



**Fourth Quarterly Report (October - December 2016) of the Ministry of
Foreign Affairs of Georgia
on the Human Rights Situation in the Occupied Regions of Georgia**

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I. Introduction

Aims of the Report and Methodology Applied

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

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

Responsibility of the Occupying Power for Human Rights Violations

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

4. During the reporting period, “EU Statement on the Secretary General’s 14th Consolidated Report on the Conflict in Georgia”¹ was made at 1271st Council of Europe Committee of Ministers Meeting.² According to the statement, “the human rights situation on the ground remains worrying”. It should be emphasized that in the same statement, “[t]he EU calls on the Russian Federation to . . . provide the EU Monitoring Mission (EUMM) with access to the Georgian regions.” According to the statement, “[t]he EU regrets that the Secretariat delegation

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

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

and the CoE Human Rights Commissioner have not been granted access to the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia. The EU calls on all the concerned parties to facilitate access to the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia for the relevant bodies of the CoE. The CoE should be able to fully and effectively use its instruments to ensure monitoring of the human rights situation in all conflict affected areas and for the benefit of all persons in need of human rights protection. No obstacles should be created to the work of international partners in this field.”³

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

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

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

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

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

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

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

Occupation Line and Installation of Barbed Wire Fences and other Artificial Obstacles

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

9. According to “EU Statement on the Secretary General’s 14th Consolidated Report on the Conflict in Georgia”, made on 16th November 2016 at 1271st Council of Europe Committee of Ministers Meeting, “the EU is deeply concerned about the illegal activities of “borderization” that divide families and communities and impedes the people on the ground, depriving them

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

⁷ *The Prosecutor’s Office Launches Criminal Proceedings on the Murder of Giga Otkhזורia*, “Prosecutor’s Office of Georgia”, 21 May 2016, available at <http://pog.gov.ge/eng/news?info_id=932>

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

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

from fundamental rights, including education in the native language, property rights and freedom of movement, including in the context of so called border crossing, which, inter alia, may lead to fatal incidents. The EU calls on the authorities exercising effective control to remove the fences and other obstacles to the freedom of movement and to investigate all allegations of all crimes and human rights violations on the ground.”¹⁰

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

New so called “Laws” and New Wave of so called “Passportisation”

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

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

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

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

¹³ *Resident Permits will be given foreign citizens in Gali*, “Apsny”, 29 December 2016, available at <<http://apsny.ru/news/?ID=26462>>

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

12. As part of the new wave of so called “passportisation” in the Abkhazian region, the issuance of so called “passports” started in May 2016 and it was continuing during the reporting period.¹⁵ By the middle of December 2016, more than 3 000 new so called “Abkhaz passports” were issued.¹⁶ It has been decided to extend expiry date of old so called “Abkhaz passports” until 31st December 2018.¹⁷ It should be emphasized that on 18th October 2016, so called “head of administration of Gali district” of the Sokhumi occupation regime declared that “from 17 800 residents of Gali district, only 340 have Abkhazian citizenship, the rest are Georgian citizens”.¹⁸

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

II. Freedom from Torture and Ill-treatment

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

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

¹⁶ *Manargia: more than 3 000 new Abkhaz passports were issued*, “Sputnik-Abkhazia”, 19 December 2016, available at <<http://sputnik-abkhazia.ru/Abkhazia/20161219/1020088707/manargiya-oformleno-bolee-trex-tysyach-novyx-abxazskix-pasportov.html>>

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

¹⁸ *Nadaraia: project is ready on creation of special economic zone in Gali district*, “Apsnypress”, 18 October 2016, available at <<http://www.apsnypress.info/news/nadaraia-gotov-proekt-po-sozdaniyu-v-galskom-rayone-osoboy-ekonomicheskoy-zony/>>

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

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

amount to torture and ill-treatment. For years, there has been a regular flow of information on inadequate detentions conditions in so called “detention centers” in the occupied regions of Georgia. The practice of torture and ill-treatment in the occupied regions of Georgia remained an issue of concern during the reporting period as well.

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

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

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

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

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

²² *A resident of Tshinvali was beaten by members of special forces unit*, “Sputnik-Ossetia”, 2 December 2016, available at <http://sputnik-ossetia.ru/South_Ossetia/20161202/3395524.html>; *General Prosecutor’s Office started investigation against members of special forces unit, which have beaten a resident of Tskhinvali*, Sputnik-Ossetia”, 6 December 2016, available at <http://sputnik-ossetia.ru/South_Ossetia/20161206/3413768.html>

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

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

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

III. Arbitrary Detention

19. The Russian FSB officers regularly carry out arbitrary detention for so called “illegal border crossing” along the occupation lines with Abkhazia and Tskhinvali regions. In most cases detention is followed by fines and later release. Detention period can last several days or several months, in some cases several years. According to data supplied by the State Security Service of Georgia in the middle of December 2016, between 2008 and 12th December 2016, in total 2 775 people were detained by the Russian FSB officers for so called “illegal border crossing”: 1 788 people were detained along the occupation line with the Abkhazian region and 987 people were detained along the occupation line with the Tskhinvali region; from 1st January 2016 to 12th December 2016, 190 people were detained along the occupation line with the Abkhazian region and 132 people were detained along the occupation line with the Tskhinvali region.²⁶ It should be noted that according to the information of so called “State Security Committee of South Ossetia”, 549 people were detained for so called “illegal border crossing” along the occupation line with the Tskhinvali region throughout the year 2016.²⁷

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

³⁷ *So called border guards freed schoolchildren detained in occupied Abkhazia*, “Pirveli Information Agency”, 6 December 2016, available at <<http://pia.ge/post/83148-e-w-mesazrvreebma-okupirebul-afxazetsi-dakavebuli-skolis-moswavleebi-gaathavisufles>>

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

IV. Freedom of Movement

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

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

³⁸ *Authorities of South Ossetia expelled violator of state border from Georgia*, “Sputnik-Ossetia”, 28 December 2016, available at <http://sputnik-ossetia.ru/South_Ossetia/20161228/3522804.html>

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

⁴⁰ *Raul Khajimba: we will not let anybody to destroy our state in the heat of revenge*, “Apsnypress”, 10 November 2016, available at <<http://www.apsnypress.info/news/raul-khadzhimba-my-nikomu-ne-pozvolim-v-pylurevanshizma-razrushat-nashu-gosudarstvennost/>>

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

⁴² *Two more crossing pints on the border on the River Enguri will be closed*, “Apsnypress”, 28 December 2016, available at <<http://www.apsnypress.info/news/zakryvayutsya-eshche-dva-punkta-propuska-na-granitse-po-reke-ingur/>>; *Decree of government of republic of Abkhazia*, 28 December 2016, available at <http://www.gazeta-ra.info/index.php?ELEMENT_ID=14673>

⁴³ *Decree of government of republic of Abkhazia*, 28 December 2016, available at <http://www.gazeta-ra.info/index.php?ELEMENT_ID=14673>

governmental decision adopted earlier, we are gradually decreasing the number of crossing points on the border with Georgia”.⁴⁴

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

33. As described in previous quarterly reports of the Ministry of Foreign Affairs of Georgia on the human rights situation in the occupied regions of Georgia, both in the Abkhazian region and in the Tskhinvali region so called “border zones” are established in the vicinity of the occupation lines by the occupying power. Residents of each occupied region are subject to restrictions on freedom of movement in terms of entering these so called “border zones” and in terms of moving within these so called “border zones”. It should be emphasized that during the reporting period, so called “deputy minister of foreign affairs” of the Sokhumi occupation regime declared that “there is a decision of government, adopted very recently, in fact few days ago, which approved extension of border zone”.⁴⁶ According to the same source, “this is a regime zone and correspondingly, entrance to this zone will be always restricted. Those who dwell there (householders, guests etc.) fall under this regime”.⁴⁷ According to information disseminated on 15th November 2016, local residents of Gali district of the occupied Abkhazian region are subject to restrictions on freedom of movement: the Russian military personnel deployed there, demands “documents” in order to allow local residents to move across internal routes of Gali district.⁴⁸ According to information disseminated on 16th December 2016, in the villages of Saberio, Lekukhona and Cheghali, Gali district, freedom of movement of local residents is restricted: occupants demand “documents” from locals in order to allow them to move from one village to another and shoot photos of local residents, presumably in order to create a database.⁴⁹

34. It should be emphasized that according to information disseminated on 23rd November 2016, the Russian FSB officers restricted freedom of movement of residents of the villages of

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

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

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

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

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

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

Akhalubani, Adzvi and Jariasheni, Gori district, namely residents of these villages, on the occasion of St. George's Day, could not visit and pray in St. George's Church, located nearby the occupation line with the Tskhinvali region.⁵⁰

V. Right to Property

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

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

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

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

⁵¹ David Sanakoev: *Arrangement of Border depends on financing*, “Sputnik-Ossetia”, 13 October, available at <http://sputnik-ossetia.ru/South_Ossetia/20161013/3158517.html>

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

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

VI. Right to Education in the Native Language

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

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

41. During the reporting period, the situation with regard to the right to education in the native language in the Gali district remained the same. According to “EU Statement on the Secretary General’s 14th Consolidated Report on the Conflict in Georgia”, made on 16th November 2016 at 1271st Council of Europe Committee of Ministers Meeting, “[t]he EU expresses its concern at reports on a continuing deterioration of the access to education in the native language in the

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

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

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

Georgian region of Abkhazia. We strongly believe that the right to education for everyone, including education in the native language should be guaranteed and applied in the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia as well. We join the efforts of the Co-Chairs of Geneva International Discussions to promote understanding and respect for the universal right to education of the child.”⁵⁶

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

VII. Conclusions

43. It can be concluded that the situation described in the occupied regions of Georgia constitutes infringements on freedom from torture and ill-treatment and therefore are violations of Article 7 of the International Covenant on Civil and Political Rights (ICCPR); Article 5 of the Universal Declaration of Human Rights (UDHR); Article 3 of the European Convention on Human Rights (ECHR); and the OSCE commitments⁵⁸.

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

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

⁵⁷ *So called border guards freed schoolchildren detained in occupied Abkhazia*, “Pirweli Information Agency”, 6 December 2016, available at <<http://pia.ge/post/83148-e-w-mesazvrreebma-okupirebul-afxazetsi-dakavebuli-skolis-moswavleebi-gaatavisufles>>

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

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

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

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

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

VIII. Appeal to the International Community

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

to call on the Russian Federation to reverse its recognition of independence of the Georgian regions Abkhazia and Tskhinvali and to end the occupation of the Georgian territories;

to call on the Russian Federation to stop violations of human rights on the occupied territories while exercising effective control;

to continue calling on the Russian Federation to ensure free movement of people and removal of barbed and razor wires and other artificial obstacles and banners along the occupation line;

to take additional measures in order to monitor and report on the human rights situation in the occupied regions of Georgia, more specifically, the Ministry of Foreign Affairs of Georgia appeals to:

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

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

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

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

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

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