 1998

²⁰ *ibid.*

²¹ *Eastern Europe and the Commonwealth of Independent States, A Political and Economic Survey*, Europa Publications 1999

²² *ibid.*

²³ EIU, *Country Profile 1998-99, Georgia*

²⁴ *The Europa World Year Book 1999*

Guard and the paramilitary group *Mkhedrioni*.²⁵ The support of the National Guard and the *Mkhedrioni* was important in the suppression of the allies of deposed President Gamsakhurdia who still held strongholds in the western part of the country.²⁶ In February 1994, the *Mkhedrioni* group was transformed into a “Rescue Corps”, as part of the continuing process of creating a unified army. However, following an assassination attempt in August 1995 of Mr. Shevardnadze, the complete dissolution of the “Rescue Corps” was announced as members were charged with complicity in the act.²⁷

The Supreme Council, the main legislative body of Georgia with 235 seats, held its first elections in October 1992 in which the centrist Peace bloc comprising mainly former communists and intellectuals won the largest number of seats. Simultaneously, the direct election of the Supreme Council’s chairman - effectively a presidential role - was conducted. Eduard Shevardnadze, the sole candidate, obtained the legitimate popular mandate that he had hitherto lacked as he won 95% of the total vote.²⁸ International monitors from ten countries reported that, with minor exceptions, the balloting had been freely and fairly conducted. However, interethnic tensions and the anti-election actions of Gamsakhurdia’s supporters led to cancellation of the voting in nine of the 84 administrative districts, located in the contested areas of Abkhazia and South Ossetia as well as in western Georgia.²⁹

In 1994, Eduard Shevardnadze created his own political party, the Citizens’ Union of Georgia (CUG). The CUG, formed from several existing parties, became the political base from which Mr. Shevardnadze could draw support. However, there have been several assassination attempts on his life in 1992, 1995 and again in 1998.³⁰

The Parliamentary Elections in 1995 and Local Elections in 1998

In the 1995 constitution, a five per cent threshold was introduced for parties to be represented in Parliament.³¹ Even more parties registered prior to the elections than previously. A total of 53 parties stood in the 1995 elections.³² One interpretation of the effect of the five per cent threshold was that it diluted the percentage that each party could gain and consequently, the three main parties that did gain parliamentary representation only represented 30% of the vote.³³ Moreover, the failure of parties to effectively form a coalition has often prevented them from gaining a seat in Parliament.³⁴ Nevertheless, it was noticeable that in contrast to previous parliamentary elections, many parties overcame the five per cent barrier in the 1995 elections.³⁵

²⁵ Eastern Europe and the Commonwealth of Independent States, A Political and Economic Survey, Europa Publications 1999

²⁶ The Europa World Year Book 1999

²⁷ Eastern Europe and the Commonwealth of Independent States, A Political and Economic Survey, Europa Publications 1999

²⁸ The Europa World Year Book 1999

²⁹ Serafin, M., Georgia. The Elections of 1992, March 1994 [Internet]

³⁰ EIU, Country Profile 1998-1999, Georgia

³¹ Nations in Transit: Georgia, Freedom House, [Internet]

³² Home page of the Georgian Parliament, [Internet]

³³ Slider, D., Caspian Crossroads magazine, vol. 1, issue no. 4, 1996, [Internet]

³⁴ *ibid.*

³⁵ EIU Country Profile 1998-99, Georgia

Although ten parties are since then represented in parliament, only three parties obtained the necessary votes in the 1995 elections to constitute a significant influence in Parliament. Georgian politics is thus dominated by the following three parties:

- The Union for Citizens of Georgia, the political foundation for President Shevardnadze.
- The National Democratic Party which in May 1996 split into the "NDP-National Democratic Party" led by Irina Sarishvili-Chanturia and the "Popular Party" led by Mamuka Giorgadze; and
- The Union for All-Georgian Revival, chaired by Aslan Abashidze, leader of the region Adjara in Georgia

Local elections were held on 15 November 1998, in which the Union of Citizens of Georgia won a majority in Tbilisi and most other town councils. About one third of the population participated in the polls. Elections were not held in Abkhazia or in South Ossetia, thereby reinforcing their distance from Tbilisi's jurisdiction and its institutions.³⁶

The Labour Party, the People's Party, and the Traditionalist Party fared well in the elections. The ultra-left and right wing parties did not perform well in the poll.

In Abkhazia too, elections were held to its 35-member parliament in Sukhumi on 23 November 1995. Georgia condemned this action and set up a Government-in-exile including Georgian representatives elected by refugees from Abkhazia during the local elections in November 1995.³⁷

Elections to the South Ossetian presidency in Tkshinvali were held on 10 November 1996. Ludvig Chibirov became president to the Supreme Soviet of South Ossetia. Although Georgia protested against these elections, the issue was not considered as controversial as that in Abkhazia by the Georgian authorities. In May 1999, elections were again held for its 29-member parliament. However, the Government of Georgia seemed unperturbed by the event, as it was not recognised internationally.³⁸

Political Developments in 1999

The main concerns of the Georgian authorities in 1999 were linked to the still unresolved disputes between Tbilisi and the three autonomous regions of Abkhazia, South Ossetia and Adjara.

The political distance between Abkhazia and Tbilisi was emphasised on 3 October 1999 when Abkhazia held a presidential election as well as a referendum on the independence of Abkhazia.³⁹ The sole candidate for the presidency was the leader of the Abkhaz

³⁶ Berdzenshvili, D., Radio Free Europe/Radio Liberty (RFE/RL), 4 December 1998, [Internet]

³⁷ Fuller, L., Radio Free Europe/Radio Liberty, 4 January 1999, [Internet]

³⁸ EIU Country Report 2nd quarter Georgia

³⁹ EIU Country Report 3rd quarter 1999

Government, Vladismir Ardzinba. Mr. Ardzinba gained 99 per cent of the vote and the referendum results showed 97 per cent in favour of independence. The United Nations Security Council had already passed a resolution on 30 July 1999 calling any Abkhazian vote invalid. It considered “unacceptable and illegitimate the holding of self-styled elections in Abkhazia, Georgia”.⁴⁰ A senior Georgian presidential official, Levan Aleksidze remarked that a referendum in an area in which 80 per cent of the population had been expelled would be a “flagrant violation of international law”.⁴¹

The complexity and unresolved nature of the Abkhaz conflict became apparent in the recent hostage crisis in the region. On 13 October 1999, seven United Nations workers were seized by a group of unidentified gunmen about 45 miles from the capital of Abkhazia, Sukhumi. Four of those kidnapped were released two days afterwards.⁴² Officials in Abkhazia blamed the kidnapping on members of a minority group hostile to the separatist Government. According to the BBC, the Russian news agency Interfax accused “Georgian terrorists” for the hostage crisis.⁴³ A similar hostage crisis took place in July 1999 when a group of 17 high ranking officials including Georgia’s health minister was taken hostage by an unknown armed group while visiting Abkhazia. The hostages were released after talks between the kidnappers and an envoy of President Shevardnadze.⁴⁴

While relations between Tbilisi and South Ossetia were broadly good in comparison to those with Abkhazia, the fundamental question of the status of South Ossetia remains unresolved. Tbilisi argued for the creation of a federation of states including South Ossetia, but the South Ossetian Parliament continued to favour the creation of an independent republic within the CIS. The amount of illegal goods entering Georgia through the border of South Ossetia-Russia proved to be an element which has to be resolved if the respective authorities are to continue to improve relations.⁴⁵

Good relations between Adjara and Tbilisi continued in 1999. However, political tensions continued due to Adjara’s control over the crossborder trade with Turkey, thus preventing revenue from leaving the region to the central state purse in Tbilisi. Another sensitive issue was the nomination in September 1999 of the Adjara leader Aslan Abashidze by the main opposition bloc to stand for presidential elections in the year 2000.⁴⁶

According to the Economist Intelligence Unit, three main groups are likely to compete in the parliamentary elections to take place on 31 October 1999:

i) The centrist coalition in favour of President Shevardnadze under the umbrella of the Union of Citizens of Georgia;

⁴⁰ United Nations Security Council, S/RES/1255, 30 July 1999; Associated Press, 4 October 1999, Georgian region elects President, [Internet]

⁴¹ BBC News, 31 August 1999, Georgia condemns Abkhaz referendum, [Internet]

⁴² BBC News 13 October 1999, UN observers abducted in Abkhazia; BBC News 15 October 1999, Four UN hostages released, [Internet]

⁴³ BBC News 13 October 1999, UN observers abducted in Abkhazia, [Internet]

⁴⁴ BBC News, 17 abducted in Abkhazia; Abkhazia hostages released, 9 July 1999, [Internet]

⁴⁵ Eastern Europe and CIS 1999, p. 381; EIU Country Report Georgia 3rd quarter 1999, [Internet]

⁴⁶ BBC News, 24 September 1999, Georgia opposition names presidential candidate, [Internet]

ii) The mainly left-of-centre alliance of parties supports the Adjara leader Aslan Abashidze of the Union of Democratic Revival. This alliance is also known as the Batumi alliance; and

iii) The right-of-centre alliance between the National Democratic Party and the Republican Party which is calling itself the “Third Way”.⁴⁷

The Georgian news agency Iprinda reported in September 1999 that 50 political parties and electoral blocs are registered with the Central Electoral Commission to stand for parliamentary elections.⁴⁸ Although the prospects for President Shevardnadze’s party Citizens Union of Georgia seem fairly positive, the formal alliances between opposition parties could gain a balance of power in the new Parliament thereby changing Georgia’s pro-western orientation and pursuit of market reforms. The economic difficulties with unpaid pensions and state wages and lack of energy supply add to the chances of the opposition alliances.⁴⁹ Many Georgians lack heat and electricity in winter and the living standards have plunged during the 1990s.⁵⁰

According to at least one source, the Batumi alliance is likely to perform well in the parliamentary elections, which will boost Adjara leader Aslan Abashidze’s chances in the forthcoming presidential elections in April 2000.⁵¹

Parliament amended the constitution in July 1999 revising the rules governing the forthcoming parliamentary elections. The revision stated that for a party to gain seats in the new Parliament through proportional representation (150 of the 235 seats), it must secure 7 per cent of the vote. The wanted effect is to force Georgia’s 90 political parties into alliances if they are to achieve the new threshold of 7 per cent.⁵²

Developments in the relations with Russia

The recent outbreak of Russian air attacks and the ground offensive in Chechnya has had serious implications for the relations between Russia and Georgia. Weapons have reportedly been smuggled into Chechnya from Georgia allegedly by Kistin Chechens, an ethnic minority in Georgia who live in the north of the country. Consequently, Russia last month lifted its blockade on the separatist region of Abkhazia. According to the Oxford Analytica Daily Brief, this will further incorporate the breakaway republic into the Russian economic and social sphere of influence.⁵³ Georgia’s relations with Chechnya have been aggravated by the Chechen role in the Abkhazia conflict, and kidnappings of ethnic Georgians even though a rapprochement between Georgia and Chechnya had been underway since the end of the last Chechen war with Russia from 1994-1996. The relations between Georgia and Chechnya had deteriorated since the

⁴⁷ EIU Country Report 3rd quarter 1999; Oxford Analytica, East Europe Daily Brief, 6 October 1999

⁴⁸ Soros Foundation, List of Georgia’s political parties, electoral blocs to stand in elections, 9 September 1999, [Internet]

⁴⁹ EIU Country Report 2nd quarter 1999

⁵⁰ Oxford Analytica, East Europe Daily Brief, 6 October 1999

⁵¹ *ibid.*

⁵² EIU Country Report, 3rd quarter 1999, [Internet]

⁵³ Oxford Analytica Daily Brief, 5 October 1999

conflict with Abkhazia in which Chechens fought on the Abkhaz side against the Georgian armed forces.⁵⁴

The Main Political Parties in Georgia

The Citizens Union of Georgia (CUG) was established in 1994 at the initiative of Eduard Shevardnadze, and serves as his political base. Its character resembles more a 'broad movement' rather than a western style political party.⁵⁵ The party is currently headed by Mikheil Saakashvili who was elected as chairperson in mid-August 1998.⁵⁶

The CUG leadership is composed of an amalgamation of intellectuals from the Georgian Green Party of the communist era with ties to Eduard Shevardnadze as well as his close political allies. Its majority in Government (107 seats in the 1995 election) has given Eduard Shevardnadze great influence and power over the political institutions.⁵⁷

The National Democratic Party (NDP), reportedly the most influential opposition party, draws its heritage from the National Democratic Party that existed during Georgia's independence from 1918-21. It was re-established in 1981 by Giorgi Chanturia, a national movement leader who was assassinated in late 1994.⁵⁸ His widow, Irina Sarishvili Chanturia, now leads the Party.⁵⁹ Although the party initially may have supported Eduard Shevardnadze, it withdrew due to his collaboration with Russia and the Commonwealth of Independent States in order to gain a stronghold on Abkhazia and South Ossetia.⁶⁰

It regularly argues with the Government of Eduard Shevardnadze for his failure to combat corruption; the lack of any resolution in the Abkhazia conflict and advocates the withdrawal of Russian troops from Georgia.⁶¹ According to the Georgian Times it has managed to retain a positive image amongst the electorate and influential elements in Georgian society.⁶²

The Sakhalkho Party (People's Party) is a right wing party, whose support is concentrated in regions of their leaders, in Guria (Mamuka Giorgaze) and in Imereti (Vano Khukhunaishvili). It supports the configuration of the state by regions and the establishment of two autonomous republics.⁶³ It split from the National Democratic Party in 1996.⁶⁴

The Union for Democratic Revival is currently the second-largest faction in the Georgian parliament; this party represents the policies of Aslan Abashidze, the leader of

⁵⁴ *ibid.*, Caucasus Report, vol. 2 no. 40, 7 October 1999

⁵⁵ EIU Country Profile 1998-99 Georgia

⁵⁶ Home page of the Georgian Parliament, [Internet]; Fuller, L., Radio Free Europe/Radio Liberty, 3 September 1998, [Internet]

⁵⁷ Slider, D., Caspian Crossroads magazine, vol. 1, issue no. 4, 1996

⁵⁸ *ibid.*

⁵⁹ The Georgian Times, 16 September 1999, [Internet]

⁶⁰ Slider, D., Caspian Crossroads magazine, vol. 1, issue no. 4, 1996

⁶¹ EIU Country Profile 1998-99 Georgia

⁶² The Georgian Times, 16 September 1999, [Internet]

⁶³ *ibid.*

⁶⁴ Fuller, L., Caucasus Report, Radio Free Europe/Radio Liberty, 22 July 1999, [Internet]

Adjara. Aslan Abashidze has avoided direct confrontation with the Georgian President, Eduard Shevardnaze. He has nevertheless sought to gain greater influence by pursuing his own bilateral relations with Russia and Turkey.⁶⁵ In light of the imminent presidential elections in the year 2000, Mr Abashidze is considered as the main challenger to President Shevardnaze. However, he refuses to leave Bakumi, the capital of Adzharia and is thus impeded from launching a nation-wide campaign. In the wake of the parliamentary elections, the Labour party and the Socialists are reported to be moving towards a coalition with the Union of Democratic Revival.⁶⁶

The Union of Georgian Traditionalists (UGT) is a nationalist party founded in 1942. It survived as an underground movement throughout the regime of the former USSR until it was formally re-established in 1990. Akaki Asatiani, a one-time chairman of the Supreme Council under President Gamsakhurdia, is its leader. He is recognised as heading the right-wing opposition movement in Government. The party's programme is characterised by the slogan 'Georgia First' and has a membership of several thousands although precise figures are not available. It occupies only four seats in Parliament, but the UGT's real power lies outside of the Parliament.⁶⁷

The Christian Democratic Party (CDU) was founded on 17 December 1998. One of its founders is Temus Basila, economic advisor to President Eduard Shevardnaze; another founder is Irakli Batiashvili, a parliamentary deputy and former head of the Georgian National Security Service; a third founder is Girogi Baramidze, a known philosopher. The founders intended this party to be more of a social movement than a political force, with notions such as 'patriotism, religious faith and the principles of democracy and a free economy' as its basic tenets.⁶⁸

Paramilitary Groups in Georgia

Most of the armed forces in Georgia were recruited from former independent militia and guerrilla groups, whose allegiance is foremost to their paramilitary leader rather than to the Government in Tbilisi.⁶⁹ The history of these paramilitary organisations has been characterised by their unwillingness to be integrated and subordinated to Government structures, thereby creating instability within the power structure of the leadership of Georgia.

Between 1991 and 1993, Georgia was devoid of a military force under a unified command. Its core forces consisted of the National Guard, led by Tengiz Kitovani and the *Mkhedrioni* ("Horsemen") led by Dzhaba Ioselini. They were eventually to yield a powerful influence over the development of the political disputes in Georgia.

These groups filled a void in the period of factional in-fighting and political havoc in the early 1990s. The Georgian independence leader, Zviad Gamsakhurdia incorporated these groups into his Government when elected in 1991. However, he was unable to consolidate these forces under his control, which essentially remained independent. In

⁶⁵ *ibid.*

⁶⁶ EIU Country Report 2nd quarter 1999 Georgia

⁶⁷ The Georgian Times, 16 September 1999, [Internet]

⁶⁸ Fuller, L., Radio Free Europe/Radio Liberty, 4 January 1999, [Internet]

⁶⁹ Feinberg, J., The Armed Forces in Georgia, Center for Defense Information, March 1999

1992, Dzhaba Ioseliani proceeded to prepare for an armed insurrection against President Gamsakhurdia, with the collaboration of other groups such as the National Guard.⁷⁰ In January 1992, they succeeded in ousting President Gamsakhurdia from office. Subsequently, a 'Georgian State Council' was established in a 'triumvirate form,' with Kitovani as Defence Minister, Ioseliani as Deputy President and Eduard Shevardnadze as President.

The two paramilitary forces, the Mkhedrioni and the National Guard, became responsible for fighting the secessionist movements in Georgia in Abkhazia and South Ossetia. However, they were also known for their underground activities in "crime, looting and racketeering".⁷¹

In attempts to 'professionalise' the Georgian armed forces as well as consolidate his power, President Shevardnadze tried to unify these groups under a unified command structure, thereby decreasing the power of these paramilitary groups. However, despite these initiatives, they remain autonomous and beyond the control of the Government in Tbilisi.

He dissolved the Georgian Council for National Security and Defence in May 1993, of which Kitovani and Ioselini were both members. In the same year, Kitovani was forced to resign as Defence Minister.⁷²

By 1995, the Georgian Government had finally managed to unify these groups under one single command. In 1996, the Mkhedrioni disbanded and the National Guard was incorporated into the Georgian Ministry of Defence. Both Ioseliani and Kitovani are serving prison sentences in 1999 for the assassination attempt on President Shevardnadze in 1995. There still remain, however, a few militia groups who operate outside Georgian Government control in 1999. The White Legion and Forest Brothers militia groups are reportedly still active in and around the region of Abkhazia. These groups provide security to ethnic Georgians returning to the area and are armed with light weapons.⁷³

The Mkhedrioni "Horsemen" paramilitary group

This group, which numbers approximately 5,000, was originally called upon to aid the conflict with Georgian separatist movements. It originally emanated from an illegal armed formation with connections to the Communist nomenclature.⁷⁴ In the early 1990s, it developed into a powerful force within Georgian politics, accountable only to their leader and founder Dzhaba Ioseliani. He already had a criminal record marked by a 17-year sentence for Leningrad's biggest bank robbery.⁷⁵ In February 1994, it was renamed as the 'Rescue Corps'.

⁷⁰ Encyclopaedia of Conflicts, Disputes and Flashpoints in Eastern Europe, Russia and the Successor States, Szajkowski, B. ed., 1993

⁷¹ EIU Country Profile Georgia 1998-99; British Helsinki Human Rights Group, Georgia 1992, [Internet]

⁷² *ibid.*

⁷³ Feinberg, J., The Armed Forces in Georgia, Center for Defense Information, March 1999

⁷⁴ *ibid.*

⁷⁵ Encyclopaedia of Conflicts, Disputes and Flashpoints in Eastern Europe, Russia and the Successor States, Szajkowski, B. ed., 1993

The group was notorious for a range of illicit activities, reportedly arming itself and financing themselves through clandestine activity. It was only after 1995 that President Shevardnadze agreed to legalise the arming of this group. However, he could not suppress the pillage and murder in the Samegrelo region, which is considered a base for Gamsakhurdia's supporters, that was allegedly accountable to the Mkhedrioni regime.⁷⁶ Its actions during the armed conflicts with Abkhazia and South Ossetia was at odds with its role as part of the Georgian military, thereby undermining the Georgian Government.⁷⁷ As a result, it became increasingly necessary to control these militias.

Relations between the *Mkhedrioni* and President Shevardnadze turned sour when the Mkhedrioni were implicated in his August 1995 assassination attempt. President Shevardnadze then sought to disband the group. In November 1998, the Supreme Court in Georgia sentenced Dzhaba Ioselini to 15 years imprisonment along with 14 other Mkhedrioni members.⁷⁸

The group is rumoured to still be active under the interim leadership of Jemal Shaishmelashvili while Ioselini serves his term of imprisonment. There are signs that the organisation still exists politically, although it may no longer be militarily active.⁷⁹ In the renewed clashes between Georgia and the secessionist region of Abkhazia in May 1998, there were reports that 100 Mkhedrioni fighters were sighted in the Gali district alongside other Georgian Guerilla movements.⁸⁰

The National Guard

The National Guard was initially established by the Georgian Supreme Soviet on 20 December 1990 to serve as the armed forces responsible for the national security of Georgia. Headed by Tengiz Kitovani, this new force was constituted mostly of former militiamen and guerrilla activists.

By mid-1991, several initiatives had been undertaken by Gamsakhurdia, in attempts to curb the growing autonomy and influence of the National Guard. These included the creation in early 1991 of an independent military unit, the Special Purpose Military Detachment (OMON), to act as a counterweight to the National Guard. When Gamsakhurdia subordinated the National Guard to this new entity in August 1991, Tengiz Kitovani openly defied the Georgian leader and withdrew the National Guard from Tbilisi.⁸¹

By December 1991, the National Guard was actively participating in the fight against Gamsakhurdia. Following the success in deposing Gamsakhurdia from office in January 1992, political control was re-established in Tbilisi in the form of a State Council led by

⁷⁶ Human Rights and Changing Authorities, internet:ww.steele.com; Feinberg, J., The Armed Forces in Georgia, Center for Defense Information, March 1999

⁷⁷ Dale, C., The Dynamics and Challenges of Ethnic Cleansing: The Georgia-Abkhazia Case, August 1997, *RefWorld*, January 1999

⁷⁸ *ibid.*; BBC News, 10 November 1998, [Internet]

⁷⁹ USIS Tbilisi, Recent Political Developments in Georgia, no. 10, 25 June 1998

⁸⁰ RFE/RL Newsline, 28 May 1998, [Internet]

⁸¹ Feinberg, J., The Armed Forces in Georgia, Center for Defense Information, March 1999

Tengez Kitovani, Dzhaba Ioselini and Eduard Shevardnadze. The National Guard was renamed the Rapid Reaction Force (RRF) in Shevardnadze's policy to unify and professionalise the armed militia. Despite these attempts, the RRF remained elusive of Government control.

However, the relationship between Eduard Shevardnadze and Tengez Kitovani was far from symbiotic. In 1993, Tengez Kitovani was openly criticising Eduard Shevardnadze, and rumours of a planned *coup d'état* attempt culminated in the end of his political career. Eduard Shevardnadze attempted to filter out Tengez Kitovani's influence in Government, dismissing him as Defence Minister as well as members loyal to him in the Ministry of Defence.

Kitovani returned to the Ministry of Defence as Defence Minister once more in late 1993 as the war with Abkhazia ensued. However, he was soon replaced by the Russian General, Vardiko Nadibaidze in 1994. In 1995, Kitovani ignored Tbilisi orders to respect the cease-fire agreement and mobilised his forces for an offensive on Abkhazia. However, they were disarmed by Government officials before being able to implement the operation. Kitovani was arrested for attempting to initiate a civil war and sentenced to eight years in prison in 1996.⁸²

The White Legion and Forest Brothers

The White Legion militias are considered to be active in Abkhazia since mid-1996. Its leader, Zurab Samushiya, was a former supporter of Zviad Gamsakhurdia. The leader of the Forest Brothers is Dato Shingle, a previous member of the Mkhedrioni. Both are composed mainly of volunteers from the Georgian IDP population. According to Abkhaz Military Reports, the White Legion consists of former members of the Sukhumi and Gali district militiamen.⁸³

These militia groups believe that use of force is the only means to facilitate the return of the displaced Georgians to Abkhazia and thereby maintain Georgia's territorial integrity. They target not only Abkhaz militia and authorities, but also the CIS peacekeeping force, whom they believe, is supporting the Abkhaz Government.⁸⁴

In May 1998, these groups also played a major part in the outbreak of violence in the Gali district of Abkhazia. A cease-fire agreement, known as the Guduata cease-fire, was signed on 28 May 1998, suggesting that the Georgian authorities exercised some authority over these forces. Although the Georgian Government denied that any military forces under the Georgian Ministry of Defence had been active in the conflict, it agreed to represent and negotiate on behalf of the White Legion and Forest Brother militia. The signing of the cease-fire agreement would reportedly not have been possible without some influence of the Georgian Government over these militia groups.⁸⁵

⁸² *ibid.*

⁸³ *ibid.*

⁸⁴ Caucasus Report, vol. 1 no. 8, 21 April 1998, RFE/RL, [Internet]

⁸⁵ Feinberg, J., The Armed Forces in Georgia, Center for Defense Information, March 1999

3. Current Concerns

The present debate about the situation in Georgia focuses on five areas of tension that can be identified as the main unsettled questions which currently confront the national authorities of Georgia.⁸⁶ They are:

- Abkhazia region
- South Ossetia region
- Adjara region
- Javakheti province
- The Meskhetian Turks

During the USSR era, the Republic of Georgia incorporated three autonomous republics, Adjara, Abkhazia and South Ossetia. As Georgia moved towards independence in 1991, its claims to territorial sovereignty came into direct conflict with contradicting declarations of independence by the Supreme Soviet of Abkhazia and South Ossetia.

Although Georgia did not succeed to overcome Abkhazia and South Ossetia in the armed conflicts, both regions failed to win *de jure* recognition and independence. Tension between Tbilisi and these regions thus continues to this day. The failure to reach a political compromise on the issue has stalled progress on the problem of mass displacement induced by the conflicts.⁸⁷

Abkhazia

A region located in the northwest of Georgia along the Black Sea coastline, Abkhazia is an autonomous republic within Georgia. The Abkhaz (Apswa) speak a distinct northwestern Caucasian language related to Circassian.⁸⁸

The historical and ethnic origins of the region are disputed.⁸⁹ In 1922, Abkhazia became a Union Republic and a signatory to the formation of the USSR. It drew up its own constitution in 1925 as an independent Union Republic and in 1931 was incorporated in the Transcaucasian Federation as a Soviet Socialist Republic, thereby enjoying the same juridical status as Georgia. When the federation was dissolved in 1936, rather than resuming its former status as a Union Republic, Abkhazia was demoted to an Autonomous Soviet Socialist Republic within Georgia. Josef Stalin also expanded the perimeters of Abkhazia to incorporate the region of Mingrelia, including its ethnic Georgian inhabitants, thereby increasing the number of Georgians in the republic.⁹⁰ During this period, the demographic balance shifted in favour of the Georgians, and

⁸⁶ EIU Country Reports and Country Profiles Georgia, BBC News, UNHCR, United States Department of State Amnesty International, Human Rights Watch (ref. bibliography)

⁸⁷ Displacement in the CIS, UNHCR Publications for the CIS Conference, May 1996, *RefWorld* January 1999

⁸⁸ Minority Rights Group International, *The World Directory of Minorities* 1997

⁸⁹ Cohen, J., Conference of the International Society of Humanitarian Intervention, London School of Economics and Political Science, 13 May 1995

⁹⁰ Greene, T., *The Forsaken People*, ed. Deng F., Cohen R. 1998

ethnic Abkhazians became a minority in the region. By 1989, Abkhazians accounted for less than 18% of the population.⁹¹

Even before the reforms introduced under President Michael Gorbachev of the Soviet Union in 1989, Abkhazia had sought to upgrade its administrative status in the USSR. In 1978, in response to Abkhaz protests, the Soviet authorities granted policies to increase the rights of the Abkhaz, such as provision of education in Abkhaz and a quota of Abkhaz nationals in administrative and political posts.⁹² Tensions between Sukhumi, the capital of Abkhazia, and Tbilisi thus remained.⁹³

In July 1992, the Abkhaz Supreme Soviet, with the support of other non-Georgian peoples of Abkhazia, re-instituted the 1925 Abkhaz constitution, under which Abkhazia had been a Union Republic, by a majority of 54%.⁹⁴ The act was annulled by the Government of Georgia and followed a few weeks later by the deployment of 3,000 Georgian troops ostensibly to secure transportation and communication lines. Whatever the intentions, Georgian and Abkhaz troops exchanged fire on 14 August 1992. The Abkhaz leader, Vladislav Ardzinba, subsequently declared the full mobilisation of troops and Georgian troops entered into Sukhumi.⁹⁵

By 1993, Georgian troops had succeeded in gaining control of Sukhumi as the local Government of Abkhazia fled north to the town of Gudauta. Despite a provisional peace agreement mediated by the Russian Federation, signed by both parties on 27 July 1993, peace and Georgian control was short lived. On 16 September 1993, hostilities broke out again as the Abkhaz troops launched a surprise attack on the Georgian military.⁹⁶ They then proceeded to take hold of Sukhumi and advanced towards the Georgian border along the Inguri River, displacing thousands of Georgians along the way.⁹⁷

Though the two political centres in Tbilisi and Sukhumi thus had engaged in full scale armed conflict, the Abkhaz side was reportedly aided by the loan of militiamen, including Chechen guerrillas and Russian militiamen. The failure of the authorities of the Russian Federation to prevent such reinforcements amplified Georgian suspicions of Russian complicity with the Abkhaz.⁹⁸ Russian support of the Abkhaz “served to transform the conflict into a protracted war”.⁹⁹ However, Russia’s experience in the conflict with Chechnya prompted it to focus more on the territorial integrity of Russia. Consequently, Russia began to advocate the rehabilitation of Georgian unity.¹⁰⁰ Whilst in 1992-3 Russia seemed to favour the secessionist republics such as Abkhazia and

⁹¹ Eastern Europe and the Commonwealth of Independent States, A Political and Economic Survey, Europa Publications 1999

⁹² Dale, C., The Dynamics and Challenges of Ethnic Cleansing: The Georgia-Abkhazia Case, August 1997, *RefWorld*, January 1999

⁹³ Minority Rights Group International, The World Directory of Minorities 1997

⁹⁴ Mooney, E., International Journal on Group Rights 1996, pp. 197-226

⁹⁵ Dale, C., The Dynamics and Challenges of Ethnic Cleansing: The Georgia-Abkhazia Case, August 1997, *RefWorld*, January 1999

⁹⁶ Greene, T., The Forsaken People, ed. Deng F., Cohen R. 1998

⁹⁷ Eastern Europe and the Commonwealth of Independent States, A Political and Economic Survey, Europa Publications 1999

⁹⁸ EIU Country Report 2nd quarter Georgia 1999

⁹⁹ Greene, T., The Forsaken People, ed. Deng F., Cohen R. 1998

¹⁰⁰ Network on Ethnological Monitoring and Early Warning of Conflict, Vol 2, No. 1, February 1995

South Ossetia, there was a shift towards support for President Shevardnadze, which has prompted the leadership of both secessionist regions to denounce Russian military and political rapprochement with Tbilisi.¹⁰¹

Displacement in Abkhazia during the war

During the two years of fighting from 1992 to 1994, around 350,000 of Abkhazia's original 540,000 inhabitants were displaced.¹⁰² Of those displaced, it is estimated that 300,000 were ethnic Georgians. As a result of the conflict, the ethnic composition of Abkhazia now leans in favour of the Abkhaz. By February 1995, ethnic Georgians who originally constituted 45% of the population were reduced to a minority of 5%. In contrast, the Abkhaz population now constituted 50% of Abkhazia. The remaining 45% comprised of Russians, Armenians and Greeks.¹⁰³

Both the resident Abkhaz and Georgian populations were affected by the war. Of the displaced, the Georgian population of Abkhazia was the most heavily affected. In towns that had relatively small Georgian populations, such as Verkhniaia Eshera, to the north of Sukhumi and Labra to its south, there has been a virtual depletion of ethnic Georgians. A number of Georgians did, however, remain in Abkhazia subsequent to the Georgia-Abkhazia conflict. Many of those that remained either sided with the Abkhazians or identified themselves with the Abkhaz or other nationalities.¹⁰⁴

Russian, Greek and Armenian residents in Abkhazia also suffered displacement as a result of the conflict. At the outbreak of hostilities, the Government of Greece arranged for the evacuation of the 15,000 strong Greek population in Abkhazia. Most of the Armenian inhabitants could trace their roots in the region back to the beginning of the twentieth century and had established strong ties with Russia. Thus, most fled to Russia, where many have remained beyond the end of the conflict. In the same vein, many Abkhaz Russians, despite being long term residents in Abkhazia, also fled to Russia where a great majority have stayed since.

In response to charges of ethnic cleansing in relation to the war, author Catherine Dale concludes that, "whatever the role ethnicity may have played in producing the conflict, it has become a primary category with which people on the ground narrate and comprehend the war's violence".¹⁰⁵ There have been charges from both sides of forced displacement. In March 1995, Human Rights Watch reported of 'gross intimidation by Georgian forces for the purposes of terrorising, robbing and driving the Abkhaz population out of their homes'.¹⁰⁶

By the end of 1992, the situation had reversed. Abkhaz fighters waged campaigns of terror against the Georgian residents, forcing them to flee their homes, which the Abkhaz subsequently occupied. According to the report of the United Nation Secretary-

¹⁰¹ Dravis, M., Radio Free Europe/Radio Liberty, 23 November 1995

¹⁰² UNHCR, Information Bulletin, July 1994, *RefWorld* January 1999

¹⁰³ Mooney, E., *International Journal on Group Rights* 1996, pp. 197-226

¹⁰⁴ Dale, C., *The Dynamics and Challenges of Ethnic Cleansing: The Georgia-Abkhazia Case*, August 1997, *RefWorld*, January 1999

¹⁰⁵ *ibid.*

¹⁰⁶ Human Rights Watch/Helsinki Newsletter March 1995

General's fact-finding mission to investigate alleged human rights violations in Georgia, "Civilians of all ethnic groups have been victims of human rights violations".¹⁰⁷

Transition towards peace

Both parties signed a cease-fire agreement in early December 1993. However, it was only on 14 May 1994 that the Governments of Georgia and Abkhazia signed a peace agreement in Moscow. The agreement sanctioned the deployment of 3,000 Russian peacekeeping troops along the Inguri River on the Georgian-Abkhazia border under the auspices of the CIS. President Shevardnadze recently extended their presence for another term.¹⁰⁸

On 24 August 1993, the UN Security Council under Resolution 858 dispatched a UN Observer Mission in Georgia (UNOMIG) to Abkhazia.¹⁰⁹ Though its role was to initially monitor the cease-fire agreement, its mandate has since evolved to promote a peace settlement in the region. Its presence there continues to this day as recommended in the last report of the Special Representative of the Secretary-General on the situation in Abkhazia.¹¹⁰

A Quadripartite agreement on Voluntary Return of Refugees and Displaced Persons was signed on 4 April 1994 under the auspices of the United Nations, the Russian Federation, UNHCR and the parties to the conflict. Under this agreement, the parties agreed to initiate the process of repatriation of IDPs by first concentrating on the resettlement of 100,000 IDPs of whom 80,000 were ethnic Georgians from Abkhazia to the Gali district along the eastern border of Georgia. The remaining 20,000 were Russians, Armenians and other ethnic groups who would return to other areas in Abkhazia. An estimated 25,000-35,000 Georgian IDPs have spontaneously returned to the Gali district since the end of 1997.¹¹¹

These agreements are perceived as tentative, however, due to the lack of a political solution. The two predominant issues that have paralysed a political solution are the political status of Abkhazia and the mechanisms for repatriation of the displaced Georgians.¹¹²

Local elections were held in Abkhazia on 14 March 1998 during which several people were killed and many more wounded in clashes between ethnic Abkhazians, who wanted the poll to go ahead, and ethnic Georgians, who opposed the vote.¹¹³ The United Nation Security Council released a statement declaring the vote "illegitimate" at the eve of the elections.

¹⁰⁷ United Nations, Security Council, S/26795/1993

¹⁰⁸ Oxford Analytica, East Europe Daily Brief, 31 August 1999

¹⁰⁹ United Nations, Security Council, S/1993/858, 24 August 1993

¹¹⁰ United Nations, Report of the Secretary-General concerning the Situation in Abkhazia, Georgia, S/1999/805, 20 July 1999

¹¹¹ Norwegian Refugee Council, IDP Global Survey, 15 January 1998

¹¹² *ibid.*

¹¹³ International Helsinki Federation for Human Rights, Annual Report on Georgia 1999

An outbreak of hostilities in May 1998 in Gali district of Abkhazia indicated that the situation remains fragile. In July 1998, the Security Council adopted a resolution condemning the resumption of hostilities and reiterating that the primary responsibility for achieving peace rests upon the parties themselves. The resolution also stated that the continued commitment of the international community to assist depends on the progress of the parties in consolidating peace in the region.¹¹⁴

According to the July 1999 report by the United Nation's Secretary-General's Special Representative for Georgia, Liviu Bota, the general situation in the conflict zone of Abkhazia remained calm but unstable.¹¹⁵

South Ossetia

South Ossetia is located in the northern region of Georgia and has a common border to its north with the Republic of North Ossetia of the Russian Federation. The capital of South Ossetia is Tskhinvali. The South Ossetians are an Indo-European people unrelated to other peoples settled in the Caucasus region.¹¹⁶ They speak a language derived from a northern Iranian people that can be traced back in the region to the fourth century.¹¹⁷ The region has been subjected to numerous border changes. Stalin had divided North Ossetia in the Russian Federation and the South Ossetian Autonomous Region into the Soviet Socialist Republic of Georgia.¹¹⁸ South Ossetia, which for the Georgians is known as the Tskhinvali region, was the first secessionist autonomous republic to challenge the Government of Georgia in 1989.¹¹⁹

As with Abkhazia, the leadership in Tskhinvali feared discrimination against the Ossetian language and culture by the Georgian authorities in the late 1980s. In 1989, tensions were heightened when the Georgian Supreme Soviet adopted a law to strengthen the position of the Georgian language. Violence erupted over the following three years, twice resulting in the intervention of Russian forces.¹²⁰

On 20 September 1990, the South Ossetian Supreme Soviet declared the region a sovereign republic within the USSR; a declaration that was repudiated by Georgia. On 11 December 1990, the Georgian Government under Zviad Gamsakhurdia abolished the region's autonomous status. Both of these contradictory acts were annulled by Soviet President Mikhail Gorbachev in January 1991. However, the conflict was far from resolved.

In December 1991, Georgian troops entered into South Ossetia and the South Ossetian Government responded by issuing a second declaration demanding reunification with the Republic of North Ossetia of the Russian Federation. The declaration was reinforced

¹¹⁴ United Nations, Security Council, S/RES/1187, 1998, 30 July 1998, *RefWorld* July 1999

¹¹⁵ United Nations, Report of the Secretary-General concerning the Situation in Abkhazia, Georgia, S/1999/805, 20 July 1999

¹¹⁶ Eastern Europe and the Commonwealth of Independent States, A Political and Economic Survey, Europa Publications 1999

¹¹⁷ Minority Rights Group International, *The World Directory of Minorities* 1997

¹¹⁸ *ibid.*

¹¹⁹ EIU Country Profile Georgia 1998-99

¹²⁰ Eastern Europe and the Commonwealth of Independent States, A Political and Economic Survey, Europa Publications 1999

by a referendum in support of the policy held in January 1992. Fighting broke out between the two sides, claiming up to 1,000 lives.¹²¹

Peace Agreement and the Prospects for a Political Solution

A cease-fire agreement was signed in June 1992. A Russian peacekeeping force has been deployed to monitor peace in the region. A peaceful resolution to the conflict may be possible as long as both sides agree to reach a political compromise. In May 1996, the two sides agreed to renounce violence and seek a political solution to their dispute.¹²²

However, as of 1998, the Government of Georgia has been unable to fulfil its commitments to the peace agreement due to economic and financial difficulties. Peace talks are anticipated to take place again in November 1999. The name of the region and its political status will be the main issues on the meeting's agenda. The leader of the *de facto* Government of South Ossetia, Lyudvig Chibiron, is aware that the legal status of South Ossetia can be settled only within the framework of the Georgian state, as the region is unlikely to win international recognition on its own. His strategy will reportedly be to negotiate political acquiescence in exchange for economic benefits. The *de facto* authorities of South Ossetia are reportedly prepared to hand over the illicit revenues from the unregistered crossborder trade with Russia if Tbilisi accepts South Ossetia as an autonomous republic with its own constitution and official language.¹²³

Adjaria (also spelled Adzharia)

Adjaria, located in the southwest, is the third major autonomous region in Georgia. The Adjaria dispute with the central Government is politically rather than ethnically motivated which makes it different from the conflicts in Abkhazia and South Ossetia.¹²⁴ The leader of Adjaria, Aslan Abashidze, has managed to increase the *de facto* autonomy of Adjaria incrementally and peacefully. The rule of Abashidze has been characterised as similar to the ancient feudal Ottoman chieftains from whom he claims to have descended.¹²⁵

In 1991, President Gamsakhurdia of Georgia appointed Aslan Abashidze, then a senior government official in Tbilisi, as chairman of the Adjarian Supreme Soviet.¹²⁶ Abashidze kept Adjaria out of the conflict between Gamsakhurdia and Eduard Shevardnadze in 1991-1992 and subsequently avoided direct confrontation with President Shevardnadze.¹²⁷ Revival is the dominant political party in Adjaria and it is led by Abashidze. In the peaceful struggle against the central power in Tbilisi, his party boycotted the national Parliament during most of 1998 subsequent a dispute with Mr. Shevardnadze's party CUG over the degree of autonomy in Adjaria. In the local elections in November 1998, Abashidze's Revival party won all seats in Adjaria. No

¹²¹ EIU Country Profile Georgia 1998-99

¹²² *ibid.*

¹²³ Tchiaberashvili, Z., Tunnel Vision, 8 September 1999, [Internet]

¹²⁴ EIU Country Report Georgia, 4th quarter 1998

¹²⁵ Danish Immigration Service 1998; EIU Country Profile Georgia 1998-99

¹²⁶ Minority Rights Group International, The World Directory of Minorities 1997

¹²⁷ Danish Immigration Service 1998; EIU Country Profile 1998-99

outright fraud was reported in the elections but observers noted the occurrence of various forms of indirect intimidation.¹²⁸

However, some sources content that Abashidze constitutes a threat in three different ways to the Government of President Shevardnadze in Tbilisi. Firstly, he is considered as the only real challenger to Shevardnadze in the presidential elections scheduled for April 2000.¹²⁹ Secondly, Adjara has maintained friendly relations with the Russian military stationed in the region, in direct contradiction of the official position that the presence of the Russian army must be phased out. Mr. Abashidze has been viewed because of this ostensible connection as a possible fifth column for Russia in an increasingly pro-Western Georgia.¹³⁰ Thirdly, Adjara has reportedly developed close ties to the Javakheti province of Georgia with the aim of establishing a common coalition against the central authorities in Tbilisi. The two areas have closer economic and political relations with each other than both of them have to Tbilisi.¹³¹

Javakheti

Javakheti is a province in the southern part of Georgia situated against the borders with Armenia and Turkey.¹³² Javakheti province is an area of concern to the central authorities in Tbilisi because of two major issues. One is the situation of the Meskhetian Turks who originate from the northwestern part of the Javakheti province.¹³³ The second issue is the central authorities' lack of control in Javekheti province.

The large majority, around 90 per cent of the population in the province, are ethnic Armenians with strong links to Armenia.¹³⁴ A limited number of the urban population speaks Georgian, and schooling is in Armenian where the used textbooks are identical to the ones used in Armenia. Another element which illustrates the Tbilisi Government's limited influence on the state of affairs in Javakheti is that the province hosts a Russian military base and authorities in Tbilisi assured the local government officials that no Georgian troops would be deployed in the area in the foreseeable future.¹³⁵

The political activities of the ethnic Armenians are organised under an umbrella movement called *Javakhk* (the Armenian name for Javakheti) which was created in 1988 with the preservation of Armenian cultural heritage as its official aim. The Javakhk movement first manifested itself as a political organisation after President Gamsakhurdia came to power in 1991. One source states that "from the very beginning, the goal of Armenians in Javakheti was at least to obtain autonomy, if not to unite with the region with Armenia."¹³⁶ Georgian politicians have reportedly been worried about

¹²⁸ United States Department of State (US DOS), Annual Report on Human Rights Practices, Georgia, 1999, [Internet]

¹²⁹ EIU Country Report Georgia, 2nd quarter 1999

¹³⁰ EIU Country Profile Georgia 1998-99

¹³¹ Danish Immigration Service 1998

¹³² Guretski, V., The question of Javakheti, 1998, internet

¹³³ The Forced Migration Projects of the Open Society Institute, 1998

¹³⁴ Guretski, V., The question of Javakheti, 1998

¹³⁵ Russia Today, 26 August 1999, [Internet]

¹³⁶ Guretski, V., The question of Javakheti, 1998

political unrest in Javakheti, which could turn out to be a new Abkhazia and lead to confrontation with Armenia itself.¹³⁷

Recently, the nationalists of the ethnic Armenians, who previously operated under Javakhk, formed a more radical political party called Virk (the medieval Armenian name for Georgia). Virk's declared objective is a federal Georgia in which the Javakheti province would be a separate entity. However, the Georgian authorities in Tbilisi have refused to register the party citing its "regional" character.¹³⁸ The situation in Javakheti is precarious not only due to the existence of a radical party such as Virk but also because of the existence of paramilitary organisations. One of these is called Parvents which reportedly is equipped with weapons that initially belonged to the Russian military and were used in the Nagorn-Karabakh conflict.¹³⁹

The Meskhetian Turks

The Meskhetian Turks is a people who originate from the northwestern part of the Javakheti province.¹⁴⁰ The Meskhetian Turks have been uprooted twice during the last 55 years. In November 1944, the then President of Soviet Union, Joseph Stalin, ordered the deportation of over 115,000 Meskhetian Turks from their homeland in the south of Georgia to Central Asia.¹⁴¹ According to some sources, the reasons for Stalin's action have never been fully explained.¹⁴² However, other sources explain that the deportation which included not only the Meskhetian Turks but several other ethnic groups, was effectuated under the pretext of an anti-Nazi campaign.¹⁴³

The majority of the Meskhetian Turks were deported to Uzbekistan. According to a census conducted in the Soviet Union in 1989, 106,000 Meskhetian Turks lived in Uzbekistan, 50,000 in Kasakstan and 21,000 in Kyrgystan.¹⁴⁴ In the 1950s, other deported peoples were allowed to return home but the Soviet authorities claimed that the technical means to arrange the repatriation of the Meskhetian Turks were insufficient. Even those who returned spontaneously to Meskhetei, the northwestern area of Javakheti province, were sent back.¹⁴⁵

The Meskhetian Turks settled in Uzbekistan became the target of a pogrom in 1989. It took place in Fergana valley, the principal destination for Meskhetian Turks deportees, after an uprising of nationalism in Uzbekistan.¹⁴⁶ The riots left hundreds dead or injured, nearly one thousand properties destroyed or burnt, and thousands of Meskhetian Turks were forced into renewed exile. The majority, around 70,000, went to Azerbaijan. Others went to various regions of Russia, especially Krasnodar Krai, a southern Russian

¹³⁷ Le Monde Diplomatique, Ethnic Conflict in Georgia, December 1998, [Internet]

¹³⁸ Russia Today, 26 August 1999, [Internet]

¹³⁹ Guretski, V., The question of Javakheti, 1998

¹⁴⁰ The Forced Migration Projects of the Open Society Institute, 1998

¹⁴¹ South Caucasus Regional Studies 1998

¹⁴² The Forced Migration Projects of the Open Society Institute, 1998

¹⁴³ The Forsaken People, Deng, F. and Cohen, R., 1998

¹⁴⁴ Minority Rights Group International, The World Directory of Minorities 1997; Danish Immigration Service 1998

¹⁴⁵ Guretski, V., The question of Javakheti, 1998

¹⁴⁶ Blandy, C., The Meskhetians: Turks or Georgians 1997

province or to neighbouring Central Asian States, primarily Kazakstan and Kyrgyzstan.¹⁴⁷

The question of the return of the Meskhetian Turks to Georgia has remained a critical issue ever since. In December 1996, President Shevardnadze issued a decree creating a state commission on the Meskhetian Turks. The decree also implicated a commitment to resettle 5,000 Meskhetian Turks before year 2000.¹⁴⁸ However, the decree was never implemented and by the end of 1998 only around 300 Meskhetian Turks had been repatriated to Georgia, though not as the result of the decree; all arrived as illegal immigrants. Moreover, a group of 40 Meskhetian Turks were expelled to Russia by the Georgian authorities in September 1998 reportedly after a demonstration in front of the Parliament in Tbilisi. In Georgia, the Meskhetian Turks live without any regularised status and in the rest of the region (such as the southern Russia) they live as stateless persons.¹⁴⁹ The question of the Meskhetian Turks is not addressed in the citizenship law and the refugee law adopted by the Parliament of Georgia in 1993 and 1997 respectively.

The Meskhetian Turks cannot be granted refugee status under the refugee law of Georgia since Georgia is their country of origin. The refugee law specifically excludes persons for whom Georgia is their country of origin, thus, the Meskhetian Turks.¹⁵⁰ Likewise, the citizenship law states that a citizen of Georgia is a person who “permanently resided on the territory of Georgia at least for five years and resides as of the date of entry of force of the present law” which was in 1993.¹⁵¹ The Meskhetian Turks who have lived dispersed throughout the region for decades cannot fulfill those conditions.

In December 1997, the Georgian Parliament passed a law, “On Declaration of Citizens of Georgia as Victims of Political Repression and on Social Protection of the Repressed”. The law, intended to help rehabilitate victims of the Soviet era, specifically excluded the Meskhetian Turks in paragraph 3 of article 1 which states that “This Law shall not be applied to the persons referred to the ethnic groups deported within the period from February 25, 1921 until October 28, 1998 the procedure of whom will be determined separately”.¹⁵²

The resistance of Georgia against the return of the Meskhetian Turks is reportedly due to fear of changing the ethnic composition in Javakheti province and of the reaction from the ethnic Armenians there who traditionally are considered to be anti-Turkish. Other reasons put forward by members of the Georgian Parliament are of an economic nature stating that Georgia lacks the resources to undertake a successful repatriation of

¹⁴⁷ Ibid: The Forced Migration Projects of the Open Society Institute, 1998

¹⁴⁸ Danish Immigration Service 1998; V. Guretski, 1998

¹⁴⁹ Danish Immigration Service, 1998; US DOS 1999

¹⁵⁰ Parliament of Georgia, Georgian Refugee Law. December 1997, *RefWorld* July 1999

¹⁵¹ Parliament of Georgia, Georgian Citizenship Law, 1993, *RefWorld* July 1999

¹⁵² Georgian Parliament, “On Declaration of Citizens of Georgia as Victims of Political Repression and on Social Protection of the Repressed”, December 1997, Centre for Documentation and Research, UNHCR; US DOS 1999

the Meskhetian Turks and that such an action could only be undertaken after durable solutions to the Abkhazia and South Ossetia conflicts have been found.¹⁵³

Another important element in the question of the repatriation of the Meskhetian Turks is the wish to return of the Meskhetian Turks themselves. It is difficult to get a clear indication of the aspirations of the Meskhetian Turks partly due to misleading and incomplete census data that makes it arduous to determine their precise numbers partly due to their territorial dispersion. Positive steps towards legal integration of the Meskhetian Turks have been taken in Azerbaijan and Ukraine as they have been granted citizenship in these countries.¹⁵⁴

The issue of repatriation of the Meskhetian Turks was a condition laid down by the Council of Europe for membership of Georgia. In December 1998, the Parliamentary Assembly of the Council of Europe stated in the report regarding Georgia's application for membership of the Council of Europe that Georgia was expected:

“To adopt, within two years after its accession, a law permitting repatriation and integration, including the right to Georgian nationality, for the Meskhetian population deported by the Soviet regime, to begin implementation of this law within three years after its accession and complete repatriation of the Meskhetian population within seven years after its accession;”¹⁵⁵

Several attempts to unite the relevant parties and initiate a dialogue on the situation of the Meskhetian Turks have been undertaken in recent years. One of these initiatives took place in September 1998 in the Netherlands where informal consultations were held between representatives of the Governments of the Russian Federation, Georgia and Azerbaijan as well as representatives of Meskhetian Turks, including those from the public organisation ‘Vatan’. The consultations were initiated by the OSCE High Commissioner on National Minorities Max van der Stoep in co-operation with UNHCR and the Forced Migration Projects of the Open Society Institute. The framework document issued subsequent to the consultations recommended *inter alia* to conduct a survey to determine the precise number, needs and intentions of the Meskhetian Turks throughout the territory of the former Soviet Union concerning resettlement.¹⁵⁶

4. The National Legal Context

In 1989, the political changes in the Soviet Union led to a review of the constitution of Georgia. The review was carried out on the basis of the former constitution of 1978 as well as within the political framework of the Soviet Union. Consequently, no major changes were adopted.¹⁵⁷

¹⁵³ The Forced Migration Projects of the Open Society Institute, 1998

¹⁵⁴ *ibid.*; Blandy, C., *The Meskhetians: Turks or Georgians* 1997

¹⁵⁵ Council of Europe, Parliamentary Assembly, *Georgia's application for membership of the Council of Europe*, Doc. 8275, 2 December 1998

¹⁵⁶ *ibid.*

¹⁵⁷ *Introduction to the Constitution* by Avtandil Demetrashvili and Alex Papuashvili, 1995, [Internet]

The current constitution of Georgia was adopted in 1995. Its creation was a result of several initiatives and actions by the national authorities. The first step towards constitutional independence from the Soviet Union was taken in the beginning of 1992 when the central authority at the time, the Military Council, restored the former constitution of Georgia from 1921. However, no significant legal repercussions followed.

One year later, the Parliament of Georgia formed the State Constitutional Commission consisting of the majority of the political factions in Parliament, lawyers, policy experts and economists. Its role was to review and edit the 1921 constitution of Georgia. Subsequent to the adoption of a final draft by the commission and debates in Parliament, a new constitution of Georgia was adopted by Parliament on 24 August 1995. The constitution is divided into 109 articles in nine chapters and its formulation was a mixture of the pre-Soviet history of Georgia and the current internal realities of the country. Two chapters (state finances and control, and state defence) of the new constitution were replicated from the 1921 constitution.¹⁵⁸

The adopted constitution provided for a strong executive presidency and a 235-member unicameral Parliament. The Government was defined as an advisory body to the President to whom it was directly subordinated.¹⁵⁹

While the basic principles laid down in the constitution provide the state with a democratically based structure including the separation of powers, and anticipated the establishment of new institutions to protect basic freedoms and human rights through e.g. the institution of the public defender of Georgia (“ombudsman”), important aspects relating to the unsettled conflicts in the regions of Abkhazia and South Ossetia were not addressed.¹⁶⁰ The critical issues of territorial arrangement, decentralisation and local governance were reportedly perceived as too politically sensitive to be dealt with.

A firm stand on secession movements was clearly stated in the second article of the constitution which among others affirmed that “the alienation of the territory of Georgia” is forbidden. Changes to the state borders are possible only through bilateral agreement with neighbouring states and “citizens of Georgia regulate matters of local importance through local self-government as long as it does not encroach upon national sovereignty”. It further states that the internal territorial arrangement will be determined “after the full restoration of the jurisdiction of Georgia over the whole territory of the country”.¹⁶¹

The constitution foresees that following the eventual conclusion of a political settlement in the secessionist regions, the Georgian Parliament will be transformed into a bicameral body comprising a Council of the Republic and a Senate, the latter representing the various territorial units of Georgia such as Abkhazia and Adjara.¹⁶²

¹⁵⁸ *ibid.*

¹⁵⁹ Georgia, *The Europa World Year Book 1999*

¹⁶⁰ Introduction to the Constitution by Avtandil Demetrashvili and Alex Papuashvili, 1995, [Internet]

¹⁶¹ The Constitution of Georgia, English version, *RefWorld* July 1999

¹⁶² *ibid.*

In July 1999, the Permanent Representative of Georgia to the United Nations in New York submitted a letter to the United Nations through the President of the Security Council. The letter addressed basic principles for determining the status of Abkhazia within Georgia. While recognising Abkhazia's right to exercise its "competence", the inviolability of the territorial integrity of Georgia was reiterated as a basic principle. As stated in this letter, the Georgian authorities recognise Abkhazia as a component of the federal state of Georgia.¹⁶³

Chapter two of the constitution was entirely devoted to the provisions for the protection of fundamental human rights and freedoms as they can be found in international human rights instruments such as "torture, inhumane, brutal or degrading treatment or punishment is impermissible" (article 17) and "every individual has the right to freedom of speech, thought, conscience, religion and belief" (article 19). Likewise, article six states that international treaties or agreement concluded with and by Georgia take precedence over domestic normative acts as long as they do not contradict the constitution of Georgia.¹⁶⁴

The Government of Georgia ratified the Convention relating to the Status of Refugees of 1951 and the Protocol relating to the Status of Refugees of 1967 on 28 May 1999 with one reservation which excludes the application of the obligations and principles provided for in the instrument in the areas beyond the jurisdiction of Georgia at present.

5. The International Legal Framework

Georgia is a state party to the following international conventions:

CONVENTION	DATE OF ACCESSION (A) OR RATIFICATION (R)
International Covenant On Economic, Social And Cultural Rights (1966)	03 May 1994 (A)
International Covenant On Civil And Political Rights (1966)	03 May 1994 (A)
Optional Protocol To The International Covenant On Civil And Political Rights (1966)	03 May 1994 (A)
Convention On The Rights Of The Child (1990)	02 June 1994 (A)
Convention On The Elimination Of All Forms Of Discrimination Against Women (1979)	26 October 1994 (A)
Convention On The Prevention And The Punishment Of The Crime Of Genocide (1948)	11 October 1993 (R)

¹⁶³ United Nations, Security Council, S/1999/813, 22 July 1999, letter dated 22 July 1999 from the Permanent Representative of Georgia to the United Nations addressed to the President of the Security Council

¹⁶⁴ The Constitution of Georgia, English version, *RefWorld* July 1999

Convention On The Non-Applicability Of Statutory Limitations To War Crimes And Crimes Against Humanity (1968)	31 May 1995 (A)
Convention Against Torture And Other Cruel, Inhuman Or Degrading Treatment Or Punishment (1984)	26 October 1994 (R)

Georgia is *inter alia* not state party to the following conventions:

- The 1954 Convention Relating To The Status Of Statelessness
- The 1961 Convention On The Reduction Of Statelessness
- The 1965 International Convention On The Elimination Of All Forms Of Racial Discrimination
- The 1952 Convention On The Political Rights Of Women
- The 1950 European Convention For The Protection Of Human Rights And Fundamental Freedoms¹⁶⁵

6. The General Human Rights Situation in Georgia

The independence declaration of Georgia from the Soviet Union in 1991 subsequently brought major changes in the protection of human rights. However, the protection of human rights in practice has not changed accordingly.¹⁶⁶ Nevertheless, the admission of Georgia as a member of the Council of Europe in April 1999 was an important acknowledgement that Georgia was on the right path and indeed had succeeded in improving the human rights record.¹⁶⁷ Georgia had requested membership in the Council in July 1996, and the members of the Committee of Ministers of the Council of Europe expressed in the resolution of 11 September 1996 that they were in favour of including Georgia as a member of the Council.

It was noted, however, that not until Georgia had implemented the principles of pluralist parliamentary democracy and ensured respect for human rights and the rule of law, could the membership be accepted. In the same resolution, it was indicated that in order to implement these principles “the legislative and judicial system of the country should be brought into line with the principles of the rule of law”.¹⁶⁸

During the last three years, the efforts of improving the situation of human rights in Georgia could especially be observed in the judicial system. The adoption of the new constitution in 1995 which provided for an independent judiciary, and with it the creation of important democratic institutions such as the office of the public defender (“ombudsman”), and a separate constitutional court, was an important foundation for the protection of human rights. Parliament too adopted essential laws such as a new Criminal Procedures Code in 1997 and President Eduard Shevardnadze issued important

¹⁶⁵ *RefWorld*, July 1999

¹⁶⁶ US DOS 1999, Amnesty International Annual Report on Georgia 1999, Human Rights Watch World Report Georgia 1999, [Internet]

¹⁶⁷ Council of Europe, Georgia joins the Council of Europe, 25 March 1999, [Internet]

¹⁶⁸ Council of Europe, Resolution (96) 33, On Georgia, 11 September 1996, [Internet]

decrees *inter alia* in June 1997 which called for the broad dissemination of pertinent international human rights standards to government agencies.¹⁶⁹

However, obstacles towards full implementation of these safeguards continue to persist. The principal obstacles were identified as the lack of implementation and enforcement of the new laws and decrees.¹⁷⁰ In other words, a commitment to change former practices has been seen in the adoption of the new constitution in 1995 and in the adoption of different laws in the sphere of human rights. However, corruption, inappropriate educational background in the judiciary and law enforcement, low salaries and the prevalence of former practices have negatively influenced current human rights practices in Georgia.¹⁷¹ Thus, a main characteristic of human rights safeguards in Georgia is that the commitment is primarily with the legislative branches and less with the executive and enforcement branches.

Another important characteristic of the legal system of Georgia is that it is not harmonised between the main country and the two secessionist regions of South Ossetia and Abkhazia. Consequently, different practices prevail in the country. A case in point is the death penalty. The use of the death penalty in South Ossetia is still legal whereas it has been abolished in Georgia in November 1997.¹⁷²

Impunity

Impunity prevails with regard to two different crimes in Georgia, war crimes and physical abuse in detention.

In recent human rights reports, it has been indicated that abusive security forces were not brought to justice despite the fact that physical abuse of detainees in custody continued to be widespread and routine throughout Georgia.¹⁷³ Likewise, unofficial sources confirmed to Amnesty International that investigations into reports of police ill-treatment rarely resulted in prosecution or imprisonment.¹⁷⁴

War crimes committed during the civil wars in South Ossetia in 1991 and Abkhazia in 1992-94 were not pursued by the authorities. Following the eruption of the conflict in the Gali region of Abkhazia in May 1998, Abkhaz militia reportedly shot, raped and tortured ethnic Georgians and then looted and burned the property of those who fled. None of the perpetrators were brought to justice. Human Rights Watch reported in 1998 that the authorities of Georgia chose to call on an international court to bring those responsible to justice, and that this strategy allowed the authorities of Georgia publicly to condemn war crimes without punishing violators, including combatants under its own command.¹⁷⁵

¹⁶⁹ Human Rights Watch World Report Georgia 1998, US DOS 1999,

¹⁷⁰ Human Rights Watch 1998, US DOS 1999, Danish Immigration Service November 1998

¹⁷¹ Danish Immigration Service, November 1998

¹⁷² *ibid.*

¹⁷³ Human Rights Watch 1999,

¹⁷⁴ Amnesty International Annual Report on Georgia 1999,

¹⁷⁵ Human Rights Watch 1998, 1999

This approach was also used recently when it was announced by the Georgian authorities that they would cooperate in providing the evidence of alleged atrocities by Abkhaz rebels for the International Tribunal in The Hague. The prosecutor-general affirmed in this connection that there were 200 volumes of documented evidence, films, videos and testimony by thousands of witnesses against what was termed “ethnic cleansing” of the ethnic Georgians in the Abkhazia region.¹⁷⁶ Other sources claim that increasing calls within Georgia were put forward to President Eduard Shevardnadze to issue a general amnesty for the period of the civil war and social chaos from 1991 to 1995.¹⁷⁷

Torture and ill-treatment

Despite the provisions in the new constitution, several international human rights monitoring organisations declared in their most recent reports that members of the security forces continue to torture, beat, and abuse prisoners and detainees, usually to extract confessions.¹⁷⁸ The most serious incidents of abuse apparently occur in the investigative stage of pre-trial detention when suspects are interrogated by the police.¹⁷⁹

It is noteworthy that while these investigation methods are illegal under the new Criminal Procedures Code adopted in 1997, law enforcement agencies have expressed concern that the safeguards contained in the new law would make it difficult for them to combat crime.¹⁸⁰

In November 1996 and March 1997, Georgia was examined by the United Nations Committee against Torture, and the Human Rights Committee. Despite having admitted the use of torture in its periodic report, Georgia had still not taken to implement the recommendations made by these two United Nations treaty bodies.¹⁸¹

According to the US State Department, however, the defendants arrested on suspicion of attempting to assassinate President Shevardnadze in February 1998 were reportedly not mistreated, in contrast to those arrested in connection with the 1995 assassination attempt, who apparently suffered torture and beatings.¹⁸²

Press freedom

The Constitution and the press law of 1992 provide for freedom of the press and especially the Tbilisi-based print media remain lively and critical. However, several incidents in 1998 suggest that the Government is not sufficiently committed to stopping infringements on media freedoms.¹⁸³ The infringements reported originate from the police and other law enforcement agencies who reacted violently against journalists

¹⁷⁶ BBC News, 7 July 1999, Georgians accuse rebels of ethnic cleansing, [Internet]

¹⁷⁷ US DOS 1999

¹⁷⁸ Amnesty International 1999; Human Rights Watch 1999; US DOS 1999; International Helsinki Federation for Human Rights 1999

¹⁷⁹ US DOS 1999; International Helsinki Federation for Human Rights 1999

¹⁸⁰ US DOS 1999

¹⁸¹ International Helsinki Federation for Human Rights, 1999

¹⁸² US DOS 1999

¹⁸³ Human Rights Watch 1999

working on a project with the aim to disclose facts of law violations.¹⁸⁴ Moreover, under a presidential decree issued in April 1998, all printing presses must register and obtain licenses from a special entity within the President's Office.¹⁸⁵

The Death Penalty

The abolition of the death penalty in 1997 was one of the principal preconditions to membership in the Council of Europe. Some initial steps towards abolition were already taken in December 1996 when President Shevardnadze issued a moratorium on capital punishment. In July 1997, a *de facto* ban on executions was instituted by commuting the death sentences of existing death-row inmates to 20 years imprisonment.¹⁸⁶ Ultimately, in November 1997, Georgia abolished the death penalty for all crimes.¹⁸⁷ According to several sources, however, the abolition of the death penalty was not implemented country-wide as the practice is still in effect in the region of South Ossetia.¹⁸⁸

It was further noted by observers that the judicial system in South Ossetia had not been influenced by the reforms instituted in Georgia. The judicial system of South Ossetia remains identical with the one under the Soviet Union.¹⁸⁹ Similarly, in the region of Abkhazia, the death penalty has not yet been fully abolished and the *de facto* authorities in Abkhazia have been urged by international human rights monitors to move beyond their moratorium on executions towards full abolition.¹⁹⁰ In May 1999, 12 persons awaited execution in the region of Abkhazia.¹⁹¹

Institutional obstacles to improvement of human rights practices

An essential pre-condition for the protection of human rights is a well-functioning and independent judiciary. Prior to the adoption of the 1995 constitution, the courts of Georgia were frequently influenced by pressure from the executive branch.¹⁹² In order to implement the protection anticipated in the constitution, further legislation was required to pinpoint and overcome specific persisting problems in the judiciary. The main obstacles were by several sources identified as corruption including the payment of bribes to investigators, prosecutors and judges, inappropriate educational background in the judiciary and law enforcement officers, low salaries and the prevalence of former practices which negatively influenced the human rights record of Georgia.¹⁹³

In order to change this pattern, Parliament passed several new laws in 1996 and 1997. Some of the most important changes were a new law governing the courts including the

¹⁸⁴ International Helsinki Federation for Human Rights, 1999

¹⁸⁵ Human Rights Watch 1999

¹⁸⁶ *ibid.*

¹⁸⁷ United Nations, E/CN.4/1998/82, 16 January 1998

¹⁸⁸ Danish Immigration Service, November 1998

¹⁸⁹ *ibid.*

¹⁹⁰ Amnesty International, Concerns in Europe, Georgia, July-December 1998, 7 April 1999, internet

¹⁹¹ Amnesty International Annual Report on Georgia 1999

¹⁹² US DOS 1999

¹⁹³ Danish Immigration Service, November 1998; US DOS 1999

creation of a separate Constitutional Court, a Criminal Procedures Code and a law on the Procuracy as well as other judicial reforms.

The new law governing the courts anticipates a reorganisation of the court system to enhance judicial independence, and was passed by Parliament in 1997.¹⁹⁴ The law provides for a three-tier court system with district courts at the lowest level, regional courts, and a Supreme Court at the highest level. The implementation of the law has, however, been slow. Regional courts, for example, do not yet function.

A separate Constitutional Court was created in 1996 with the mandate of arbitrating constitutional disputes between the branches of government and ruling on individual claims of human rights violations. Except for the adoption of the Constitution, the establishment of the Constitutional Court in 1996 was perceived as the most significant event in Georgia's legal reform.¹⁹⁵ While the Court's rulings thus far demonstrate judicial independence, some sources argue that its progress in the number of cases ruled has been slow since the Court only considers one case at a time.¹⁹⁶

The decisions of the Constitutional Court are final and its independence was *inter alia* demonstrated by the fact that it ruled against the Government in five cases out of 20 cases thus considered.¹⁹⁷

The Criminal Procedures Code and the law on the Procuracy were designated to limit the pervasive powers of the prosecutors as compared to defense attorneys and judges, thereby enhancing the independence and authority of the judiciary. The fact that prosecutors still wielded disproportionate influence over trial outcomes was exemplified in the trials in 1998 against 15 men accused of involvement in the assassination attempt on President Shevardnadze in 1995.¹⁹⁸

All 15 defendants were convicted and received sentences ranging from 38 months to 15 years of imprisonment.¹⁹⁹ As part of the new laws and the legal reform in general, it is planned to replace all the prosecutors in the period 1999-2001. According to the principal state prosecutor, five prosecutors were dismissed during the first six months of 1998 for "illegal decisions" and two prosecutors were charged with corruption.²⁰⁰

Part of the judicial reforms are to change the division of responsibilities between the Ministry of Internal Affairs and the Ministry of Justice. A draft legislation on penitentiary reform proposed to transfer post-conviction facilities from the Ministry of Internal Affairs to the Ministry of Justice. It was formulated by Parliament but the Government delayed in giving its final approval. International monitors and the Ministry of Justice recommended to transfer pre-trial facilities to the latter Ministry.²⁰¹ The Ministry of Internal Affairs which has direct responsibility for the police force and

¹⁹⁴ US DOS 1999

¹⁹⁵ East European Constitutional Review, vol. 6 no. 2&3 1997

¹⁹⁶ US DOS 1999

¹⁹⁷ East European Constitutional Review, vol. 6 no. 2&3 1997, [Internet]

¹⁹⁸ US DOS 1999

¹⁹⁹ Amnesty International 1999

²⁰⁰ International Helsinki Federation for Human Rights, 1999

²⁰¹ Human Rights Watch 1999

prison system, was mentioned in connection with reports on torture and ill-treatment from the main human rights monitoring organisations.²⁰²

With the aim of combating corruption and pursuing reforms, the administration of the court system was transferred from the Ministry of Justice to a newly created Council of Justice in 1997.²⁰³ The Council has 12 members of whom four are elected by the President, four by Parliament and finally four by the Supreme Court. It is mandated to coordinate the appointment of judges, monitor the judges' activities as well as to be the focal point for the whole reform process of the judicial system.²⁰⁴

The council's first major responsibility was to review the educational background of acting and prospective judges. The method, chosen by the Council was to submit the judges to a testing procedure designed to reduce judicial incompetence and corruption. While only 15 percent of the candidates passed in the first examination, a later examination apparently had a higher pass rate. However, some of the judges decided to lodge a complaint with the Constitutional Court which ruled that sitting judges could not be removed. Hence attempts at judicial reform appear somewhat hampered. In response to the Constitutional Court's decision, Parliament passed a law stating that judges' term would not be renewed beyond 2001 unless they passed the required exam. The new judges' salaries are to be raised substantially in order to reduce incentives for corruption.²⁰⁵

7. UNHCR's Activities in Georgia

UNHCR is present in Georgia in six locations. The main office is in Tbilisi and smaller offices are operational in the North West in the towns of Zugdidi, Gali, and Sukhumi. Two mobile teams work in the North and are based in Tskhinvali and Gori.

UNHCR's programme in Georgia consists of activities relating to IDPs and returnees, capacity building of authorities and establishment of a legal framework for the repatriation of the Meskhetian Turks.

The initial objective of UNHCR was to facilitate the voluntary repatriation of refugees and IDPs from North and South Ossetia to their places of origin. While negotiations between Georgia and South Ossetia have taken place, the political status of South Ossetia has not yet been agreed on and the return of Osset refugees to Georgia proper has been blocked. UNHCR's mid-year progress report of 1999 informed that during one month UNHCR assisted the repatriation of 395 persons to South Ossetia. The lack of a larger return was asserted to be the poor economy and the insufficient level of infrastructure and services in South Ossetia. In 1999, UNHCR aimed to prepare a phased take-over of reintegration activities by development agencies, donors and local agencies as of 31 December 1999. In this view, cooperation with local authorities and national NGOs was strengthened.²⁰⁶

²⁰² Amnesty International 1999, Human Rights Watch 1999, US DOS 1999

²⁰³ Danish Immigration Service 1998; US DOS 1999

²⁰⁴ *ibid.*

²⁰⁵ *ibid.*

²⁰⁶ UNHCR, 1999 Mid-Year Progress Report, Operations in Georgia

It is estimated that there are around 280,000 IDPs residing in Government-controlled areas. Of these, 96 percent originated from Abkhazia while the remainder were ethnic Georgians from South Ossetia.²⁰⁷ In view of the current political stalemate, the prospects for their return to Abkhazia outside the Gali region are limited. As security of the returnees could not be guaranteed, UNHCR did not advocate voluntary repatriation beyond the Gali region in Abkhazia. Instead, UNHCR strengthened its cooperation with United Nations Development Programme (UNDP) and the World Bank to promote the IDPs access to full citizenship rights. This programme was reinforced without prejudice to the eventual return and property rights of the IDPs in their home regions.

UNHCR's involvement in capacity building of authorities focused partly on strengthening local authorities' ability to manage issues of involuntary displacement, partly on promoting an improvement of restrictive national refugee legislation and the establishment of an asylum system. The Government of Georgia ratified the Convention relating to the Status of Refugees of 1951 and the Protocol relating to the Status of Refugees of 1967 on 28 May 1999 with one reservation which excludes the application of the obligations and principles provided for in the instrument in the areas beyond the jurisdiction of Georgia at present.

UNHCR had an advisory role in cooperation with the OSCE and the Council of Europe in establishing a legal framework for the repatriation of the Meskhetian Turks. The primary objective was to assure citizenship. It is estimated that the issue of return of the Meskhetian Turks remained highly sensitive among local officials, political parties and the population in general and that it could become a topic during the presidential elections in April 2000. With the accession to the Council of Europe, Georgia committed itself to develop a legal framework that will permit the repatriation and integration of the Meskhetian Turks. The right to Georgian nationality must be included in the legal framework. UNHCR will in cooperation with the OSCE and the Council of Europe assist the Government to amend the Citizenship law in accordance with international standards in particular the 1961 United Nations Convention on the reduction of statelessness and the 1997 European Convention on nationality.²⁰⁸

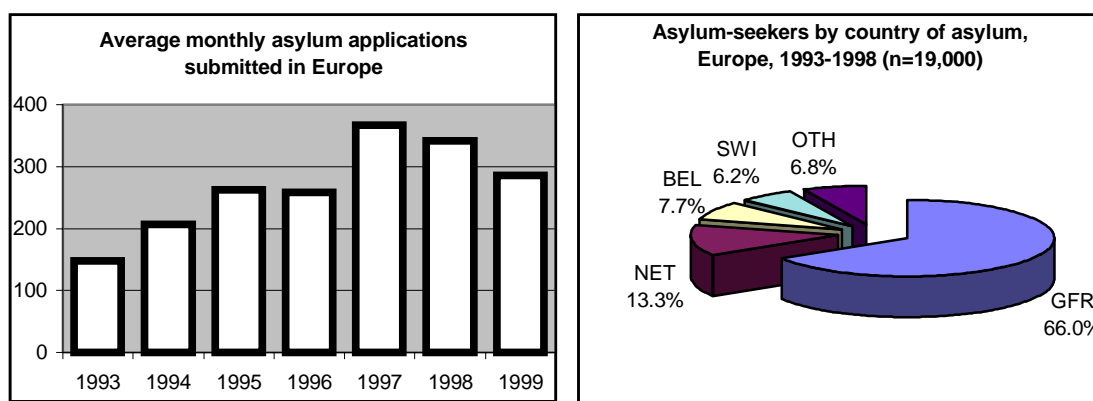
8. Georgian Refugees and Asylum-Seekers: Global Trends

Asylum applications, 1993-1999

During the period 1993-1998, Georgian asylum-seekers lodged some 19,000 asylum claims in Europe, 80 per cent of whom applied in Germany (66%) and the Netherlands (13%). In 1998, 4,100 applications were lodged, seven per cent less than in 1997. The number of asylum-seekers from Georgia continues to decline: during the first nine months of 1999, the average monthly number of asylum applications (285) fell by 16 per cent compared to 1998 (341).

²⁰⁷ UNHCR, 1998 Global Report, Operations in Georgia, Fact Sheet

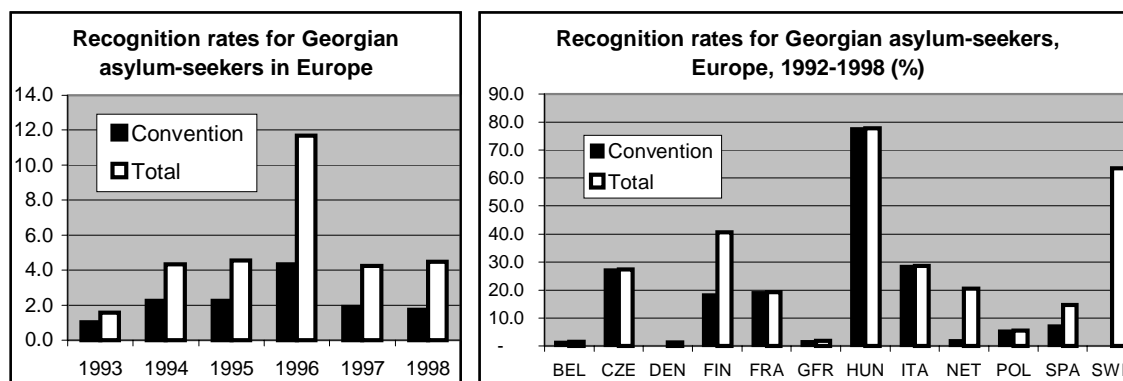
²⁰⁸ UNHCR, 1999 Mid-Year Progress Report, Operations in Georgia



During the first nine months of 1999, the distribution of Georgian asylum-seekers within Europe was, however, quite different from the period 1993-1998. During January to September 1999, Germany received 34 per cent of all Georgian asylum applications submitted in Europe, followed by Belgium (24 per cent), the Netherlands and Switzerland (10 per cent each).

Convention refugee status and convention recognition rates

During 1992-1998, some 435 Georgian asylum-seekers were granted Convention refugee status. Of these, 48 per cent (210) were granted refugee status in Germany, 17 per cent (73) in France and 12 per cent (50) in the Netherlands. Only 2.3 per cent of Georgians who applied for asylum during 1993-1998 were recognized under the 1951 Convention relating to the status of refugees.



Humanitarian status and total recognition rates

Some 580 Georgian asylum-seekers were granted humanitarian status during 1993-1998 in Europe, 81 per cent (470) of whom were allowed to remain in the Netherlands. The total recognition rate for Georgian asylum-seekers in Europe for both convention and humanitarian status during 1993-1998 amounted to 5.3 per cent. Among the main asylum countries for Georgian refugees, this rate fluctuated from 1.4 per cent in Belgium and two per cent in Germany to 21 per cent in the Netherlands.

Asylum applications submitted

Country	1993	1994	1995	1996	1997	1998	Total	Total (%)
Austria	-	-	-	-	-	25	25	0.1
Belgium	76	180	251	250	207	490	1,454	7.7
Bulgaria	-	-	-	-	-	1	1	0.0
Czech Rep.	15	27	7	14	2	34	99	0.5
Denmark	-	38	2	22	20	60	142	0.7
Finland	1	13	10	1	-	2	27	0.1
France	13	33	22	74	110	127	379	2.0
Germany	1,470	897	2,421	2,441	3,328	1,979	12,536	66.0
Greece	-	-	-	-	1	-	1	0.0
Hungary	-	-	-	5	3	1	9	0.0
Italy	-	3	-	-	-	18	21	0.1
Netherlands	169	1,238	344	188	291	290	2,520	13.3
Norway	2	4	1	1	5	4	17	0.1
Poland	-	-	23	25	25	20	93	0.5
Portugal	2	-	1	-	1	8	12	0.1
Spain	1	40	53	17	96	211	418	2.2
Sweden	15	-	13	4	9	11	52	0.3
Switzerland	10	-	-	57	300	813	1,180	6.2
United Kingdom	-	-	-	-	-	-	-	-
Total	1,774	2,473	3,148	3,099	4,398	4,094	18,986	100.0
- of which:EU	1,755	2,442	3,116	3,054	4,362	4,026	18,755	98.8

Total number recognized (Convention and humanitarian status)

Country	1993	1994	1995	1996	1997	1998	Total	Total (%)
Austria	-	-	-	-	-	-	-	-
Belgium	-	-	3	9	1	8	21	2.1
Bulgaria	-	-	-	-	-	-	-	-
Czech Rep.	5	3	-	8	1	10	27	2.7
Denmark	-	-	1	-	-	1	2	0.2
Finland	-	3	2	4	-	2	11	1.1
France	-	5	7	19	24	18	73	7.2
Germany	13	37	69	70	37	21	247	24.4
Greece	-	-	-	-	-	-	-	-
Hungary	-	-	-	1	6	-	7	0.7
Italy	-	2	-	-	-	4	6	0.6
Netherlands	10	27	48	238	110	85	518	51.2
Norway	-	-	-	-	-	-	-	-
Poland	-	-	-	-	5	-	5	0.5
Portugal	-	-	-	-	-	-	-	-
Spain	-	4	8	13	3	33	61	6.0
Sweden	-	26	5	-	-	2	33	3.3
Switzerland	-	-	-	-	-	-	-	-
United Kingdom	-	-	-	-	-	-	-	-
Total	28	107	143	362	187	184	1,011	100.0
- of which:EU	23	104	143	353	175	174	972	96.1

Asylum applications, refugee status determination and pending cases, Georgian asylum-seekers, 1998

Country of asylum	Pending cases begin year	Cases submitted during year	Decisions during year					Pending cases end of year	Refugee recognition rate	Total recognition rate
			Refugee status	Other	Rejected	Otherw. closed	Total			
Austria	-	25	-	-	3	7	10	0	0.0	0.0
Belgium	-	490	8	-	155	3	166	0	4.8	4.8
Belarus	-	98	-	-	-	-	-	33	..	..
Brazil	-	2	-	-	2	-	2	0	0.0	0.0
Bulgaria	2	1	-	-	-	-	-	3	..	..
Canada	68	105	41	-	45	13	99	80	41.4	41.4
Cyprus	-	1	-	-	-	-	-	1	..	..
Czech Rep.	11	34	10	-	7	10	27	18	37.0	37.0
Denmark	-	60	-	1	48	-	49	0	0.0	2.0
Finland	-	2	-	2	1	-	3	3	0.0	66.7
France	-	127	18	-	103	-	121	0	14.9	14.9
Germany	986	1,979	18	3	2,566	253	2,840	670	0.6	0.7
Greece	-	-	-	-	1	-	1	0	0.0	0.0
Hungary	-	1	-	-	-	-	-	1	..	..
Ireland	-	5	-	-	-	-	-	0	..	..
Italy	-	18	4	-	5	-	9	0	44.4	44.4
Lithuania	-	2	-	-	-	-	-	2	..	..
Luxembourg	-	9	-	-	-	-	-	0	..	..
Latvia	-	6	-	-	6	-	6	0	0.0	0.0
Rep. of Moldova	-	6	-	-	2	-	2	4	0.0	0.0
Netherlands	-	290	8	77	105	215	405	0	2.0	21.0
Norway	-	4	-	-	1	-	1	0	0.0	0.0
Poland	6	20	-	-	25	4	29	-3	0.0	0.0
Portugal	-	8	-	-	-	1	1	0	0.0	0.0
Russian Federation	30,477	185	40	-	374	30,220	30,634	28	0.1	0.1
Spain	-	211	6	27	160	-	193	0	3.1	17.1
Sweden	-	11	-	2	11	-	13	0	0.0	15.4
Switzerland	192	813	-	-	215	287	502	505	0.0	0.0
Ukraine	-	59	34	-	17	-	51	8	66.7	66.7
Total	31,742	4,572	187	112	3,852	31,013	35,164	1,353	0.5	0.9

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