



PUBLIC DEFENDER  
(OMBUDSMAN) OF GEORGIA

# INFORMATION BULLETIN OF PUBLIC DEFENDER OF GEORGIA

2014

## ON HUMAN RIGHTS OF CONFLICT AFFECTED POPULATION



THE PUBLIC DEFENDER OF GEORGIA,  
UCHA NANUASHVILI

### FOREWORD BY THE PUBLIC DEFENDER

According to the Georgian constitution, Georgian citizens have the “firm will to establish democratic social order, economic freedom, rule-of-law based social state.” This statement expresses the will of the Georgian citizenry to build a democratic nation state regardless of race, skin colour, language, sex or faith.

However, the violent conflicts that took place in Georgia severely affected not only the country’s economic wellbeing, but also its democratic development. That is why we should pay special tribute to those conflict-affected communities which constitute between 20 and 30 percent of the country’s population.

Protection of the rights of persons in the conflict-affected communities is a cornerstone which can serve as a bridge between the parties torn apart by conflicts, allowing them

to rebuild trust and cooperate for the benefit of the population. There can be no peace achieved or sustained without restoring justice and respecting the rights and dignity of people in conflict-affected communities.

However, peace is an indispensable precondition for our country’s sustainable development grounded on human rights, social welfare and economic prosperity.

One priority of our activities is to examine and monitor protection of the rights of persons in conflict-affected communities. This bulletin is an account of the work implemented over the course of 2014 by my office and myself, which concerned the rights of persons in the conflict-affected communities. I am pleased to announce the successful implementation of some of the recommendations proposed by the Public Defender. I hope that 2015 will be even more successful and fruitful.

Sincerely,

The Public Defender of Georgia

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## ABOUT THE PUBLIC DEFENDER OF GEORGIA

The Organic Law of Georgia on the Public Defender was enacted and signed by the President of Georgia on 16 May 1996. The law identified competences and approved the organisation and structure of the Public Defender's Office.

The Public Defender of Georgia is a constitutional body overseeing the protection of human rights and freedoms, identifying cases involving human rights and civil liberties violations and contributing to the restoration of justice. The Public Defender is an independent and does not operate under the purview of any branch of the government.

The Public Defender oversees human rights protection and ensures that these rights are respected by central and local self-government agencies, public service agencies and policymakers in the exercising of their authority.

The secretariat of the Public Defender's Office provides administrative support through the Defender's advisers and assistants. The Regional Department oversees the work in the regions. In addition, the following departments and centres have roles in the Public Defender's Office:

- Department of Prevention and Monitoring;
- Department of Gender Equality;
- Department of Criminal Justice;
- Department for Civil, Political, Economic, Social and Cultural Rights;
- Department for Human Rights in Defence Sector;
- Department of Equality;
- Department of the Persons with Disabilities;
- Analytical Department;
- Department for Administration and Finances;
- Department of Chancellery and Human Resources;
- Department of Public Relations;
- The Centre of the Child's Rights; and
- The Tolerance Centre with the Ethnic Minority and Religious Councils.

The Public Defender's Office functions as a national human rights abuse prevention mechanism stipulated by the protocol of the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The Public Defender also oversees the elimination of all forms of discrimination, as well as monitors the implementation of the UN 2006 Convention on the Rights of Persons with Disabilities.

The Public Defender of Georgia was granted an A status, meaning that the office fully complies with the principles stipulated by the Paris Principles of the UN Human Rights Commission. As a result of which, the Public Defender of

Georgia is authorised to participate in national human rights institutions on the international and regional levels and has the right to vote, occupy a seat in the Bureau of International Coordination Committee/subcommittee and participate in the sessions of the human rights council.

One of the key functions of the Public Defender of Georgia is to implement educational activities contributing to raising awareness on human rights and freedoms. The Public Defender also organises events and campaigns to raise awareness on human rights issues regarding various target groups.

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## 1. INITIATIVES BY THE PUBLIC DEFENDER TO PROTECT HUMAN RIGHTS IN CONFLICT-AFFECTED COMMUNITIES

Our work aimed at protecting the rights of persons in conflict-affected communities gained new momentum in 2014 following an initiative of the Public Defender. The rights of internally displaced persons (“IDPs”) and those affected by the war in 2008 has always been a focus of the Public Defender’s Office. However, the new initiative aims to identify and respond to cases of rights violation in a systematic manner. In order to meet this objective, the following measures have been taken by the Public Defender:

### 1.1. THE OSSETIAN FORUM

The Ossetian Forum was founded in January 2014 as a consultation board uniting members of the ethnic Ossetian community in Georgia, Tbilisi-based non-governmental organizations (“NGOs”), regional activists and representatives of culture, art and education. The goal of the Forum is to eliminate negative consequences and social tensions resulting from the conflicts, protect the rights and interests of citizens affected by military actions, including the human and cultural rights ethnic identity of ethnic Ossetian citizens.

For the past year the Public Defender held several meetings with members of the Ossetian Forum to discuss issues related to protection of Ossetian cultural heritage, teaching of Ossetian language, access to higher education, barriers to obtaining Georgian citizenship and restitution, among other things.

Based on the issues discussed at the meetings, the Public Defender closely examined issues and developed recommendations for the Ministries of Culture and Monument Protection and Education and Science of Georgia (please refer to the recommendations and proposals pp5).



MEETING WITH OSSETIAN FORUM

In March 2014 representatives of the Ossetian Forum met with the representatives of the National Assessment and Examinations Centre to discuss issues related to the

accessibility of higher education. In November the Public Defender helped organise a meeting between representatives of the Ossetian Forum and the President of Georgia. Members of the Ethnic and Religious Council at the Public Defender’s Office also participated in the meeting to discuss, inter alia, the protection of rights of the Ossetian community, teaching of Ossetian language and protection of Ossetian culture. A meeting of the Forum with the representatives of the Parliament and executive branch of the government is scheduled to take place in 2015.

Following the Ossetian Forum’s identification of pressing issues the staff at the Public Defender’s office commissioned a large scale research study into issues of citizenship pertaining specifically to Georgia’s ethnic Ossetian citizens. The research focuses on the problems related not only to the citizenship of members of the ethnic Ossetian community but also to problems that may arise as a result of dual citizenship. The research is currently being conducted in Tbilisi, Kakheti, Shida Kartli and Samtskhe-Javakheti and is set to be completed by February of 2015 (for more details please refer to pp5)

### 1.2. THE ADVISOR TO THE PUBLIC DEFENDER ON THE PROTECTION OF RIGHTS IN CONFLICT-AFFECTED REGIONS

In February 2014 a special position was established in the Public Defender’s Office aimed at advising the Public Defender on human rights issues in the conflict-affected regions. The Adviser consults the Public Defender on the state of human rights protection, oversees work aimed at fostering human rights protection in conflict-affected communities, supervises research in this area, develops recommendations and cooperates with governmental agencies as well as local and international organizations to voice the recommendations of the Public Defender and inform them of the Office’s activities.

In addition, the Adviser closely cooperates with regional offices in Gori and Zugdidi to jointly monitor the rights of people in conflict-affected communities at regular intervals. In 2014 the Adviser visited more than 20 communities along the boundary line in Shida Kartli and Samegrelo-Zemo Svaneti, developed four recommendations and proposals, followed up with 30 appeals and consulted more than 100 citizens.

## 2. A BRIEF OVERVIEW OF THE ACTIVITIES OF THE PUBLIC DEFENDER’S OFFICE

### 2.1. MONITORING AND RESEARCH

#### 2.1.1. MONITORING THE COMMUNITIES ALONG THE BOUNDARY LINE

The staff of the Tbilisi, Gori and Zugdidi offices regularly visit villages along the boundary lines in Shida Kartli and Samegrelo to ensure protection of the rights of persons in

conflict-affected communities. Monitoring can be initiated by the Public Defender's Office as well as commissioned based on the appeals and statements of individuals. Up to 100 monitoring missions and more than 300 individual consultations took place during 2014.

The purpose of the monitoring is to examine and assess the level of general security, socio-economic rights and other fundamental rights and freedoms, as well as follow up individual cases of violations responding to specific problems.

In 2014 the Public Defender and his staff visited the villages of Khurcha and Shamgona in Zugdidi municipality, the villages of Pakhulani in Tsalenjikha municipality, most of the villages of Kareli, Gori and Kaspi municipalities along the boundary line, and the village of Perevi in Sachkhere municipality. In order to further examine the identified problems and cases of human rights violations, the Public Defender's Office will address the respective government agencies with correspondence, recommendations or proposals (for details of the identified problems and violations please refer to pp5).



OMBUDSMAN'S VISIT TO THE VILLAGE OF KHURCHA

The Public Defender personally visited the communities along the boundary line. In April 2014, Ucha Nanuashvili met with residents of Khurcha, Zugdidi municipality, to personally hear their problems. On 20 January 2015 the Public Defender visited the village of Zardiaantkari, Gori municipality to introduce his recommendations to the local population. The meeting was also attended by the head of Gori municipality, Davit Oniashvili, who also heard directly from the local population about their needs and challenges.

### 2.1.2 A SPECIAL REPORT ON ZARDIAANTKARI

As a result of the monitoring mission to the village of Zardiaantkari, Gori municipality, a special report titled Zardiaantkari: Consequences of war and the Burden of Existence was commissioned in December 2014. The report investigates rights protection in the Zardiaantkari community.

Zardiaantkari is among the smallest of the region's villages and is probably the worst-off conflict-affected community in Shida Kartli. Its population is suffering from pressing so-

cial and economic problems. The village's displaced population chose not to go back to the village, rather remaining sheltered in a kindergarten in Gori.

Most of the houses in the village are destroyed and unfit for living. In spite of intense works there is no potable water, irrigation water or gas in the village. In order to foster the return of the displaced population with dignity intact as well as improving the demographic situation in the village, the Public Defender developed recommendations for local and central authorities, which are also included in the report.<sup>1</sup>

### 2.1.3. A SPECIAL REPORT ON PRISONERS

The permanent nature of detentions over the boundary line has remained an unresolved issue negatively affecting Georgian-Ossetian and Georgian-Abkhaz relations and threatening the perception of security and safety within the local communities. Georgian and Ossetian detainees and their family members have appealed to the Public Defender on a regular basis asking for pardons and the release of prisoners on both sides, agreed upon by a consensus of both parties.

The Public Defender's Office closely reviewed the situation of prisoners native to South Ossetia and Abkhazia and in June 2014 issued a special report on persons detained on the boundary lines with Abkhazia and South Ossetia. The research includes detention statistics and recommendations developed by the Public Defender's Office to address this issue.

Detentions on the boundary lines with Abkhazia and South Ossetia have been among the gravest problems facing local communities for years. Detainees are usually released after several days by Abkhaz and Ossetian law enforcement staff after serving a short jail sentence and paying fines. The grave consequences of the unresolved conflicts are also reflected on the protection of the rights of residents in Gali. Currently, there are several Gali residents serving their sentences in Sukhumi as well as in Tbilisi penitentiary institutions.

The Public Defender recommends that the freedom of movement be ensured for the local population on both sides, detentions be terminated on the boundary lines and instead a form be found which does not entail violations of human rights and freedoms., ways be found to release detainees and prisoners, either through the 'all for all' principle or through a pardon or amnesty. In parallel to attempting to resolve the prisoners issue, the parties should agree on mechanisms which will contribute to the elimination of detentions along the boundary line.<sup>2</sup>

1 The full version of the report is available at: <http://www.ombudsman.ge/ge/reports/specialuri-angarishebi/specialuri-angarishi-zardiaantkari-omis-shedegebi-da-arsebobis-simdzime.page>

2 A full text of the report is available at: <http://www.ombudsman.ge/uploads/other/1/1771.pdf>

### 2.1.2. RESEARCH ON CITIZENSHIP ISSUES

Based on the initiative of the Ossetian Forum at the Public Defender's Office and respective assistance, the Defender's Office commissioned a research into the citizenship problems faced by ethnic Ossetian citizens living in Georgia and affected by the armed conflict. More specifically, the research focuses on those members of the Ossetian community who are permanent residents of Georgia and hold both Georgian and Russian citizenship but have not been granted so called 'dual citizenship' by the President of Georgia. If such facts are discovered by the authorities, Georgian citizenship is automatically terminated and individuals are deprived of privileges designated exclusively to Georgian citizens.

In order to obtain a full picture, the research team visited Kakheti, including the village of Pona in Kvareli municipality and the villages of Pichkhovani and Argoni in Akhmeta municipality. In Shida Kartli the team visited the villages of Tselubani, Gori municipality and Kintsvisi and Atotsi, Kareli municipality. The research is financially supported by the Council of Europe and Swiss Foreign Ministry. After its completion in February 2015, the Public Defender will introduce his recommendations for responding to the identified problems.



VILLAGE KINTSVISI

## 2.2. CRITICAL ISSUES FOR 2014 AND THE PUBLIC DEFENDER'S RECOMMENDATION TO THE AUTHORITIES

### 2.2.1. THE SITUATION ALONG THE BOUNDARY LINE

The socio-economic conditions of the families residing along the boundary line are grave. This is made apparent by several factors including a low level of security, lack of irrigation water, loss of access to arable lands and pastures and high rates of unemployment.

After the war in 2008, two irrigation channels and two water reservoirs irrigating conflict-affected communities in Shida Kartli have been left on the territory beyond the

control of the Georgian authorities. This has resulted in the loss of irrigation water. In addition, most of the villages located in close proximity to the boundary line have lost their arable lands, pastures and access to forests. The local communities have thus been deprived of their main sources of livelihood. In the villages of Koshka and Gugutiantkari, Gori municipality, between 50 and 60 percent of the communities' arable lands now lie on the other side of the boundary line.

For instance, as reported by the population in the village of Khurvaleti, local residents could not cultivate their lands because of a lack of irrigation water. However, they still managed to keep cattle, as pastures were still accessible. After the process of installing barbed wire began in 2012-2013, they lost access to pastures and, as the number of detentions have increased, are now afraid to collect firewood in the nearby forests. It is worth noting that members of the ethnic Ossetian population residing in villages close to the boundary line are as much affected by this situation as are their Georgian neighbours.



BARBED WIRES IN THE HAZELNUT GROVE IN THE VILLAGE OF PAKHULANI, TSALENJIKHA MUNICIPALITY

As a result of these problems, the villages along the boundary line are affected by high rates of emigration. The population has decreased significantly in many such places.

In 2013 the Georgian government identified 50 communities affected by the installation of barbed wires (both in Shida Kartli and Samegrelo regions) and developed a specially-designed programme for providing the affected population with gas, a rehabilitating irrigation system and new primary healthcare and preschool facilities. It has also ensured the funding of infrastructure and educational facilities. 2014 saw increased construction work. It is expected that completion of these projects will result in considerable improvement in the social and economic rights of the local communities.

Detentions along with the boundary lines with both Abkhazia and South Ossetia pose a serious threat to the local communities. In recognition of this problem, the represen-

tatives of the Public Defender paid visits to released detainees from the villages of Plavi, Kveshi, Kirbali, Akhalsopeli, Tselubani, Khurvlaeti, Zemo Sobisi, Bershueti, Sakorintlo, Dvani, Mejvriskhevi, Zerti, Ditsi and Kvemo Artsevi in Shida Kartli.

Detentions of individuals residing on Georgian government-controlled territory along the boundary line are subject to fines ranging from 100 to 600 GEL, depending on the previous detention records of the individual in question. The fine for Gali residents totals 50 GEL and ranges from 500 to 5000 GEL for those residing on territory controlled by the Georgian government. These fines are a serious financial burden for local communities. Many residents of these communities demand to be supported in the payment of such fines, as most of them are socially unprotected. There are cases when two persons from the same family are detained. Women, children and the elderly are not exempt from detentions.

Residents of Shida Kartli generally feel insecure, as detentions often take place on the territory of the village. The locals report that Russian border guards detain local residents in their orchards, on village roads and at cemeteries in villages of Plavi, Bershuety and Zemo Sobisi. Detentions reached their peak from 2-12 May 2014 when 26 local residents were detained while collecting bladdersnuts.

The Public Defender was also notified of the detention of a 12-year old girl on the boundary line with Abkhazia. The girl was going to travel from the Gali district to Tbilisi to receive a medical operation. She was detained for five hours in a frozen basement, and as a result of which developed a high fever and bouts of asthma. Sadly, the operation had to be postponed for several months as a result of the child's deteriorated health condition.

As of today six persons are serving in Tskhinvali prison, including two ethnic Georgian residents of Akhagori who were convicted of espionage and kidnapping. Seven Ossetian prisoners are serving their sentences in Tbilisi and Ksani penitentiaries and demand that they be transferred to Tskhinvali. As for Georgian prisoners in Abkhazian prisons, there is no accurate information available to the Georgian authorities. However, unofficial data suggest that around 30 residents of Gali, Zugdidi, Khobi and Tbilisi are serving in Abkhazian penitentiaries following convictions for espionage, terrorism, robbery, illegal maintenance of weapons, smuggling and participation in military actions.

The Georgian Public Defender produced a special report on this issue. He recommends that freedom of movement be ensured for the population on both sides of boundaries and that a response is developed in view of human rights and freedoms issues.

In regards to freedom of movement, it is worth noting that the year 2014 was particularly difficult for residents of Gali and Akhagori. The opening to Akhagori is often blocked,

especially during holidays. Issuing so called 'permits' has been problematic, especially in May when the local population suffered from a ban on movement for almost a month. There are many families in Akhagori who remain separated to this day: some family members cannot enter Akhlagri while others cannot leave the district.

2014 saw a lot of tension in Gali district as well. The question of the ethnic Georgian population in Gali captured the spotlight in Abkhazia. The situation remains tense and no final decision has been made concerning the documentation and freedom of movement for region's residents.

### *2.2.2. ISSUES RELATED TO ACCESS TO HEALTHCARE AND SOCIAL ASSISTANCE*

In 2010 the Georgian government approved the State Programme of Referral Service ("Referral Programme") in order to ensure protection of the rights of persons in conflict-affected communities and contribute to rebuilding trust and confidence among these communities. The Referral Programme has proved to be most successful policy regarding peaceful resolution of the conflict.

However, as observed by the Public Defender, there have been discordant attitudes within the frame of the Referral Programme concerning Georgian citizens residing on the occupied territories. Previously, the State Minister of Reconciliation and Civic Equality would file a petition to review patients' applications for rendering relevant medical assistance stipulated by the Referral Service of the Special Commission ("Referral Commission"). Today, the office of the State Minister does not file petitions on behalf of Georgian citizens residing on the occupied territories.

The Public Defender believes that every person residing in Abkhazia and South Ossetia should be treated equally regardless of citizenship. In regard to this issue, on 16 August 2014 the Public Defender submitted a proposal to the Ministry of Labour, Health and Social Protection to prepare changes to the governmental resolution on Setting up a Commission and Determining its Competences for Making Decisions on Rendering Relevant Medical Assistance within the Referral Service Programme. The changes are expected to ensure equal treatment of all individuals residing on the occupied territories.

As for social programmes, they are designed for citizens of Georgia according to Georgian legislation and are not available to those residing in South Ossetia and Abkhazia but without Georgia citizenship. Ossetian and Abkhaz passports are illegitimate according to Georgian legislation. However, there have been cases when such passports were used as a means to identify individuals. As mentioned above, an individual who has crossed from either Abkhazia or Tskhinvali Region with the purpose of receiving free medical treatment must submit an Abkhaz or Ossetian passport for identification.

In addition, Ossetian and Abkhaz passports are used when family members visit inmates in penitentiaries controlled by the Georgian authorities. These cases are to evaluate positively, as they contribute to the realization of human rights and the restoration of trust and confidence between communities on either side of the boundary line.

The Public Defender believes that the Georgian government is responsible for protecting the rights of the population residing in conflict regions and ensuring their access to social programmes regardless of possession of documents confirming Georgian citizenship.

In respect to the above said, the Public Defender addressed the Prime Minister in writing. His letter implored the Prime Minister to allow Ossetian and Abkhaz passports to be used for identification and to enable their holders to access various types of assistance, including persons with disabilities and persons suffering vocational traumas, among others. For this purpose amendments should be made to Resolution 45 of the Government of Georgia dated 1 March 2013 and Resolution 291 of the Government of Georgia dated 14 April 2014 to make holders of Abkhaz and Ossetian passports eligible for social assistance. The same recommendation was submitted to the Ministry of Labour, Health and Social Protection.

### 2.2.3. THE RIGHTS TO EDUCATION AND CULTURE

Receiving education in the native languages of ethnic minorities remains a critical issue. The Ossetian Forum and the Minority Council at the Public Defender's Office have been advocating for teaching Ossetian language in those regions which have decades-long traditions of the teaching the language.

As a result of optimization processes starting in 2012, the Ministry of Education and Science stopped financing Ossetian lessons in three schools which had enjoyed decades-long traditions of teaching the Ossetian language. These schools were located in regions with sizeable Ossetian populations: the villages of Areshperan and Pona in Lagodekhi municipality and the village of Tsitsknaantseri in Kvareli municipality. Before 2012 the Ossetian language had been taught in these schools for three to five hours per week.

In addition, a decision of the Ministry of Education and Science cut off funding allocated to an Ossetian Sunday school functioning at Tbilisi Public School 11. The school had functioned since 2006 and offered classes in history, folklore, Caucasian dances and songs.

On 16 May 2014 the Public Defender appealed to the Minister of Education and Science with a recommendation to ensure the Ossetian community of Georgia's access to education in their native language. The recommendation places a strong emphasis on restoring the practice of teaching Ossetian language in those schools to which the language

is relevant. In order to implement this recommendation, the Ministry of Education and Science should develop standards for the Ossetian language and continue to fund teaching of the language as a standalone subject in the village schools of Arashperani, Pona and Tsitsknaantseri.



ARESHPERANI PUBLIC SCHOOL

On 27 May the Public Defender submitted recommendations to the Ministry of Culture and Monuments Protection of Georgia to rehabilitate an Ossetian house in the Giorgi Chitaia Ethnographic Museum, as well as allocate sufficient funds for a permanent exhibition in the Ossetian house.

The Ossetian House, dating back to the 19<sup>th</sup> century, is an original work brought from the village of Sokhta, Java district in 1975. The house was damaged during the unrest of the 1990s and afterward suffered from the lack of maintenance.

In January 2015 the Public Defender was notified that the Ossetian House is planned to be restored in the second half of 2015. Rehabilitation of the Ossetian house will be a step forward towards implementing the state's responsibilities for protecting the rights of ethnic minorities and promoting Ossetian culture, protecting the cultural rights of the Ossetian community and restoring trust and confidence between those communities divided by conflict.

### 2.2.4. THE STATEMENTS OF THE PUBLIC DEFENDER

#### STATEMENT OF THE PUBLIC DEFENDER ON THE DETENTION OF ROMAN SHITIKOV BY RUSSIAN BORDER GUARDS

On 19 May 2014 the Public Defender released a statement on Roman Shitikov detained on the so-called 'administrative border.' According to the information available to the Public Defender, Shitikov was last seen by G.A. in Tskhinvali prison, where the two men shared a prison cell. G.A. reported that Shitikov was repeatedly threatened with execution because of his participation in the 2008 war. The Public Defender believes that Shitikov may have been exposed to threats on his life and calls on the Georgian and Russian governments, South Ossetian de-facto authorities,

co-chairs of Geneva discussions, International Committee of the Red Cross, European Union Monitoring Mission and other human rights organisations to respond immediately to Shitikov's case and ensure his timely release.

*STATEMENT OF THE PUBLIC DEFENDER ON AKHALGORI NATIVE G.B.*

On 23 June 2014 the Public Defender released a statement regarding a citizen of Akhalgori. The statement read that 'the Public Defender has been contacted by a family friend of G.B who went missing in Akhalgori.' The contact said that on 4 June 2014, 20-year old G.B. and D.A were taken from their workplace to Akhalgori's de facto militia to be interrogated as suspects for theft. D.A. was released after the interrogation. G.B. was last seen by D.A., after which the former's whereabouts are unknown. The family members say D.A was never interviewed regarding the case. At the end of the day G.B's personal items were taken to his distant relative's place by militia. G.B.'s family reported that according to the local militia, G.B. was released near his house and had crossed to the Georgian territory.

The Public Defender called on the Russian Federation, the South Ossetian de facto authorities and the Ministry of Interior of Georgia to combine their efforts and cooperate in order to recover the whereabouts of the missing person.

*STATEMENT OF THE PUBLIC DEFENDER ON THE INTERNATIONAL DAY OF THE MISSING PERSONS*

On 30 August 2014 the Public Defender released a statement on the Day Dedicated to Missing Persons. In the statement, the Public Defender honoured the memory of the missing persons, extended his condolence to their families and called on the Government of Georgia and the Abkhaz and South Ossetian de-facto authorities to cooperate for ensuring assistance for families.

The statement reiterates that, according to the Rome Statute of the International Criminal Code and UN Convention on the Declaration of Death of Missing Persons, coercive disappearance is considered a crime against humanity. In the modern world disappearance is often used as a means of retaliation against political opponents.

In Georgia, issues related to missing persons are painful and usually relate to armed conflicts. As a result of the conflicts in the 1990s roughly 1500 ethnic Georgian, 200 ethnic Abkhaz and 100 ethnic Ossetian citizens are considered missing, while six Ossetians and 35 Georgians have gone missing as a result of the war in 2008.

On 20 March 2013 the Public Defender of Georgia appealed to the Chief Prosecutor to undertake an effective and intensive investigation under criminal proceedings involving the cases of missing persons and take appropriate measures to commence proceedings where they are to be initiated.

Due to the current situation, the Public Defender believes it is of utmost importance that the Georgian government ratify the International Convention for the Protection of all Persons from Enforced Disappearance. The ratification will ensure prevention of such acts within the Georgian jurisdiction while clearly demonstrating the government of Georgia's commitment to fighting against this international crime.

*STATEMENT OF THE PUBLIC DEFENDER OF GEORGIA ON THE INTERNATIONAL DAY OF PEACE*

The Public Defender released a statement on the International Day of Peace on 21 September 2014. In said statement the Public Defender declared it a priority for his Office to ensure the protection of the rights for persons in conflict-affected communities.

The Public Defender states that only an environment free from war and conflict can create conditions conducive for sustainable development based on the respect and protection of human rights, social welfare, equality and economic growth.

The statement reads, 'Peace is our right and the authorities are responsible for its provision. Securing peace and peaceful resolution of conflicts require permanent endeavour, consistency, flexibility, forgiveness and commitment to peace both from the authorities and communities.'

The Public Defender called on the government of Georgian and the de facto Abkhazian and South Ossetian governments to join the International Day for Peace and ensure that during negotiations human rights and citizens' welfare prevail over political disagreements.



PUBLIC DEFENDER'S OFFICE CELEBRATING THE INTERNATIONAL DAY OF PEACE

**2.3. SUCCESSFUL AND OUTSTANDING CASES AND STATISTICS**

In 2014 the Public Defender studied roughly 30 cases in order to protect the rights of the population affected by con-



flicts. The problems mainly concern healthcare, education, freedom of movement, security and social issues. Women account for 51 percent of claimants while male claimants comprise the other 49 percent. Broken down geographically, applications are from Shida Kartli, Samegrelo, Kakheti, Tbilisi, Gali and Akhagori districts.

#### HEALTHCARE AND SOCIAL ISSUES

Following the referral by the Public defender to the Ministry of Labour, Health and Social Protection dated 13 October 2014, Gali resident V.R was fully reimbursed for costs incurred as a result of an operation.

According to the Public Ombudsman, the Ministry of Labour, Health and Social protection of Georgia fully covered the operation costs for 11 year old M.S, a resident of Gali district. In addition, in order to ensure post-operation rehabilitation and on the basis of the Public Defender's request, the Ministry of Internally Displace Persons from the Occupied Territories, Accommodation and Refugees of Georgia, paid six months' rent for the minor and his/her companion.

The citizens subject to inhuman treatment while imprisoned for illegal crossing of the border were referred to by the Public Defender to the Gori branch of the Georgian Centre of Medical and Psycho-Social Rehabilitation of the Victims of Torture where they undertook a complete rehabilitation course.

While visiting the conflict-affected communities in Shida Kartli on 23 September 2014, the representatives of the Public Defender's Office were informed that, because of rehabilitation works related to the installation of individual electric counters for the local communities, eight households residing in the village of Kveshi had been left without electricity for over a month. After personal intervention by the representatives, provision of electricity was restored to these families.

In addition, based on the information provided to the representatives of the Public Defender's Office during the monitoring mission, four socially unprotected individuals received funding from the Gori municipal budget to undertake medical examinations and purchase medication.

#### THE OSSETIAN HOUSE

Further to the recommendation submitted on 22 January 2015, the Ministry of Culture and Monument Protection informed the Public Defender's Office that the Ossetian House, which is a part of an open air ethnographic museum of the Legal Body of Public Law *Georgian National Museum* would be rehabilitated in the third quarter of 2015 in adherence to the frames of the *Programme for Supporting Protection of Cultural Heritage for 2015*.

#### GRANTING THE STATUS OF INTERNALLY DISPLACED PERSONS FOR THE GUGUTIANTKARI COMMUNITY

During a 2014 monitoring in the village of Gugutiantkari, Gori municipality, representatives of the Public Defender met with nine local households whose homes are located on the boundary line. Some of the homes were burnt during the war and since then the families have been living in an old school building located in the village. Only three out of these families had been granted the status of IDP.

Conflicting reports regarding the families in the Gori municipality had contributed to delaying resolution to the problem. According to a document dated 4 November 2013, the houses were simply located on the barbed wires; while a second document stated that it was impossible to live in the houses because of their proximity to the line of occupation. However, none of these letters was considered sufficient for the Ministry of Internally Displaced Persons, Accommodation and Refugees to grant IDP status to those households.

It was the family of A.G who reported the situation in writing to the Public Defender's Office. After reviewing information provided by the Public Defender to the Ministry, IDP status was granted to the applicant and the family of their son. The Public Defender's representatives have been further examining a case concerning the granting of IDP status to two more families.

#### ISSUES OF ACCOMMODATING THE POPULATION OF THE VILLAGE OF ZARDIAANTKARI

Roughly 20 families displaced from the village of Zardiaantkari and one family displaced from the village of Plavi, Gori municipality currently live in dire conditions in Gori Kindergarten #1. Three of these families applied to the Public Defender to report on unbearable living conditions. After reviewing the information provided by the Public Defender, Gori municipality offered to cover rent fees for the families should they desire to move into a rental accommodation.

#### THE CASE OF B.I.

I.B. and four other members of his family, including two minors, live in the outskirts of the village of Pakhulani, Tsalenjikha municipality. In the spring of 2013, Russian border guards installed barbed wires between his house and the village, thus isolating the family from the Georgian-controlled territory and limiting their freedom of movement. In order to allow the children to continue their studies, the family sent them to live with relatives in the village as they repeatedly had been detained and fined for attempting to cross into the Georgian-controlled territory.

The Public Defender appealed to the Ministry of Reconciliation and Civic Equality to raise issues related to the above family at the Geneva process of international discussions

with the Abkhazian and Russian parties. The co-chairs of the Geneva discussions were also notified of the issue.

The Public Defender communicated the situation of the I.B. and his family to the Ministry of Internally Displaced Persons, Accommodation and Refugees of Georgia. After consulting with the representatives of the Public Defender, I.B. applied to the Ministry with a request to provide him and his family with accommodation. The request will be reviewed in the nearest future at the first planned session of the commission on IDP issues.

#### *THE CASE OF N.P.*

N.P, who had been requesting a monthly allowance for his Tskhinvali-based son-in-law suffering from health condition incurred through occupational trauma, applied to the Public Defender of Georgia. Similar matters are regulated by Resolution 45 of the Georgian Government dated 1 March 2013. However, it is stated that 'only citizens of Georgia are eligible for assistance' and therefore, the Social Service Agency turned down the request based on the fact that the individual residing in Tskhinvali holds an Ossetian passport.

After thoroughly examining the case, the Public Defender appealed to the Prime Minister and the Ministry of Labour, Health and Social Protection of Georgia. In a letter addressed to the offices the Public Defender reminded the recipients that using Ossetian and Abkhaz passports as a means of identification is a common practice in the country, more specifically in regards to free of charge health-care programmes. Therefore, individuals residing in the conflict zone should be eligible for social or educational programmes using their Abkhaz or Ossetian passports.

The Public Defender insists that amendments be made to the following legislative and normative acts in order to enable the population residing in the conflict zone to have access to Georgian government-funded social and educational programmes:

- Resolution 291 dated 14 April 2014 of the Government of Georgia on approving the state programme 2014 for social rehabilitation and child care;
- Resolution 45 dated 1 March 2013 of the Government of Georgia on approving the procedures for allocating and paying reimbursement of damage to health of the employed incurred in the carrying out of professional activities; and
- The Law of Georgia on Higher Education and Resolution 1067 dated 1 December 2009 of the Minister of Education and Science of Georgia.

In spite of the fact that representatives of the Public Defender have repeatedly raised this issue, including at the session of the governmental commission on Implementation of the Engagement Strategy Action Plan, and even though some members of government are generally inter-

ested in looking at these issues, no measures have been taken to address the issue. Nor have there been any relevant discussions to date.

The Office of the Prime Minister referred to the proposal by the Public Defender to the Ministry of Labour, Health and Social Protection. The latter, however, instead of preparing the required legal changes, notified the Public Defender's Office that 'in order to develop unified approach to the matters related to eligibility of individuals residing in the occupied territories to monetary assistance/services, we recommend that such matters be discussed within inter-agency working group.' It is not clear exactly which inter-agency working group is implied in the letter or when the discussions are expected to take place. The Office of the Public Defender continues to work on this issue.

## 3. IMPLEMENTED PROJECTS AND INTERNATIONAL PARTNERSHIPS

### 3.1. IMPLEMENTED AND ONGOING PROJECTS

The Public Defender's Office continues to implement the Project for Assisting the Public Defender's Office in the Issues Related to Internally Displaced Persons and Conflict-affected communities. The goal of the project is to probe into the problems faced by the Internally Displaced Persons and conflict-affected communities with the purpose of rendering relevant assistance. Regular monitoring missions to the IDP settlements and conflict-affected communities are part of the project. Collective and individual problems are also examined within the frame of the project.

During June-December 2014 the Public Defender's office implemented the project on Empowering the Office of the Public Defender in Samegrelo-Zemo Svaneti, an initiative supported by the Bulgarian government. The project aimed at looking into issues related to human rights, identifying specific cases, responding and following up. Within the frames of the project, the representatives of the Public Defender paid five separate visits to the conflict-affected communities along the boundary line with Abkhazia, revealing a number of issues and individual cases of rights violations and responding appropriately.

### 3.2. PARTNERSHIP WITH GOVERNMENTAL AGENCIES AND LOCAL AND INTERNATIONAL ORGANISATIONS

In order to contribute to the protection of rights of persons in conflict-affected communities and improving their living conditions, the Public Defender's Office actively cooperates with all stakeholders whether they be governmental, local or international agencies or organisations. The partnership involves participation in the activities of state commissions, submissions of recommendations, partnership with non-governmental organisations and projects and relations with donors with the purpose of empowering the

Public Defender's Office and raising awareness on human rights.

The representative of the Public Defender's Office attends the session of the temporary governmental commission for responding to the needs of the conflict-affected communities along the boundary. The office also submits a list of issues to the chair of the commission, which the Minister of Infrastructure and Regional Development is to include in the session's agenda.

The Public Defender also participates in the activities of the Interagency Coordination Working Group on the National Action Plan on Human Rights, which is concerned with dealing with the rights of the conflict-affected population. The representatives of the Public Defender share observations and comments on the special tasks package prepared by the Human Rights Interagency Council with the working group members and the Human Rights Secretariat of the Administration of the Georgian Government.

On 1 August 2014, the deputy Public Defender and an adviser participated in a session of a governmental commission specifically set up for implementing the engagement strategy work plan. The session was chaired by the State Minister of Reconciliation and Civic Equality. The representatives of the Public Defender presented to the government agencies a proposal regarding issues related to the accessibility of healthcare and social programmes for the population residing in the conflict zone.

In addition, the Public Defender actively cooperates with the co-chairs of the Geneva international discussions, the European Union Monitoring Mission, various UN agencies, the Secretariat of the Council of Europe and its Georgia office.

On 8 July 2014 the Public Defender and the Synergy network of IDP organisations signed a memorandum of partnership based on the shared vision of both the Public Defender and Synergy, spelling out their goal of advocating the policy for legal and social protection of refugees and internally displaced persons.

In addition, the Public Defender's Office is in the process of implementing a project titled Supporting the Social Status of the Armed Conflict Victims together with the NGO, People's Harmonious Development Society.

To celebrate the International Day of Peace, the Public Defender's Office together with the Human Rights House and its member organisations hosted the week of peace from 21 – 26 September 2014 during which the representatives of the Public Defender's Office and the Human Rights House visited communities in Shida Kartli affected by the 2008 war.

On 26 September the Public Defender's Office hosted debates on Human Rights in the Conflict-affected regions: The

Role and the Responsibility of the Authorities. Emphasis was placed on the problems related to security with reference to frequent detentions along the boundary line. It was highlighted that the local population is affected by restricted rights of movement and poorly developed infrastructural and healthcare programmes. The Public Defender argued that responding to these issues requires the development of profound, consistent and systemic state policies. Paata Zakareishvili, the State Minister for Reconciliation and Civic Equality, Gocha Ratiani, Head of the Analytical Department of the Ministry of Interior and Lia Chlachidze, a civil activist from the village of Ergneti, each delivered speeches during the debates.

### 3.3. THE DIALOGUE ON CONFIDENCE BUILDING AND HUMAN RIGHTS

The Public Defender and his representatives participate in the meetings held between Georgian, Ossetian and Abkhaz human rights activists and the representatives of civil society. The meetings are held under the aegis of international organisations, including the Council of Europe and George Mason University, and aim at exchanging information and building confidence. Participants at such meetings discuss critical issues such as freedom of movement, right to education, issues related to prisoners and missing persons, gender equality and domestic violence, among other things.

At the meetings the Public Defender talked about the activities of his office as well as the human rights issues faced by the conflict-affected communities. The Adviser to the Public Defender also introduced to the audience a special report of the Public Defender on detentions and prison conditions along the boundary line.

## 4. THE PRIORITIES FOR 2015

Monitoring the rights of the conflict-affected communities remains a key priority for the Public Defender's Office for 2015. The following activities are to be implemented by the Public Defender's Office in 2015:

### 4.1. RESEARCH AND CRITICAL ISSUES

In the first half of 2015 the Public Defender's Office will publish a special report on the rights of internal displaced persons and persons living in conflict-affected communities. The report will concern the realisation of human rights for communities along the boundary live based on the findings of the monitoring missions by the representatives of the Public Defender in 2014.

The Public Defender's Office will also publish a special report on the State Policy for Peaceful Resolution of Conflicts. The document will evaluate the measures and steps taken by the Georgian authorities towards protecting the rights of persons in the conflict-affected communities.

In the first half of 2015 the staff of the Public Defender's Office will study cases concerning property rights and restitution. The findings of the research will be collated in a special report that will also include the comments and recommendations of the Public Defender on these issues.

In addition, the Public Defender will dedicate a special report to the persons missing following the armed conflicts of the 1990s and 2008. The report will provide an overview of state policy concerning this issue.

A study closely examining the special needs of conflict-affected women and girls is also planned for the second half of 2015. It will evaluate the implementation of the national action plan 2012 – 2015 for UN Resolutions 1325, 1888, 1889 and 1960 on Women, Peace and Security.

#### 4.2. EDUCATIONAL ACTIVITIES

In the summer 2015 the Public Defender's Office will organise two summer schools for selected participants from conflict affected youth, students and young specialists. The summer school programmes will be led by the staff members of the Public Defender's office as well as invited guest experts. The summer schools will focus on promoting the following topics: national and international mechanisms for human rights protection, foundations of the international humanitarian law and rights of minorities and internally displaced persons.

#### 4.3. ADVOCATING THE RIGHTS OF CONFLICT-AFFECTED COMMUNITIES

The Public Defender and his representatives will be actively involved in various governmental and interagency commissions to voice his recommendations and comments. More specifically:

- The Temporary Governmental Commission for Responding to the Needs of the Affected Communities along the Boundary Line
- The interagency Coordination Council and its working group for the Human Rights National Action Plan
- The Commission on the IDPs Issues

In 2015 – 2016 the Public Defender will continue to work actively to protect the rights of persons in conflict-affected communities. One of the major goals of this work is the protection of the rights of the population residing in Abkhazia and South Ossetia and the rebuilding of ties with them.

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