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Asistencia técnica y fomento de la capacidad

Comunicación escrita de la Defensoría del Pueblo de Georgia*

Nota de la Secretaría

La Secretaría del Consejo de Derechos Humanos transmite adjunta la comunicación presentada por la Defensoría del Pueblo de Georgia**, que se reproduce a continuación de conformidad con el artículo 7 b) del reglamento que figura en el anexo de la resolución 5/1 del Consejo, según el cual la participación de las instituciones nacionales de derechos humanos se basará en las disposiciones y prácticas convenidas por la Comisión de Derechos Humanos, incluida la resolución 2005/74, de 20 de abril de 2005.

* La institución nacional de derechos humanos tiene la acreditación de la categoría “A” ante la Alianza Global de las Instituciones Nacionales de Derechos Humanos.

** Se reproduce en el anexo tal como se recibió, en el idioma en que se presentó únicamente.

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Annex

Submission by Georgia: Public Defender's Office

Written Submission to the Office of the High Commissioner for Human Rights (OHCHR) pursuant to the Human Rights Council Resolution on Cooperation with Georgia

The Office of the Public Defender of Georgia, as a National Human Rights Institution in full compliance with the Paris Principles ('A' status) and operating under a broad mandate provided by the Organic Law of Georgia on Public Defender, is empowered to monitor the human rights situation in the country. The present submission focuses on the human rights and humanitarian situation in Georgia's occupied regions of Abkhazia and South Ossetia/Tskhinvali region.

Human Rights in the Occupied Territories of Georgia

a. Right to Life on the Occupied Territories of Georgia

The right to life remains a severe challenge in the occupied territories of Georgia. Restricting the freedom of movement and artificial barriers imposed by the De-facto Government of the occupied Tskhinvali are directly related to the right to life. The long-term closure of the so-called checkpoints in 2019 was alarming, which led to a humanitarian crisis in the Akhgori district and problems with access to medical services. The facts of death of individuals living on the occupied territory due to inadequate medical assistance are clear examples for this. In particular, the death of Margo Martiashvili, 70, on October 28, 2019, and the death of 49 year old Besik Obesov and 72 year old Shota Driaev in November 2019.

Although, to this date no one has been punished for the deaths of David Basharuli back in 2014, Giga Otkhozoria in 2016, Archil Tatunashvili in 2018 and Irakli Kvaratskhelia, citizens of Georgia. The violation of right to life on the occupied territory is still alarming.

b. Libertad de circulación

During the reporting period, movement across the occupation line has been one of the major challenges. The formal regime introduced by the De-facto authorities and the Russian border forces, referring to artificial reasons, limits the movement of local residents, while periodically, the checkpoints are closed altogether. In this respect, the situation in the occupied Akhgori district is alarming. On September 4, 2019, the De-facto South Ossetia authorities arbitrarily closed the so-called 'razdakani' checkpoint, although, opening a police guard post in Village Chorchana and the related processes became another reason for the Tskhinvali De-facto regime to close the so-called borders and cause complete isolation of the population and the humanitarian crisis. Restricting the freedom of movement and artificial barriers imposed by the De-facto Government of the occupied Tskhinvali are directly related to the access to the right to health for the population living in the occupied territory.

As for the Occupied Abkhazia, during reporting period, freedom of movement was restricted several times across the Enguri Bridge for various reasons. Due to artificially introduced restrictions by the De-facto authorities, Enguri bridge was fully closed, which has affected potential students living on the occupied territory. Those who wanted to receive higher education on the Georgia-controlled territory were unable to take part in the Unified National Exams due to the restrictions imposed by the De-facto authorities. Later, the movement across the Enguri bridge was restored, although certain restrictions were introduced. The movement of men was allowable only for those under the age of 14 and over 60, while for the remaining males, the movement was banned altogether. The restriction did not apply to women.

Another challenging issue, regarding the freedom of movement, was the resumption of the illegal borderization process by the occupation forces in Village Gugutiantkari, Gori Municipality, and Village Atotsi, Kareli District.

As for the documentation, at this stage the movement across the so-called checkpoints is possible only using the following documents: 1) the so-called form N 9; 2) De-facto passport; 3) so called the residence permit; 4) for individuals under the age of 14 – using a birth certificate; 5) movement is also allowable using a Georgian passport for the individuals who have the permit to enter the Abkhazian territory (the so-called visa).

c. Detentions along the Administrative Boundary Lines

Freedom of movement and illegal detentions by the Russian Border Guards along the Administrative Boundary Lines, is one of the key security challenges that local communities are facing on both sides of the ABL.

For 2019, 86 individuals were detained in the direction of the Tskhinvali region on the occupation line. Among them, 9 women and 2 minors (meaning Individuals detained on the territory controlled by Georgia or those detained when crossing the occupation line), while 26 individuals were detained in the direction of the occupied Abkhazia, among them, 2 women and 2 minors.

Illegal detention of Vazha Gaprindashvili, Georgian doctor, was especially alarming. He was detained by the De-facto Tskhinvali regime at the occupation line on November 9, 2019 and later he was subjected to illegal imprisonment. He was charged with illegal crossing of the so-called border. In the same period, 3 more Georgian citizens were detained. The so-called administrative proceedings were conducted against them and a penalty was imposed over all three individuals, while the Occupation regime instituted a criminal case against Vazha Gaprindashvili.

The De-Facto Authorities charged Vazha Gaprindashvili with intentional breach of the so-called state border under Article 322 of the Criminal Code of Russia, which envisaged fining with 200,000 Rubles, up to two years of forced works, or up to two years of the deprivation of liberty. On November 15, Tskhinvali de-facto court imposed two-month preliminary detention to Vazha Gaprindashvili. While later, on December 20, 2019, he was sentenced to the illegal imprisonment for 1 year and 9 months. Fortunately, on December 28, 2019, the occupation regime released the doctor.

At the end of December, 2019, Tskhinvali De-facto court also sentenced Genadi Bestayev, resident of Village Zardiaantkari, Gori municipality, to 2 years of imprisonment. The representatives of the occupational forces detained Genadi Bestayev on November 21, 2019 under the charges of breaching the so-called border.

d. Ill-treatment and torture in temporary detention isolators or prisons in the occupied territories

Along with illegal detentions of citizens on the occupation line, issues that have been current for years include beating prisoners, ill-treatment and torture in temporary detention isolators or prisons in the occupied territories remain a problem. During the reporting period, on October 22, 2019, news and video recording were disseminated in the social network and mass media about the beating and ill-treatment of prisoners at the Tskhinvali temporary detention isolator. Unfortunately, the above-mentioned information once again confirms the direst situation with human rights on the occupied territories. Tskhinvali isolator is presumably where the Georgian citizen, Archil Tatunashvili, died as a result of alleged torture and ill-treatment.¹

e. Missing Persons

The whereabouts of five ethnic Ossetians who went missing following the 2008 war remains unclear, among them the fate of three ethnic Ossetian youth, who, on October 13, 2008,

¹ The Public Defender of Georgia public statement dated October 25, 2019. Available at: < <http://bit.do/fygsa> >.

presumably, disappeared on the Georgia controlled territory. According to the Prosecutor General Investigation continues, while, despite performed investigative activities, the whereabouts of the missing individuals could not be established. Achievement of progress on this issue would be important for human rights, as well as the for the restoration of confidence.

f. Socio-economic and Civil Rights

The realization of the right to education is also facing many challenges in the occupied territories of Abkhazia and South Ossetia. In all schools in Gali and Akhlagori instruction at the primary grades in the Georgian language is fully prohibited, while the Georgian language as a foreign language is taught in some schools only. This has negative impact on the Georgian language skills of the students, as well as on the quality of education.

Among significant problems is the qualification of teachers in occupied regions. Since they are not allowed to conduct classes in Georgian, they are hired not based on their pedagogical qualification and experience, but according to the Russian language skills. It should be noted that considering the problems the teachers working on the occupied territories face, as well as considering psychological pressure and other difficulties, it is important to support them as much as possible.

Regarding the right to healthcare, as has already been mentioned, the situation in the occupied Akhlagori was alarming in this direction; as a result of closing of the so-called checkpoints, residents were unable to receive medical services and several ones died. Although, low-quality medical services and infrastructure, poor quality of medical personnel and expensive services, as well as complicated movement of the patients across the division line has negative impact on the right to access to health for the population.

The right to sexual and reproductive health also remains a challenge on the occupied territories. Abkhazia de-facto Parliament supported complete ban of the abortion in 2016. The Law on Healthcare that entered into effect does not envisage induced abortion even in case of a medical indication. According to the current regulation, abortion service can be obtained legally only when based on a medical conclusion, pregnancy has been terminated. The absence of abortion services contributes to the introduction of various illegal practices. Considering all these circumstances, majority of the population living on the occupied territories try to receive medical assistance outside the occupied territories.

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