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კრობლემები

Migration and Citizenship Issues Facing
Georgia's Ossetian Community

Миграция осетин, проживающих в Грузии,
и отдельные вопросы в связи с гражданством



2015



**MIGRATION AND CITIZENSHIP ISSUES FACING
GEORGIA'S OSSETIAN COMMUNITY**

Individual problems related to citizenship within the Ossetian community

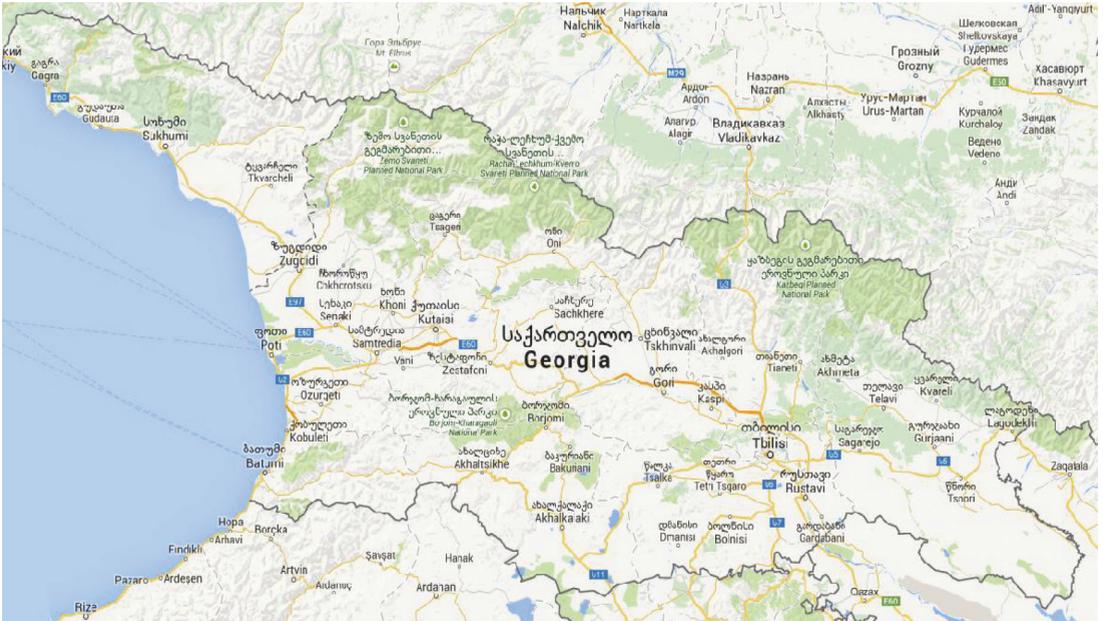
Tbilisi

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According to the census conducted in 1989, the number of Georgia's ethnic Ossetian population totalled 164,055, including 65,322 residents of the South Ossetian autonomous district and 98,823 in other regions of Georgia. Substantial ethnic Ossetian communities could be found in Tbilisi (33,318), Tskhinvali (31,537), Shida Kartli (32,050), Kakheti (12,441), Mtskheta-Mtianeti (10,309) and Rustavi (5,613).

The 2002 census showed that there were 38,028 ethnic Ossetians residing on government-controlled territory. Among them, 10,268 lived in Tbilisi, 13,383 in Shida Kartli, and 6,109, 3,977 and 1,410 in Kakheti, Mtskheta-Mtianeti and Rustavi, respectively.¹

The results of the 2014 census are not yet known and therefore, neither is the number of ethnic Ossetians currently living in Georgia. However, a number of research studies show that their number has decreased further.²

¹ The results of the 1989 and 2002 censuses. The National Statistics Office of Georgia.

² Sordia Giorgi. Ossetians in Georgia. Published in Solidarity 6 (33), available at: <http://tolerantoba.ge/index.php?id=1314971882>.

1. Introduction

In accordance with its competences granted by the Constitution of Georgia, one of the top priorities of the Public Defender's Office is to ascertain and monitor the rights of persons in conflict-affected communities.

In January 2014 the Ossetian Forum, a consultative council, was set up at the Public Defender's Office. The Forum functions as a communications hub for the members of Georgia's Ossetian community, Tbilisi based NGOs, regional activists, educators and representatives of culture and the arts. The goal of the Ossetian Forum is to eliminate the negative consequences of past conflicts and ongoing tensions, protect the rights of those who have been affected by military actions and protect the rights of Georgia's ethnic Ossetian citizens, including their ethnic identity and cultural rights.

For the purpose of achieving the objectives mentioned above, the Ossetian Forum has contributed to a research study conducted by the Public Defender's office concerning migration and citizenship issues faced by Georgia's ethnic Ossetian community. The goal of the research was to study cases of rights violations occurring as a result of the 1989-1992 war and lingering ethnic tensions, as well as to develop recommendations for the restoration of those rights. The research highlights the State's responsibility to ensure restoration of justice and rights based on its international obligations to protect human rights in the country. That includes the State's responsibility to respond to past violations.³

Although both Georgian and Ossetian communities were affected by armed conflicts, the study focuses on the Ossetians who at the time of the 1989-1992 conflict resided on Georgian government-controlled territory and were severely affected by the conflict.

Highly undesirable migratory trends affecting Ossetian-populated villages in Georgia are coupled with legal and practical barriers currently imposed on Georgia's ethnic Ossetian residents. More specifically, some of the Ossetians living in Georgia hold Russian citizenship, which means that their Georgian citizenship is automatically terminated. This factor forces them to choose between Russian and Georgian citizenship.

At this stage it is difficult to determine the exact number of the affected, as possession of citizenship in two sovereign countries is illegal in Georgia. Therefore, holders of two citizenships tend to hide this status. According to the cases investigated by the Public Defender's Office, the problem has come to the surface since the change of government in 2012, when the law began to be fully implemented.

2. Research Methodology

Within the frame of the research study, the team analysed the following pieces of national and international legislation and guiding principles for human rights:

³ Resolution A/RES/60/14 of the UN General Assembly Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted on 21 March 2006.

- The Georgian Constitution;
- The Organic Law of Georgia on Citizenship;
- Resolution of the Georgian Government on granting Georgian citizenship under simplified procedures to persons with repatriate status;
- Universal Declaration of Human Rights;
- Convention for the Protection of Human Rights and Fundamental Freedoms;
- International Covenant on Civil and Political Rights;
- International Convention on the Elimination of All Forms of Racial Discrimination;
- Policy framework and implementation strategy, including the role of the UNHCR in returning and reintegrating internally-displaced persons;
- Textbook in repatriation and reintegration; and
- Textbook in Voluntary Repatriation: International Protection.

The research team also reached out to the ethnic Ossetian communities in Kakheti, Shida Kartli, Samtskhe-Javakheti and Tbilisi. The field visits took place from 25 November 2014 to 20 February 2015.⁴ Selection of the communities was based on 2002 census figures for communities with ethnic Ossetian populations.

The meetings were held with local community members and authorities in both open and closed formats. During each individual interview, a researcher filled out a questionnaire specifically designed for the research study (See Annex). Special methodology was developed for interviewing members of communities living along the administrative boundary line because of the complexity and difficulty of the situation in these conflict-affected locations.

Apart from consulting with target groups, the Public Defender's Office reviewed and responded to individual cases by providing legal counselling to the applicants on citizenship-related matters.

Recommendations for improving the realisation of rights of Georgia's ethnic Ossetian population were developed based on the research outcomes. Recommendations provided to the Georgian government by international organisations were also considered in the process of developing recommendations.

3. The Armed Conflict and Ethnic Tensions in Georgia

Political tensions and military confrontations in the early 1990s in the former autonomous district of South Ossetia claimed roughly 1000 lives on both sides, while more than 100 persons remain missing. Destroyed property and infrastructure and thousands of internally displaced persons remain the grave consequences of those times.⁵

⁴ Kakheti: the villages of Pona and Areshperani of Lagodekhi municipality; the villages of Pichkhovani and Argokhi of Akhmeta municipality; the village of Tsitelubani of Kaspi municipality; the villages of Kintsvisi, Atotsi, Zguderi and Laleti of Kareli municipality; the settlement of Bakuriani in Borjomi municipality.

⁵ Human Rights Watch, *Bloodshed in the Caucasus: Violations of Humanitarian Law and Human Rights in the Georgia-South Ossetia Conflict, 1992*. Available at: <http://www.hrw.org/reports/pdfs/g/georgia/georgia.923/georgia923full.pdf>. Accessed 15.12.2014. Meetings and interviews of the representatives of the Public Defender's Office with members of ethnic Ossetian communities. November 2014 – January 2015.

Over the same period, ethnic Ossetian communities located outside the autonomous district also encountered pressure, assault, threats, intimidation, murders, expulsion or exposure to such grave conditions that they were made to leave their homes. These actions were mostly conducted by informal armed groups, but individual civilians also perpetrated incidents of intimidation and assaults.⁶

As a consequence of these developments, people were forced to leave their homes and migrate to other countries, leaving empty villages in their wake. For instance, according to the 1989 census 430 individuals, mostly ethnic Ossetians, resided in four villages located in the Gujareti administrative unit in Borjomi region. The 2002 census found that literally no one was left⁷. The representatives of Borjomi municipality confirmed that the villages are completely empty.⁸

According to the data available in North Ossetia, by 2004 the number of registered Ossetians who had migrated from Georgia totalled 19,025 persons.⁹ A survey conducted by a UNHCR partner organisation in North Ossetia revealed that most of the migrants do not plan to return to Georgia, mostly because of the perceived impossibility of recovering their homes and property.¹⁰

Some of the Ossetian population returned to Georgia permanently following improvements in the human rights situation with regards to ethnic minorities. However they retain Russian passports obtained as emigrants, which they hold alongside their Georgian passports.

The following three categories of affected population were identified over the course of the research:

1. Ossetians who left Georgia because of the conflicts or to pursue more lucrative economic opportunities, and never came back;
2. Ossetians who left Georgia temporarily in the 1990s and obtained Russian citizenship but returned to Georgia fairly quickly, retained Georgian citizenship and are willing to restore their rights. These people hold both Georgian and Russian passports; and
3. Those who did not flee the country in the 1990s, but obtained Russian citizenship in order to improve their livelihood and maintain social and economic ties with the Russian Federation. These people reside in Georgia on a permanent basis and are willing to hold Georgian citizenship alongside the Russian citizenship.

While recognizing the State's responsibility to protect the rights of individuals falling under all three categories, at this stage it is urgent to take effective measures regarding the rights of those who permanently reside in Georgia and are willing to remain in the country (second and third categories).

The State has attempted several times to restore the rights of persons in the conflict-affected communities, but to no avail. One such attempt, the 2006 Law on Property Restitution and Compensation for the Victims of Conflict in the Former South Ossetian Autonomous District in the Territory of Georgia, has never been implemented.

⁶ Ibid.

⁷ The Gujareti Community consists of the following villages: Gujareti, Tsitelsopeli, Ghinturi and Odeti.

⁸ The Information provided to the Public Defender on 5 February 2015.

⁹ International Crisis Group, Georgia – South Ossetia: the Refugee Return the Path to Peace, 2005. Available at: [http://www.crisisgroup.org/~media/Files/europe/b038_georgia_south_ossetia_refugee_return_the_path_to_peace.pdf](http://www.crisisgroup.org/~/media/Files/europe/b038_georgia_south_ossetia_refugee_return_the_path_to_peace.pdf) Accessed 10.12.2014.

¹⁰ Ibid.

It is worth noting that, conditional on its membership in the Council of Europe, Georgia accepted responsibility to take all legal and administrative measures necessary to ensuring property restitution for the victims of 1990-1994 conflicts.¹¹ The same calling was voiced at the Istanbul Summit of 1999 when, upon approving the declaration, the Organisation for Security and Cooperation in Europe (OSCE) called on the Georgian government to develop a legal framework for property restitution of refugees and internally displaced persons.¹² However, it is not feasible to fully adhere to this responsibility without resolving outstanding issues related to citizenship.

4. International Norms and Standards for Human Rights

4.1. Right to Freedom of Movement

While reviewing applications from conflict-affected ethnic Ossetian individuals, the relevant authorities should devote attention to an individual's right to freedom of movement. Specifically, that means the right to access her/his own country as guaranteed by Article 12 of the International Covenant on Civil and Political Rights.¹³

General Comment 27 of the UN Human Rights Committee highlights the right of a person to enter his or her 'own country,' stating that this right is a recognition of the special relationship between a person and their home country. That right has various facets and implies the entitlement of persons to stay, leave and return to their home country regardless of the circumstances in which they left. The right to return represents an important framework for those refugees and internally displaced persons who want to voluntarily return to their country.¹⁴

Paragraph 12, Clause 4 of the International Covenant on Civil and Political Rights states that 'no one shall be arbitrarily deprived of the right to enter his own country.' According to General Comment 27 of the UN Human Rights Committee, the abovementioned clause does not differentiate a citizen from a non-citizen. The scope of 'his own country' is sufficiently broad that the concept of 'country of his nationality' implies acquiring citizenship not only through birth or naturalisation, and also indicates an individual's special relationship with her/his home country: 'an individual who because of his or her special ties to or claims in relation to a given country, cannot be considered to be a mere alien.'¹⁵

4.2. Conflict-Affected Communities and the Specific Approach

The relationship between citizenship and human rights is of particular importance when it comes to persons in conflict-affected communities rights' to safe return to their country of residence and reintegration to society with dignity. The UN Sub Commission on the Promotion and Protection of Human Rights has reiterated the right of refugees and internally displaced persons to return to their homes and places of residence based on their countries and/or whereabouts, if they wish to

¹¹ The Parliamentary Assembly of Council of Europe, Opinion 209 on Georgia's Application for Membership. 209 (1999). Accessible at: <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta99/EOPI209.htm>. Accessed 08.12.2014.

¹² The Organisation for Security and Cooperation in Europe (OSCE), the Istanbul Document, 1999. Available at: <http://www.osce.org/mc/39569?download=true>. Accessed 10.12.2014.

¹³ International Covenant on Civil and Political Rights, Article 12.

¹⁴ CCPR General Comment 27 of the UN Human Rights Committee on Article 12 (the right to movement) of the International Covenant on Civil and Political Rights (<http://www.refworld.org/docid/45139c394.html>).

¹⁵ Ibid.

do so.¹⁶ The UN General Assembly and the Security Council have endorsed numerous resolutions to recognize the right to return and property restitution.

The right to return is also enshrined in the UN guiding principle for Housing and Property Restitution and on Refugees and Internally Displaced Persons. The document clarifies that these principles are effective with regards to refugees and internally displaced persons who have been illegally and unjustifiably deprived of their property and homes, regardless of the reasons and circumstances of their displacement. Respectively, the guiding principles hold those states and authorities responsible in the territory of which or under whose effective control these violations took place. Restitution implies restoration of human rights and freedoms and is related to such rights as identity, family life and citizenship, right to return to place of residence, restoration of housing, employment and property restitution.

It is evident that restoration of rights of conflict-affected persons is only possible if citizenship issues are effectively addressed and resolved. Citizenship is the mechanism which facilitates the effective implementation of restitution policy. In order to initiate and implement the policy for restoring the rights of the conflict-affected Ossetian population, it is critical that measures be taken to support the Ossetian communities' reintegration into Georgian society.

5. Issues Related to Citizenship

5.1 Issues Related to Georgian Citizenship

In the early 1990s, ethnic tensions and violations of the rights of Ossetian communities were the main reasons many ethnic Ossetians left Georgia to seek citizenship in foreign countries. However, it should also be noted that many Ossetians left Georgia in late 1990s because of grave social and economic conditions prevailing in the country.¹⁷

At that time the State had neither the political will nor the socio-economic means to accommodate the needs of ethnic Ossetian communities for integration and restoration of property rights. Because of family ties, many Ossetian migrants from Georgia preferred to move to North Ossetia and eventually settle there. Statistical data indicate that from 1989 to 2002 the ethnic Ossetian population declined by 69 percent in Tbilisi and 58 percent in Shida Kartli.¹⁸

Although various Georgian authorities expressed readiness to restore the rights of ethnic Ossetians, there remain barriers preventing the timely resolution of these problems.

One of the most burning problems thought to have the potential to spur a new wave of Ossetian emigration from the country is the issue of Georgian citizenship. More specifically, this problem affects Ossetian returnees who permanently reside in the country. However, their lives are closely linked with two countries - Georgia and Russia (North Ossetia) - because of the events of the past

¹⁶ UN Sub-Commission on the Promotion and Protection of Humans Rights, Resolution 2002/7 Housing and Property Restitution in the Context of Refugees and Other Displaced Persons, 14 August 2002, E/CN.4/sub.2/RES/2002/7.

¹⁷ Meeting with the Tsitelubani community, Kaspi municipality on 11 December 2014.

¹⁸ When compared to other ethnic groups, it is revealed that the number of ethnic Armenians in Georgia decreased by 43 percent over the same period, while the number of Azeris dropped by 7 percent and the size of the ethnic Georgian population declined by 3.3 percent.

years. After emigrating, these people obtained foreign (Russian) citizenship while keeping their Georgian identity documents.

Citizenship of Georgia implies a legal relationship of its holder with the state and exercise of full range of economic, social and political rights. General rules for obtaining Georgian citizenship are regulated by the Georgian constitution:

Article 12

1. Georgian citizenship shall be acquired by both birth and naturalisation

2. A citizen of Georgia shall not at the same time be a citizen of another state, save in cases established by this paragraph. Citizenship of Georgia shall be granted by the President of Georgia to a citizen of foreign country, who has a special merit before Georgia or grants the citizenship of Georgia to him/her is due to State interests.

According to the constitution, a citizen of Georgia shall not at the same time be a citizen of another state, save certain exceptions. Therefore, acquiring citizenship in a foreign country is grounds for termination of Georgian citizenship. Both the acquisition and deprivation of Georgian citizenship are regulated by the Organic Law.

Many ethnic Ossetians have applied to the Public Defender's Office to report that their Georgian citizenship was terminated because of also holding Russian citizenship. Despite having been born in Georgia, permanently living here with their families (whose members in many cases are Georgian citizens) and owning property, many such applicants, willing to obtain Georgian citizenship as an exception, have been denied.

As a result, they are also deprived of eligibility for privileges afforded exclusively to Georgian citizens. Firstly, this includes political rights including the right to vote, right to be elected to a representative body, and other rights. Foreign citizens and those who do not hold Georgian citizenship are not eligible for employment in public service and have no access to social assistance programmes such as health insurance.

It also should be noted that foreign citizens may be subject to restrictions when it comes to ownership of arable land. In spite of the fact that the Constitutional Court ruled against the restriction¹⁹ of ownership over arable land by foreign citizens, numerous attempts have been taken by the State to reintroduce certain restrictions and regulations.²⁰

Georgia's ethnic Ossetian residents who have terminated Georgian citizenship are forced to make a choice between Georgian and Russian citizenship due to the existing legal restrictions.

Also worth noting is that for many Ossetians residing in Georgia, Georgian citizenship has an emotional aspect, representing an important link to their country of birth and residence. The memory of rights violations still haunts them, and Georgian citizenship serves as a guarantee for the protection of their rights. On the other hand, Russian citizenship is the main source of livelihood.

¹⁹ Danish citizen Heike Kronquist vs the Parliament of Georgia, the plenary of the Constitutional Court, 3/1/512A of 26 June 2012.
²⁰ Austrian citizen Mathias Huter vs the Parliament of Georgia, decision of the first collegiate ruling session. 1/2/563 of 24 June 2014.

In cases when one chooses to turn down Russian citizenship and acquire Georgian, they will no longer be able to visit family members in Russia (North Ossetia) or receive social assistance, because of strict visa regulations between Georgia and the Russian Federation. Another factor making the situation even graver is that most members of Georgia's Ossetian community are elderly and have children and other family members in North Ossetia. Therefore, it is critical for them to travel freely between Georgia and the Russian Federation.

5.2 Issues Related to Foreign Citizenship

Those Ossetians living in Georgia who do not give up Russian citizenship can remain in Georgia, but as foreign citizens and subject to restrictions stipulated by Georgian legislation regarding aliens.

New migration regulations stipulated by Georgian legislation came into force on 1 September 2014. The terms of visa-free stay in Georgia for citizens of select countries have been restricted. A 'short-term' stay is now limited to 90 days within any 180-day period, meaning that foreign citizens of certain countries, including the Russian Federation, are allowed to remain in Georgia without a visa for up to 90 days.

If a person desires to stay longer than 90 days during a 180-day period, s/he must obtain the relevant visa via Georgia's diplomatic representation abroad, acquire a temporary residence permit for six years, or acquire a permanent residence permit. As a rule, acquiring a residence permit is not a problem for ethnic Ossetians. However, residence permit holders are not eligible for rights and privileges enjoyed by citizens of Georgia. In addition, research findings indicate that a great majority of ethnic Ossetian respondents are not satisfied with acquiring a residence permit and prefer to obtain full citizenship due to emotional and/or legal bonds to Georgia.

Prior to recent amendments, visitors could obtain a Georgian visa upon arrival in the country via the Public Service Development Agency, a legal body at the Ministry of Justice.

5.3 Issues Related to an Alien's Acquisition of Georgian Citizenship

One of the means of acquiring Georgian citizenship through naturalisation is to obtain it as an exception, which means that the President of Georgia grants a person Georgian citizenship provided that such person meets specific criteria. More specifically, a person has to have merit before Georgia, or it must be within the State's best interest to grant citizenship to such person.

The criteria are wide and general. In particular, this refers to the term 'state interest.' Unspecified and vague criteria allow for varying treatment of applications with the same content. Therefore, granting the citizenship of Georgia with exceptional procedure to conflict-affected Ossetians is highly dependent to the extent they fall under the definition of state interest.

Research findings show that in most cases a conclusion provided by the Counterintelligence Department of the Ministry of Interior of Georgia serves as grounds for rejection of the application. Such conclusion reads as follows:

The Department of Counterintelligence of the Ministry of Interior of Georgia finds it inexpedient to grant the applicant the Georgian Citizenship.

Based on the conclusion as well as interviews with the applicant, the Public Service Development

Agency prepares a decision, which it then submits to the President. This decision is also a blueprint, stating that

The Commission ... discussed numerous circumstances related to this application. The Commission also discussed expediency of granting state and public security, ...' based on the information obtained from the relevant agency...' and concludes that 'the application is irrelevant to the sub-paragraph 2 of Article 12 of the Georgian Constitution on granting the Georgian citizenship.'

It can be assumed that decisions made by state agencies do not rely on the individual assessment of applications. Nor are these decisions grounded and justified. Applicants have no access to conclusions prepared by the Department of Counterintelligence of the Ministry of Interior.

In spite of the fact that terminating Georgian citizenship for ethnic Ossetian citizens of Georgia does not represent any kind of breach of law, this practice reflects poorly on the attitudes and policies of the Georgian State toward restoring the rights of conflict-affected individuals. More specifically, there appears to be no consideration of the fact that most of conflict-affected persons acquire foreign citizenship or migrate to other countries because of looming physical threats and human rights violations.

In this respect, as early as 2006 the Venice Commission recommended that Georgia make changes to the constitution to legalise so-called 'dual citizenship.' The Commission also called on the Georgian government to simplify procedures for granting citizenship for conflict-affected persons as an interim measure: 'The Venice Commission encourages the public declaration that applications for double citizenship will be granted as being in the interest of Georgia.'²¹

A similar recommendation is included in a 2004 report of the International Crisis Group. According to the recommendation, the Georgian authorities should effect legal changes to allow for dual citizenship for conflict-affected individuals.²²

It is apparent that conflict-affected ethnic Ossetian communities maintain emotional and legal links with Georgia. While discussing issues related to Georgian citizenship, particular attention should be paid to the right of an individual to enjoy citizenship in the country where s/he was born and has developed a sense of personal belonging. Most respondents who talked to the research team consider holding both Georgian and Russian citizenship the best possible way out of the situation.

6. Specific Cases and Trends

The research team reviewed individual cases brought to attention during field visits to ethnic Ossetian populated villages. The cases were investigated via conversations with community members, identification of specific problems and analysis of legal regulations and practices.

²¹ Opinion of the Venice Commission on the draft law of Georgia on Property Restitution and Compensation on the Territory of Georgia for the Victims of Conflict in the Former South Ossetia District. Adopted by the Venice Commission at its 67th Plenary Session. Venice, 9-10 June 2006. Available at: [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2006\)010-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2006)010-e).

²² International Crisis Group, Georgia-South Ossetia: Refugee Return Path to Peace. Available at: http://www.crisisgroup.org/~media/Files/europe/b038_georgia_south_ossetia_refugee_return_the_path_to_peace Last accessed: 16.12.2014.

Kakheti

- A 74-year old ethnic Ossetian woman had worked as a teacher for 50 years (up to 2008). Her three children live in the Russian Federation (Vladikavkaz), but she lives in Georgia and owns property. She has been living alone following the death of her spouse.

She held both Russian and Georgian citizenship. However, in 2008 she was notified that because she held Russian citizenship her Georgian citizenship had been terminated. In 2012 she applied to the President of Georgia to grant her the Georgian citizenship as an exception. She was granted an interview in 2013 but was eventually denied.

As stipulated by current legislation, she crosses the Georgian-Azerbaijani border once every three months.

She believes herself to be eligible for Georgian citizenship, arguing that ‘I aged here; I have always been an active citizen. Now when I am old they threw me away as if I was a useless thing’.

- E.T. is 64-year old ethnic Ossetian woman who had lived and worked as an agronomist in Georgia before being forced to leave the country because of notorious developments taking place in the 1990s. She came back to Georgia after several months. She acquired Russian citizenship in 2001 because of her perception of Georgia’s social and economic instability. E.T. desires to live in Georgia and be a full citizen of the country. At the same time, she is willing to maintain Russian citizenship in order to be able to visit her relatives in the Russian Federation and receive social assistance.
- N.V. is 54-year old ethnic Ossetian woman who had to leave Georgia because of the situation in the 1990s. She left for Belarus, where she lived for 12 years. During that time she travelled to Russia and acquired Russian citizenship. In 2001 she came back to Georgia. Two of her children live in Belarus while the third lives in Georgia. She owns property in Georgia. Currently she holds only Russian citizenship but is willing to regain Georgian citizenship. If denied dual citizenship, she says she will be forced to sell her property and move to Russia together with her elderly parents.
- M.B. is a 45-year old ethnic Ossetian woman who left Georgia in the 1990s, returning several years later. Her family lives in Georgia, where she also owns property. She acquired Russian citizenship in 2002. Her Georgian citizenship was terminated in 2012 and she has been denied dual citizenship.

Tbilisi

- T.T. is a 56-year old ethnic Ossetian man with a permanent place of residence and whose family members are citizens of Georgia. Because of grave socio-economic conditions prevailing in Georgia he had to acquire Russian citizenship in 2004; although he has never left Georgia. In 2013 his Georgian citizenship was terminated. T.T. applied for Georgian citizenship under the rule of exception, but was denied without due justification.

Shida Kartli

- M.T. is a 45-year old Ossetian woman who was forced to leave Georgia in the 1990s. While in Russia she acquired Russian citizenship. After returning to Georgia she has maintained both citizenships. She is willing to apply for Georgian citizenship under the rule of exception, but as she is not sure of the consequences of her applying, she has so far refrained from doing so.

Several such cases were identified during outreach visits in Shida Kartli.

Samtskhe-Javakheti

- N.M is an ethnic Ossetian 62-year old woman born and raised in the settlement of Bakuriani. She has always lived there. According to her testimony, she was forced to leave the country in the 1990s: 'I had gone through all the hardship like the rest of Georgia. But I have never denounced the citizenship of my country... I want to know why I cannot acquire the citizenship of the country I was born and where I have always lived. Maybe because I am of Ossetian ethnicity?' N.M. acquired Russian citizenship in 2002 in order to be able to visit her brothers in Vladikavkaz. She is a retiree and owns property in Georgia. She wants to spend the rest of her life in Georgia as a citizen of the country.

Several key issues have been identified through examining individual cases:

Firstly, it is evident that there is a lack of a coherent state policy toward the conflict-affected communities and issues related to the citizenship of their residents. Such a policy is a key indicator of the State's willingness to reintegrate the conflict-affected Ossetian communities, as well as rebuild trust and confidence.

In the light of the absence of the state policy, the respective authorities do not consider the special conditions and needs of ethnic Ossetian applicants while making decisions on whether to grant citizenship to a foreign citizen. As indicated above, issuing standard rejection letters without proper justification is a common practice. Nor are there clearly-defined and predictable criteria for granting or denying citizenship. For instance, it often occurs that persons who were born in Georgia, have permanent residence in the country and only occasionally travel to Russia for medical treatment are denied Georgian citizenship. For such individuals, Georgian citizenship is a guarantee of a full citizenship and a means of legal stay in the country. Even though there is a high likelihood that these people do not pose any threat to the country's stability, they have still been denied Georgian citizenship.

Certainly, Georgia faces considerable security challenges due to Russia's deployment of military units on the territories beyond the effective control of the Georgian government, recognition of independence of Abkhazia and South Ossetia and reinforcement of control over the line of occupation, among other issues. However, responding to these challenges need not put undue pressure on the Georgian population and cause the violation of human rights. It is critical that details of each and every individual case be thoroughly reviewed, and individuals refused Georgian citizenship be informed on the justifications behind such decisions.

Issues related to property restitution are also of utmost importance, as they are partially related to citizenship statuses in Georgia. When it comes to property rights over land ownership, with the 2006 Law on Property Restitution and Compensation for the Victims of Conflict in the Former South Ossetian Autonomous District in the Territory of Georgia, the state authorities recognize the damage incurred from 1989–1992 in the affected communities and its responsibility for restoring their rights in accordance with international standards.²³ It is evident that the State has so far no clear strategy for restoring the rights of persons in conflict-affected ethnic Ossetian communities.

²³ Law of Georgia on Property Restitution and Compensation on the Territory of Georgia for the Victims of Conflict in the Former South Ossetia District. Available at: http://www.brookings.edu/~media/Projects/idp/Georgia_PropertyRestitutionLaw_2007.PDF

7. Recommendations

The issue of citizenship is considered a starting point for restoring human rights and is closely linked with both property restitution and reintegration of conflict-affected communities. Ethnic Ossetians still living in Georgia on a permanent basis are the bridge between those Ossetians and Georgians who remain divided by conflict. In this regard, the Georgian authorities have the responsibility to take measures toward building confidence and trust and improving the human rights situation in conflict-affected communities.

The findings of the research carried out by the Public Defender's office pinpoint the significance of citizenship to restoring the rights of persons in ethnic Ossetian communities. Therefore, the government of Georgia must consider developing a unified strategy and policy and take necessary measures to protect both human rights and state interests. For this purpose, the Public Defender has developed the following recommendations.

Recommendations:

To relevant structures involved in the process of granting citizenship (the administration of the President of Georgia, Public Service Development Agency, Department of Counterintelligence of the Ministry of Interior).

1. To adequately assess the situation facing conflict-affected individuals, inform decisions according to their needs and conditions and prepare conclusions based on individual assessment of cases.
2. To provide justification and arguments, including factual circumstances, while preparing conclusions on the inexpediency of granting citizenship to a given applicant. A rejected applicant must be notified of the justification and arguments for rejection.
3. To carry out interviews in a matter respecting the dignity and rights of conflict-affected individuals.

To the President of Georgia

4. In accordance with paragraph 2 of Article 12 of the Constitution of Georgia and adhering to relevant legal procedures, the criteria of state interest should be considered while making decisions on applications submitted by those ethnic Ossetians who confirm their willingness to live in Georgia and acquire Georgian citizenship. The decision to grant Georgian citizenship must be grounded in state interest.
5. Amend Resolution 237 of the President of Georgia on Reviewing and Making Decisions on Applications for Citizenship to clarify that the granting of citizenship on the basis of exception to those affected by the conflicts of the 1990s is implemented in accordance with state interest.

To the Government of Georgia

6. To initiate development of a new policy for property rights and restitution for individuals affected by the conflicts of the 1990s on the territory of Georgia.

Bibliography:

Documents adopted by the UN and the Council of Europe

- Resolution adopted by the General Assembly of the UN, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted on 21 March 2006, A/RES/60/147.
- The Council of Europe, the Parliamentary Assembly, Georgia's Application for Membership of the Council of Europe, Opinion 209, 1999.
- The Organisation for Security and Cooperation in Europe (OSCE), 1999.
- UN Sub Commission on the Promotion and Protection of Human Rights, Principles on Housing and Property Restitution for Refugees and Displaced Persons, 28 June 2005, E/CN.4/Sub.2/2005/17.
- Opinion of the Venice Commission on the draft law of Georgia on Property Restitution and Compensation on the Territory of Georgia for the Victims of Conflict in the Former South Ossetia District. Adopted by the Venice Commission at its 67th Plenary Session. Venice, 9-10 June 2006.
- International Covenant on Civil and Political Rights.
- UN General Assembly: Universal Declaration of Human Rights, adopted on 10 December 1948, 217 A(III).
- UN Sub-Commission on the Promotion and Protection of Human Rights, Resolution 2002/7 Housing and Property Restitution in the Context of Refugees and Other Displaced Persons, 14 August 2002, E/CN.4/sub.2/RES/2002/7.
- UN Committee on Economic, Social and Cultural Rights (CESGR), General Comment 4: the right to adequate housing (Article 11 (1) of the Covenant), 13 December 1991, E/1992/23.

Court Rulings

- Danish citizen Heike Kronquist vs the Parliament of Georgia, the plenary of the Constitutional Court, 3/1/512A of 26 June 2012.
- Austrian citizen Mathias Huter vs the Parliament of Georgia, decision of the first collegiate ruling session, 1/2/563 of 24 June 2014.

Other Materials

- Results of the 1989 census of the Georgian population in the Soviet Union. The census includes the South Ossetian Autonomous District. National Statistics Office of Georgia (included in the documents of International Crisis Group).
- Human Rights Watch, Bloodshed in the Caucasus: Violations of Humanitarian Law and Human Rights in the Georgia-South Ossetia Conflict, 1992.
- Agreeing on the Principles of Georgia-South Ossetia Conflict Resolution, 24 June 1992.
- International Crisis Group, Georgia – South Ossetia: the Refugee Return the Path to Peace, 2005.
- Giorgi Sordia, Ossetians in Georgia, Solidarity, 6 (33).
- National Statistics Office of Georgia, Key Findings of the First National Census of the Georgian Population in 2002.
- Law of Georgia on Property Restitution and Compensation on the Territory of Georgia for the Victims of Conflict in the Former South Ossetia District
- Open Society Georgia Foundation, OSCE supports the repatriation of Ossetians, 1997
- International Crisis Group, Georgia: Avoiding War, 2004.

Annex

Questionnaire for Citizenship

Question	Name/Surname	Age	Address	Phone
What is your current citizenship?				
How long have you lived in Georgia?				
Did you leave Georgia in the beginning of 1990s? What was the reason for leaving?				
When did you first return to Georgia and for what reasons?				
Have you ever applied for acquiring/regaining the Georgian citizenship or for dual citizenship?				
What were the grounds for applying for/regaining citizenship or dual citizenship?				
Practical barriers for acquiring citizenship				
Additional Information				

