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დაცველი

PUBLIC DEFENDER
(OMBUDSMAN)
OF GEORGIA

Written submission to the 93th Session of the Committee on the Elimination of Racial Discrimination

By the National Human Rights Institution – Public Defender (Ombudsman) of Georgia

Russian Federation

The present submission describes the human rights situation facing the ethnic Georgian population in Abkhazia and South Ossetia/Tskhinvali region (the Georgian regions occupied by the Russian Federation) over the period 2013 – May 2017.

Introduction

1. The Public Defender (Ombudsman) of Georgia is a national human rights institution mandated by the Constitution and Organic Law of Georgia to oversee the observance of human rights and fundamental freedoms on the territory of Georgia, as well as to identify cases of infringement of human rights and to assist individuals in redressing violations of their rights. The Public Defender is an independent constitutional body acting to promote human rights and protect individuals from the maladministration of state administrative organs.
2. The Public Defender submits to the Parliament of Georgia annual reports, each of which includes a general assessment of the human rights situation in the country and a summary of findings and recommendations on how to address the problems identified. The Public Defender also prepares special reports on human rights issues in various fields and presents its main findings and recommendations to the public and relevant state institutions.

3. The Public Defender of Georgia considers complaints submitted by persons living in the conflict-affected regions (including the occupied territories of Abkhazia and South Ossetia/Tskhinvali region), provides consultations to them, visits villages along the occupation line to study the situation on the ground, drafts policy recommendations and proposals, and prepares special reports on the human rights situation in the conflict-affected regions.

1. Responsibility of the Russian Federation

4. Russian Federation has been exercising effective control of Georgian regions of Abkhazia and South Ossetia/Tskhinvali region since early 1990s and today, these entities are occupied by the Russian Federation.¹ Up to 12 000 Russian military servicemen are deployed in both territories, without the consent of the central government of Georgia and approx. 2 000 border guards under Russia's Federal Security Service (FSB) control the entire Administrative Boundary Lines (ABLs) between the occupied regions and the Georgian-controlled territory. Russian Federation has assumed the control of Abkhazian and South Ossetian law enforcement bodies and military forces by dozen bilateral treaties with these entities.² The budgets of the *de facto* Abkhazian and South Ossetian/Tskhinvali Region entities are sustained by Russian financial aid, and Russian citizens with no prior links to the regions currently hold high-ranking political and administrative positions in both entities.
5. Therefore wherever Russian forces exercise effective control of an area in Georgian territory³, without the consent or agreement of the Georgian government, for the purposes of international humanitarian law it is an occupying power and must adhere to its obligations. Accordingly, Russia is responsible for respecting the fundamental human rights of the population under its authority.⁴
6. The practice of the European Court of Human Rights also suggests that the territory beyond the effective control of a State falls under the jurisdiction of another state, no matter how the latter exercises effective control on such territories: through direct means or by means

¹ The Law of Georgia on the Occupied Territories, available <https://matsne.gov.ge/en/document/view/19132>; The Resolution of the Parliamentary Assembly of the Organization for Security and Cooperation in Europe (OSCE) on the Situation in Georgia, July 9, 2012. Available at: <http://www.oscepa.org/meetings/annual-sessions/2012-monaco-annual-session/2012-monaco-final-declaration/1683-15>; The Parliamentary Assembly Resolution N1647 (2009) of the Council of Europe on the Implementation of Resolution 1633 (2008) on the consequences of the war between Georgia and Russia. Available at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=17708&lang=en>.

² Treaties are available in Russian at: <http://bit.ly/2tsaVtq>.

³ This opinion is shared by several reputable international organizations: See *Abkhazia: The Long Road to Reconciliation*, International Crisis Group 2013, p. i.; World Reports of 2009 and 2010 of Human Rights Watch.

⁴ See Human Rights Watch review of "Law on Occupation and Effective Control" available at: <https://www.hrw.org/news/2008/08/26/law-occupation-and-effective-control>;

of a local administration under its supervision. The latter is responsible for the infringement of human rights enshrined in the European Convention on Human Rights.⁵

7. Accordingly, legislative, executive and judicial or any other functions and acts of *de facto* authorities, acting in full compliance with and control of Russian governing structures, should be attributed to the state responsibility of the Russian Federation.
8. Article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD, Convention) imposes upon all states the obligation “to assure to everyone within their jurisdiction effective protection and remedies...against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention.” Article 6 implies the responsibility of the Russian Federation to ensure the protection of rights outlined in the Convention on the territories of Abkhazia and South Ossetia/Tskhinvali region, as it exercises effective political, economic, and military control over the territories.
9. This viewpoint is shared by other UN human rights bodies. In 2015, the UN Human Rights Committee in its concluding observations on the seventh periodic report of the Russian Federation⁶ expressed serious concerns about reports alleging human rights violations in the Donbas region of Ukraine as well as violations committed during 2008 conflict in Georgia. The UN Human Rights Committee called upon the Russian Federation to:

“Ensure the application of the Covenant in respect of acts perpetrated by armed groups and proclaimed authorities of the self-proclaimed [...] ‘South Ossetia’, to the extent that it already exercises influence over these groups and authorities which amounts to effective control over their activities.”⁷

2. Citizenship and documentation Issues

10. The population of occupied Abkhazia is composed of ethnic Abkhaz (approx. 50.7%), Georgians (approx. 18%), Armenians (approx. 17%) and Russians (approx. 9%),⁸ of which almost exclusively ethnic Georgians live compactly in the eastern regions of Abkhazia (Gali, Ochamchire and Tkvarcheli districts). The vast majority of ethnic Georgians in South Ossetia/Tskhinvali region were forcefully displaced during the 2008 Georgia-Russia war. However, several hundred of them remain in the region, mostly living compactly in Akhlagori district.

⁵ Case of Catan and others V. Moldova and Russian Federation. Paras 102-107; Also, Case of Cyprus v. Turkey, paras 76-77.

⁶ Human Rights Committee, Concluding observations on the seventh periodic report of the Russian Federation 28 April 2015, CCPR/C/RUS/CO/7 Available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhstWB5OJfDOQhMEkiX20XNhlfwS44vVjDCG9yOfCaGgJ%2B4aMVruPFpyUaMYJvfEOEBQCPhWJdUARBGIBJo5Dzl4ZqOza12FMGUZJqFSjwcIYP> [6.06.2017].

⁷ Ibid. para.6.

⁸ Sokhumi Releases Final Results of Census, Civil Georgia, 29 December 2011.

11. Most of the human rights violations affecting the Georgian population in the occupied regions are attributable to their ethnic origin and derive from the discriminatory policies of local *de facto* authorities, which are supported by the government of the Russian Federation.
12. According to *de facto* Abkhazian law, “persons having Abkhaz ethnicity (Abaza)” are considered to be citizens of the “Republic of Abkhazia” regardless of his/her citizenship and place of residence. Abkhazian citizenship is also granted to persons who had lived on the territory of Abkhazia for more than five years continuously as of 1999. Thus, *de facto* legislation is discriminatory, as it allows ethnic Abkhaz, regardless of their places of residence, to become citizens automatically but creates barriers to non-ethnic Abkhaz who wish to become citizens.⁹
13. In practice as well, these requirements on citizenship both directly and indirectly discriminate against ethnic Georgians living in Abkhazia, whereas other ethnic groups face no discrimination in obtaining citizenship. Firstly, the requirement of continuous residence on the territory until 1999 excludes those ethnic Georgian residents of eastern Abkhazia who escaped the hostilities of the 1992–93 war before returning after 1999. Accordingly, out of an estimated 45-50,000 ethnic Georgians living in occupied Abkhazia, only a few hundred possess *de facto* Abkhazian citizenship documents (passports). Furthermore, in 2014 *de facto* authorities annulled and seized around hundreds of *de facto* Abkhazian passports from Georgian residents.
14. Possession of this document entitles its holders to a number of basic rights, such as right to work in the public sector, to participate in elections and hold public office, enjoy property rights and even to receive a high school diploma, of which ethnic Georgians are deprived (these rights are outlined below).
15. Furthermore, dual citizenship is allowed only alongside citizenship of the Russian Federation. In practice dual citizenship is granted to all ethnic groups, save for ethnic Georgians, because ethnic Abkhazians, Armenians, and Russians possess Russian citizenship as a result of the illegal distribution of Russian passports by the Russian Federation, while ethnic Georgians possess only Georgian citizenship.
16. It should be underlined that, in 2002 the Russian government began distributing Russian citizenship documents to the residents of Abkhazia and South Ossetia/Tskhinvali region. As for today, the vast majority of residents of occupied regions, excluding ethnic Georgians, possess Russian passports and have been able to cross freely into Russian Federation and benefit in some cases from Russian pensions and other social benefits. At the same time, in

⁹“Law of the Republic of Abkhazia on Citizenship”, information available on the Russian-language webpage: <http://mfaapsny.org/council/citizen.php> [last seen 03.02.2016].

2000, Russia imposed a visa regime on Georgian nationals. According to the assessment of EU mandated Independent International Fact Finding Mission on the Conflict in Georgia "The mass conferral of Russian citizenship to Georgian nationals and the provision of passports on a massive scale on Georgian territory, including its breakaway provinces, without the consent of the Georgian Government runs against the principles of good neighbourliness and constitutes an open challenge to Georgian sovereignty and an interference in the internal affairs of Georgia".¹⁰

17. Those ethnic Georgians who desire to obtain Abkhaz citizenship have to present a document certifying their renunciation of Georgian citizenship. The practice of issuing an Abkhazian passport - a document with no legal force, in return for the renunciation of Georgian citizenship, essentially means leaving people without internationally recognized nationality. It should be remembered that there is agreement among the international community that states must undertake measures to reduce statelessness.¹¹
18. Instead of local passports or citizenship documents, *de facto* authorities have been issuing Form #9 for ethnic Georgian population of Abkhazia, which only gives them a right to travel across the ABL. This policy should be viewed as segregation and differentiated treatment of ethnic Georgian population, because special documents are issued only for Georgian residents.
19. Today ethnic Georgian population of Abkhazia has either Georgia national identification cards/passports issued by Tbilisi, which the *de facto* Abkhaz authorities do not accept as identity documents, Form #9 or no documents at all.
20. In the beginning of 2016, the Abkhazian *de facto* authorities adopted new regulations opening up the possibility of issuing residence permits to ethnic Georgian residents of Abkhazia who also hold Georgian citizenship.¹² However, the preconditions for obtaining or refusing the residence document are arbitrary and controversial.
21. For example, a person may be refused a residence permit—or have their existing permit annulled—if they have been outside Abkhazia for a period of six months.¹³ This is problematic for those residents who study abroad or study on the Georgian-controlled territory. In cases when a person is deemed to have acted against the "independence and state sovereignty of Abkhazia", or "with his/her activities threatens the security of

¹⁰ Independent International Fact Finding Mission on Conflicts in Georgia, Volume I, p. 18. 2009. Available at: http://www.mpil.de/files/pdf4/IIFFMCG_Volume_I2.pdf.

¹¹ UN Convention on the Reduction of Statelessness adopted in 1961.

¹² "Signed the law "the state of rights of foreign citizen in Abkhazia" information available in Russian language at the web page: <http://presidentofabkhazia.org/about/info/news/?ELEMENT_ID=3531> [last seen 05.02.2016]; Law on Abkhazia Republic "Rights of Foreign Citizens Residing in Abkhazia", information is available on Russian language, webpage: <<http://bit.ly/1VIIDPB>> [last seen 26.02.2016].

¹³ Ibid. Article 11 (10).

Abkhazia”, or “assisted the occupation regime during the war in 1992–1993”—will have their existing resident permit annulled.

22. The abovementioned regulations particularly affect the ethnic Georgian population of Abkhazia. Ethnic Georgians not only fail to satisfy Abkhaz citizenship requirements, but also the criteria for receiving residence permits. Accordingly, many ethnic Georgians may be forced to leave their permanent residences. Currently, the process of distribution of residence permits is underway and the Public Defender of Georgia will monitor the developments.
23. Additionally, listed grounds for refusing residence permit applications include “the drug addicted persons” and persons who cannot certify that they do not have a “disease caused by the human immunodeficiency virus.” These restrictions are clearly discriminatory against drug addicts and persons infected with HIV.
24. Similar to Abkhazia, possession of a *de facto* South Ossetian passport provides members of the ethnic Georgian population of Akhagori region with opportunities for employment, social benefits, and freedom of movement. Akhagori residents who are interested in receiving *de facto* South Ossetian passports, along with other documents, should present a statement denying Georgian citizenship. Since 2014, the issuance of *de facto* South Ossetian passports has been gradually terminated. The Abkhazian case is now being considered in South Ossetia/Tskhinvali region as a potential model.¹⁴
25. Thus, the *de facto* governments’ policies on citizenship and issuance of Form # 9, supported by the government of Russian Federation, directly discriminate against Georgian residents on ethnic grounds (Article 2(a)(b) (c) and (d) CERD).

3. Property Rights

26. Possession of locally-issued documents (passport, residence permit) is related to a number of basic rights for the residents of these territories.
27. According to the Abkhazian *de facto* legislation outlined above, property can be obtained only by citizens of Abkhazia, while possession of a residence permit does not assume the right to buy or inherit residential property (land and houses).¹⁵ Thus, ethnic Georgians residing in Abkhazia who do not possess Abkhazian citizenship but hold a residence permit or Form #9 are not able to exercise property rights. The Public Defender was made aware of this fact when a Gali resident had to pay a bribe in order to register ownership of a newly-purchased house.¹⁶ A Human Rights Watch report also pointed out several cases in

¹⁴ Information submitted to the Public Defender by the contact person.

¹⁵ De facto Abkhazian regulations prohibit donating or selling residence space to a foreign citizen, see: Civil Code of De facto Abkhazia, Article 546 and 563.

¹⁶ Information submitted to the Public Defender by the contact person; see also: “The Human Rights Situation of the Conflict-affected Population in Georgia”, 2015, Public Defender of Georgia, p.71, available at: <http://www.ombudsman.ge/uploads/other/3/3768.pdf>.

which persons faced problems receiving their inheritance because they did not have an Abkhazian passport.¹⁷

28. In 2009, South Ossetian *de facto* President signed a decree annulling all property agreements that had been reached among Georgian population in Akhalkalaki region, depriving local residents of their property, including houses, obtained prior to 2008.
29. Thus, existing *de facto* Abkhazian and South Ossetian regulations, supported and financed by the Russian Federation deny on ethnic grounds the ethnic Georgian population's rights to own and inherit property (Article 5(d) (v) and (vi) CERD), whereas the right to own and inherit property is enjoyed by members of other ethnic groups living in Abkhazia.

4. Freedom of movement and detentions on the Administrative Boundary Lines (ABLs)

30. Since 2009, border guards serving under the Russian FSB have been in total control of the ABLs, separating the Georgian-controlled territory from Abkhazia and South Ossetia/Tskhinvali region. Therefore, the Russian Federation must be held directly responsible for human rights violations committed on the ABL. Due to restrictions imposed on local residents' ability to move freely across the ABL, the rights of the local population to private and family life, health, education, housing, and property are violated on a regular basis.

Abkhazia

31. Among the population of Abkhazia, only Abkhazian passport holders or special permit (Form #9) holders are given exit permission by *de facto* authorities to travel onto the territory controlled by the central government of Georgia. This means that ethnic Georgians, who do not possess such documents are deprived of freedom of movement and risk detention when using bypass routes in efforts to access healthcare, participate in educational programs and economic opportunities, visit family members and cemeteries, go to market, and attend funerals on the other side of the ABL.
32. Accordingly, ethnic Georgians living in Abkhazia account for a high number of detentions at the ABL, something which has remained a problem for many years. According to the Border Service of the FSB deployed in Abkhazia, the number of detainees on the Abkhazian ABL totaled 14,000 between 2009 and 2016.¹⁸

¹⁷ "Living in Limbo", Human Rights Watch, 2011, pg. 39-40.

¹⁸ 'Border Protection section of Russia's Federal Security Service celebrates the 7th anniversary in Abkhazia'. 29 April 2016. Apsnypress. Available in Russian at: <http://www.apsnypress.info/news/pogranupravlenie-fsb-rossii-v-abkhazii-prazdnuet-sedmyu-godovshchinu-so-dnya-obrazovaniya/> [Last accessed 24.02.2017].

33. These Residents are detained by Russian border guards and held for periods of several hours to several days in the basements of Russian military bases, deployed in the occupied territories.
34. The problems related to movement across the ABL are also coupled with restrictions on internal movement. Starting from December 2016, Russian border guards serving at checkpoints on the territory of Gali district—an area compactly settled by ethnic Georgians—thoroughly check the documents of residents commuting between villages. This practice has been justified by declaring Gali district to be a “border zone.” The residents of other regions of Abkhazia are also required to produce a special permit upon entering the so-called “border zone” (Gali district). These practices further restrict freedom of movement, especially for those without proper documents.

South Ossetia/Tskhinvali region

35. Restrictions on freedom of movement as well as illegal detentions are an acute problem facing the Georgian population residing in Georgian controlled villages adjacent to the ABL. Local residents have brought cases of detention to the Public Defender of Georgia. In many cases, villagers are detained by Russian border guards on their own orchards, on village roads, and in cemeteries. Detentions tend to increase during religious holidays, when local residents traditionally visit churches and cemeteries located on the outskirts of villages.
36. Data released by the *de facto* state security service (KGB) of South Ossetia/Tskhinvali region indicates that every year hundreds of persons are detained for violating the “border regime.” For example, 549 individuals were detained in 2016.¹⁹
37. Victims of illegal detentions (or kidnappings) along the ABLs on charges of “illegal crossing of the border” are mainly ethnic Georgians living in conflict-affected communities. This practice violates the rights of ethnic Georgians living near the ABL to freedom of movement and residence within the borders of the State (Article 5(d)(i) CERD), as well as the right to security of their person (Article 5 (b) CERD).

Conditions and treatment on the Russian military bases

38. Conditions are unacceptable in the basements of Russian Federation military bases, where Georgian detainees are denied water and food and dozens of people are placed in the same room regardless of sex and age.
39. The Public Defender of Georgia is also aware of an increasing number of cases of children detained by Russian border guards being subjected to inappropriate and degrading treatment on the premises of Russian military bases. Such treatment involves verbal abuse and limited access to food and drinking water, among other things. The Public Defender’s Office was informed that in May 2015, Russian border guards detained two schoolgirls for

¹⁹ ‘South Ossetian Authorities have evicted a border violator from Georgia’, 28 December 2016. ‘Sputnik Ossetia’. Available in Russian at: http://sputnik-ossetia.ru/South_Ossetia/20161228/3522804.html [Last accessed 24.02.2017].

several hours, intimidating them to the extent that they had to stop attending school for a certain period of time. In October 2016, T.S., a schoolchild who traveled from Abkhazia to attend school on the Georgian-controlled territory, was detained at an informal crossing point and taken to a Russian military base in occupied Abkhazia. T.S. was detained from 10AM to 8PM without being given any food or water.²⁰ Each of these detainees are local residents of ethnic Georgian origin. This practice amounts to violation of rights to security and freedom of movement of minors of Georgian origin (article 5 (b) and (d) (i) CERD).

5. Other rights affected by documentation and restrictions on freedom of movement

40. Given that medical infrastructure is in dire condition both in Abkhazia and South Ossetia/Tskhinvali region, the local population usually seeks medical treatment in the Georgian-controlled territory. Tbilisi offers free medical care and health insurance to residents of Abkhazia regardless of their ethnic origin, however, due to the lack of proper documentation, freedom of movement is also restricted when members of the ethnic Georgian population need urgent or scheduled medical care. A 12-year-old juvenile died on May 4, 2015 because he was not able to cross the ABL in time to receive appropriate medical assistance. Due to their lack of proper documents, the child's family attempted to use a bypass route in order to cross onto the Georgian-controlled territory. The child died on the way.²¹ Bypassing and detouring is a common practice by people seeking medical attention, and they are regularly arrested.
41. The Public Defender of Georgia documented the detention at the ABL in December 2014 of a 12-year-old girl attempting to travel with her mother from Abkhazia to Tbilisi for a planned surgery. After being detained, the girl was placed in a freezing basement at the Russian military base for five hours. As a result, her body temperature increased and she suffered from an asthma attack. The aggravation of the girl's fragile condition led to her surgery being postponed for several months.²²
42. Similarly, in South Ossetia/Tskhinvali region, a 73-year old man, diagnosed with a stroke, had to wait in an ambulance while his exit permit could be issued by *de facto* authorities. The patient was transferred to a hospital in Tbilisi after several hours of waiting, but died shortly thereafter.²³

²⁰ For a more detailed account of the situation, see the Special Report of the Public Defender of Georgia on the Rights of Women and Children in Conflict-Affected Regions for 2014-2016. Available at: <http://www.ombudsman.ge/uploads/other/4/4319.pdf>.

²¹ The Special Report of the Public Defender of Georgia on the Rights of Women and Children in Conflict-Affected Regions for 2014-2016, pp.48-49, available at: <http://www.ombudsman.ge/uploads/other/4/4319.pdf>.

²² Information submitted to the Public Defender by the contact person; see also: "Human Rights Situation of Conflict-affected Population in Georgia", 2014, Public Defender of Georgia, p.49, available at: <http://www.ombudsman.ge/uploads/other/3/3387.pdf>.

²³ Information submitted to the Public Defender by the contact person; see also: "The Human Rights Situation of the Conflict-affected population in Georgia", Public Defender of Georgia, 2016, p.48, available at: <http://www.ombudsman.ge/uploads/other/4/4524.pdf>.

43. Violation of the right to medical care for ethnic Georgian residents of the occupied regions is a common practice and one of the most serious violations of their human rights (Article 5 (e) (iv) CERD).

6. Effective protection mechanisms against human rights violations

44. The Public Defender of Georgia documents dozens of human rights violations on occupied territories; however, the victims are hesitant to apply to the government, courts, or international human rights bodies for help, as they fear it will result in more harm to themselves and their families.
45. On December 17, 2014 Abkhazian law enforcement officials arrested eight ethnic Georgian residents on grounds that they participated in the 1992-93 war in Abkhazia. They were released from custody after 10 days; then, they were escorted to the ABL and forced to leave Abkhazia with restrictions on their right to return.²⁴ According to the information provided by the victims, they were not aware of any concrete charges against them. The victims did not receive any decision from the *de facto* courts and were not informed on the length of the prohibition on their returning to Abkhazia. All of them have family members in Abkhazia. These instances should be evaluated as constituting unlawful detention, as not only were no verdicts delivered by a legitimate court, but also, the *de facto* law enforcement bodies did not even initiate criminal proceedings.
46. On several occasions, (when cases concerned the violation of right to life, education and health), the Public Defender offered the victims assistance in obtaining free legal aid at the local and international levels, but the victims abstained from using such measures due to fear of retaliation against their family members remaining in the occupied region.
47. Access to effective legal remedies and equal treatment before the tribunals and all other organs administering justice is a fundamental human right, which ethnic Georgian residents in the occupied regions cannot exercise (Article 5 (a) and article 6 CERD).

7. Right to Education in One's Mother Tongue

48. A total of 31 schools operate in Gali district, enrolling more than 4,300 pupils, 97% of which self-identify as ethnic Georgians (according to 2016 data).²⁵ Nevertheless, the *de facto* authorities restrict students' rights to receive primary and secondary education in their native language, changing the language of instruction from Georgian to Russian. Furthermore, schoolchildren have been prohibited from travel freely across the ABL to obtain primary and secondary education in their native language on Georgian-controlled

²⁴ "8 Georgians arrested in Gali were released and entry into Abkhazia for them is prohibited, "Rezonansi" 31.12.2014. Information is available on: <http://www.resonancedaily.com/index.php?id_rub=2&id_artc=23159> [Last seen on 12.03.2015].

²⁵ For a detailed account of the situation see the Special Report of the Public Defender of Georgia Right to Education in Gali district: New Developments and Challenges of the Academic Year 2015-2016". Available at:<http://www.ombudsman.ge/uploads/other/3/3363.pdf>.

territory. As a result, the students are denied access to quality education which is culturally relevant and acceptable to both the students and their parents.

49. This policy began in 1995, when schools were forced to accept Russian language instruction while reducing the hours of Georgian language instruction. In 2015, the last remaining 11 schools were forced to accept instruction in Russian language from grades 1-4. Teaching in Georgian language was reduced for the remaining classes. In each coming year, first graders begin Russian-language education.²⁶ Accordingly, teaching in Georgian language will be completely terminated in all regions of Abkhazia compactly settled by ethnic Georgians within the next five years. Thus, native Georgian speakers will not have the same access to an education in their mother tongue, as other ethnic groups living in Abkhazia (Armenian, Russian, Abkhazian).
50. Furthermore, Russian is indicated as the native language in school certificates (*attestati*) issued to the Georgian population; whereas in certificates issued to the graduates of other schools in Abkhazia, the listed native language corresponds to the student's ethnic background (i.e. Abkhazian, Armenian, Russian).²⁷
51. The fact that other ethnic groups in Abkhazia can exercise their right to receive education in their native language (Armenian, Russian, Abkhazian),²⁸ with that language indicated as a native tongue in their school certificates—while ethnic Georgians have no such rights—should be assessed as discrimination based on ethnicity.
52. The right to receive an education in one's native language is enshrined in the UN Convention on the Rights of the Child, which specifies that education should be directed at the development of respect of the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living and the country from which he or she may originate, and for civilizations different from his or her own.²⁹

²⁶ In all schools in Gali district the education process is administered following the standards of the Ministry of Education of Abkhazia. Information is available in Russian language: <<http://www.apsnypress.info/news/vo-vsekh-shkolakh-galskogo-rayona-obuchenie-budetvestis-po-standartam-minobrazovaniya-abkhazii/>> [last seen 15.01.2016]; Interviews with the contact persons, September – October (2015).

²⁷ For a detailed account of the situation see the Special Report of the Public Defender of Georgia Right to Education in Gali district: New Developments and Challenges of the Academic Year 2015-2016". Available at: <http://www.ombudsman.ge/uploads/other/3/3363.pdf>.

²⁸ "Out of the 169 schools currently active in Abkhazia, 62 of them are Abkhaz language schools, 16 mixed Russian-Abkhaz, 48 Russian, 32 Armenian", "In Abkhazia, worried about the language law", 18.04.2013, *Osservatorio Balcani e Caucaso – Transeuropa*, <https://www.balcanicaucaso.org/eng/Areas/Abkhazia/In-Abkhazia-worried-about-the-language-law-124824> [05.06.2017].

²⁹ Article 29 (C).

53. The education policy of the *de facto* Abkhaz authorities forced ethnic Georgian families to leave Abkhazia and move their children onto the Georgian-controlled territory in order to enable them to receive education in Georgian language (some 54 such students from September–December of 2015)³⁰.
54. Discriminatory education policy in Abkhazia is further aggravated by restrictions on the freedom of movement of pupils studying at schools located on the Georgian-controlled side of the ABL. In most cases, the schools are located only a few hundred meters away from their homes and are thus far more accessible to students than are Abkhaz schools. The freedom of movement across the ABL for schoolchildren has been gradually restricted, with students who attempt to cross the ABL now being detained by Russian border guards.
55. As a result of the policy, the number of students crossing the ABL to attend school has gradually decreased. For example, in 2013 more than 100 students were regularly crossing the ABL to go to school; by 2015, the number had fallen to 43.
56. Forcefully changing the language of instruction from Georgian to Russian in all schools in Gali district and prohibiting students from crossing the ABL to attend Georgian-language schools violates the right to education of the Georgian population living in Abkhazia on grounds of their ethnic origin (Article 5(e)(v) CERD).

8. Right to Life and Security

57. On May 19, 2016, 31-year-old G.O., a citizen of Georgia, was attempting to bring food across the ABL with Abkhazia (Khurcha-Nabakevi checkpoint) when he became engaged in an altercation with an *de facto* Abkhaz customs officer. The *de facto* armed border guard followed G.O. on to the Georgian-controlled territory and fired at him several times, killing him. Soon after the incident, a video recorded by a CCTV camera was released to the public.
58. The murder has been one of the main topics in negotiations between Tbilisi and the *de facto* authorities in Sokhumi. Initially, the Abkhazian side claimed that the case was being investigated and the suspect was placed under house arrest in Abkhazia. However, on May 31, 2017 it was revealed that the Abkhazian *de facto* authorities had dropped the case against the perpetrator and refused to hand to the Georgian side.³¹ Meanwhile, the

³⁰ For a detailed account of the situation see the Special Report of the Public Defender of Georgia Right to Education in Gali district: New Developments and Challenges of the Academic Year 2015-2016”, available at: <http://www.ombudsman.ge/uploads/other/3/3363.pdf>.

³¹ “IPRM Meeting Held in Gali”, State Security Service of Georgia, 31.05.2017, available at: <http://ssg.gov.ge/en/news/245/IPRM-Meeting-Held-in-Gali> [06.06.2017]; “Sokhumi Drops Case against Abkhaz Serviceman Charged with Khurcha Murder”, civil.ge, 2.06.2017, available at: <http://www.civil.ge/eng/article.php?id=30151> [06.06.2017].

Georgian Court found the customs officer guilty *in absentia* of murder and sentenced him to 14 years imprisonment.³²

59. As mentioned above, Russian FSB border guards stationed on the ABLs completely control the division line, including the Khurcha-Nabakevi checkpoint where G.O. was killed. Their inaction to prevent the human rights violation and at later stage, unwillingness to investigate and charge the murderer or hand him over to the Georgian authorities amounts to a violation of the right to life, right to security of person and to protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution (Article 5(b) CERD). The Russian Federation, as the state effectively controlling the ABL, is directly responsible for the violation of the Convention. It is an example of impunity for ethnically-motivated crimes and encourages further violence against ethnic Georgians.

9. Summary

60. Grave human rights situation on the occupied territories of Abkhazia and South Ossetia/Tskhinvali region illustrates that there is a coordinated policy of ethnic discrimination, segregation and assimilation, which eventually aims at forcing local Georgian residents to leave occupied regions. This will be the culmination of the ethnic cleansing which started back in 1990s and is being supported politically, financially and militarily by the Russian Federation.³³
61. Russian Federation should bring the discriminatory policy to an end in Abkhazia and South Ossetia/Tskhinvali region, thus the Committee on the Elimination of Racial Discrimination should recommend the following measures to the government of the Russian Federation:

Discriminatory policies

- Take immediate steps to ensure that ethnic Georgian population of occupied regions of Abkhazia and South Ossetia/Tskhinvali region possess identification documents that are necessary for them to enjoy, their economic, social and cultural rights, such as free movement, employment, housing, health care, property and education;
- Take immediate measures to ensure the full enjoyment of economic, social and cultural rights of ethnic Georgian in occupied Abkhazia and South Ossetia/Tskhinvali region without discrimination;

³² "Appellate Court Enhances Sentence for Abkhaz Serviceman over Khurcha Murder", civil.ge, 10.03.2017, <http://www.civil.ge/eng/article.php?id=29924> [06.06.2017].

³³ Ethnic Georgian population of Abkhazia has declined from 45% to 18% in from 1989 to 2011, while in South Ossetia from 29% to approx 8% from 1989 to 2015. They have been forcefully displaced during the hostilities and now reside in Georgian controlled territories as Internally Displaced Persons (IDPs).

Right to life and security

- Ensure appropriate legal measures are taken against *de facto* and Russian law enforcement officials for unlawful conduct based on discrimination on the grounds of race in order to prevent impunity for ethnically-motivated crimes;
- End all practice of detention of local ethnic Georgian population along the administrative boundary lines, separating Abkhazia and South Ossetia/Tskhinvali Region from the Georgian-controlled territory;

Right to Education

- Ensure changes to the education policy in occupied regions of Abkhazia and South Ossetia/Tskhinvali region to enable Georgian schoolchildren to obtain primary and secondary education in their native language, as well as to access mother tongue education on the Georgian-controlled territory.