



**Special Report**

**of the Public Defender of Georgia on**

**the Impact of the Closure of So-called Checkpoints in 2019-2020 on the Human Rights  
Situation of the Population Living in the Occupied Territories**

**Tbilisi 2021**

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## Introduction

The present special report of the Public Defender of Georgia concerns the restriction of the freedom of movement of the conflict-affected population in 2019-2020 and a number of problems caused by this restriction. The report also reviews the COVID-19-related situation in the occupied territories and the measures taken by the Georgian Government in de facto Abkhazia and Tskhinvali region in this direction. The above issues are especially worth noting given the critical humanitarian situation and artificial isolation of the regions.

Despite the fact that no active hostilities are any longer taking place in our country, the Georgian, Ossetian and Abkhazian populations living in the conflict zones are still suffering from the devastating consequences of the war. Their situation is further complicated by the difficulties relating to freedom of movement and the unpredictable closure of the so-called checkpoints by the de facto authorities and the Russian border forces, the formal regime and various barriers imposed by them. Freedom of movement is vital, especially during the pandemic. The exercise of this right is directly related to the enjoyment of the socio-economic, civil and political rights of persons living in the occupied territories, for example, their access to necessary livelihoods, high-quality and full health services, food, medicines and family relations.

The difficult human rights situation and humanitarian crisis in the occupied Akhalkalaki district is particularly worth noting. The deaths caused by inadequate medical care following the arbitrary closure of the checkpoint since September 4, 2019, made the deplorable situation in the district more evident. The Public Defender spoke about the challenges relating to freedom of movement in her 2019 parliamentary report as well.<sup>1</sup>

The current situation reaffirms that there is no alternative to peace policy and conflict transformation. Proper protection of human rights is the best mechanism for the prevention of conflicts and violence, as neglect of rights raises radical sentiments, which can be one of the causes of escalation of tension and destabilization.

### **1. Closure of the so-called checkpoints and its impact on the human rights situation of the population living in the occupied territories**

#### Occupied Abkhazia

The length of the occupation line in the direction of occupied Abkhazia is about 145 km and in the direction of occupied Tskhinvali - more than 350 km.<sup>2</sup>

Until 2013, the de facto Abkhaz administration had been formally recognizing only the Enguri Bridge for moving from occupied Abkhazia to the Georgian-controlled territory. Later, in 2013, additional 4

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<sup>1</sup> Parliamentary Report of the Public Defender of Georgia 2019, p.396, information is available on the website: <https://bit.ly/3oNPewN>

<sup>2</sup> Letter #SSG 6 20 00131318 of the State Security Service of Georgia, October 21, 2020.

crossing points were opened.<sup>3</sup> This step was perceived as a good will of the Abkhaz side, aimed at improving the living conditions of the population living on the territory of Abkhazia and along the dividing line.<sup>4</sup> Accordingly, since 2013, occupied Abkhazia and the territory controlled by Georgia had been connected by 5 crossing points,<sup>5</sup> which had been extensively used by the population of the Gali district for years, including by students and patients.<sup>6</sup> The opening of crossing points has helped ease the situation on the ground and improve the state of human rights.

Later, in 2016-2017, by the decision of the Abkhaz side, the so-called checkpoints opened in 2013 (Shamgona-Tagiloni, Khurcha-Nabakevi, Orsantia-Otobaia, Tskoushi-Saberio) were closed, leaving the ethnic Georgian population of Abkhazia and especially of the Gali district in a difficult situation.<sup>7</sup> The closure increased the travel distance of some villagers of the Gali district by 20-25 kilometers, making movement more restricted and difficult.

The international community responded to the cancellation of the crossing points and assessed the decision made by the occupation regime as the isolation of the local population.<sup>8</sup> Residents of the Gali district also expressed protest, but the decision has not been changed.<sup>9</sup> In addition to the increased travel distances, the abolition of crossing points of Khurcha-Nabakevi, Orsantia-Otobaia, Tskoushi-Saberio and Shamgona-Tagiloni (opened in 2013) has had a negative impact on every aspect of life in the Gali district, including access to health and education, family relations and economic activities.

Today, only the so-called checkpoints of Enguri Bridge and Saberio-Pakhulani exist physically.

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<sup>3</sup> Shamgona-Tagiloni, Khurcha-Nabakevi, Orsantia-Otobaia, Tskoushi-Saberio crossing points.

<sup>4</sup> The closure of the crossing points may lead to the escalation of situation, October 3, 2014. Information is available at: <https://bit.ly/3qMGecY>

<sup>5</sup> Closure of the crossing points may lead to the escalation of situation, October 3, 2014. Information is available on the website: <https://bit.ly/3qMGecY>

<sup>6</sup> Gali district is the only area where ethnic Georgians have returned after the 1992-93 Abkhaz war.

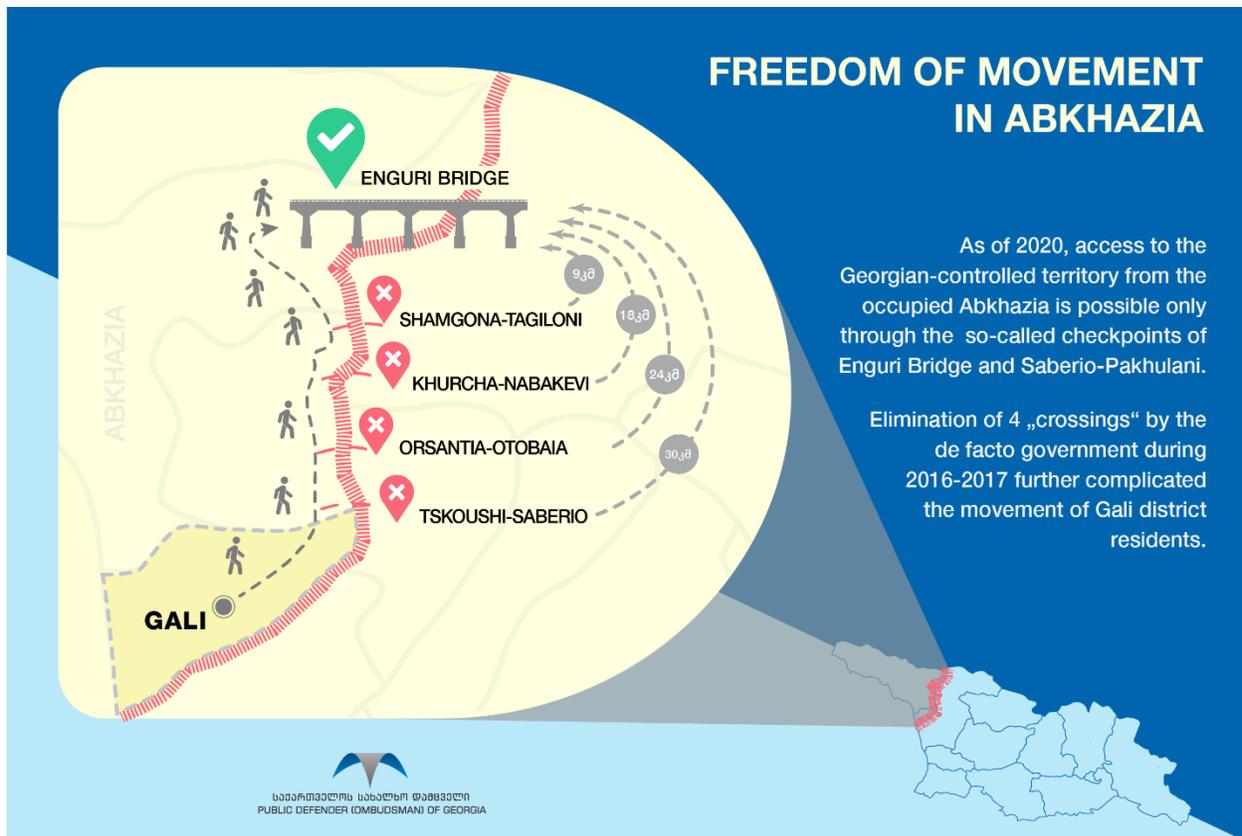
<sup>7</sup> Statement by the EUMM, following the IPRM meeting, 25 January 2017; [https://www.eumm.eu/ge/press\\_and\\_public\\_information/press\\_releases/5728/?year=2017&month=1](https://www.eumm.eu/ge/press_and_public_information/press_releases/5728/?year=2017&month=1)

Statement by NATO on the closure of crossing points; <https://agenda.ge/en/news/2017/381>

Statement by the UN Resident Coordinator [shorturl.at/bIW56](http://shorturl.at/bIW56); Statement by the Ambassador of the United States [shorturl.at/akzF0](http://shorturl.at/akzF0)

<sup>8</sup> "Residents of Gali protested against the planned closure of crossing points", January 27, 2017. Information is available on the website: <https://old.civil.ge/eng/article.php?id=29810>

<sup>9</sup> Enguri Bridge, opened in one direction for certain categories of persons, information is available at: <https://bit.ly/3shjEsZ>



As for the Saberio-Pakhulani crossing point, the above is mainly used by the employees of the Enguri hydroelectric power plant, while the so-called Enguri checkpoint is mostly used by ethnic Georgians living in Gali. However, the crossing point could be used by the population of other districts of Abkhazia as well, if they receive the relevant "permission" from the de facto Security Service of Abkhazia. The above crossing point is also used by ethnic Abkhaz patients, who want to receive medical services in the territory controlled by Georgia. It is possible to move from the territory controlled by the Georgian Government to occupied Abkhazia with the so-called "visa" issued by the de facto Ministry of Foreign Affairs of Abkhazia.<sup>10</sup>

The so-called "visa regime" for movement on the territory of the de facto Republic of Abkhazia was established on April 1, 2016. It is important to note that only citizens of the countries that have recognized the so-called "independence" of Abkhazia can enter the territory of the de facto state of Abkhazia without a visa.<sup>11</sup> In addition, all tourists (except Georgian citizens) who stay in Abkhazia for only 24 hours can enjoy the visa-free regime.<sup>12</sup>

<sup>10</sup> Information is available on the website of the de facto Ministry of Foreign Affairs of occupied Abkhazia: <http://mfaapsny.org/ru/consular-service/visa-free/>

<sup>11</sup> Ibid.

<sup>12</sup> The Enguri Bridge was closed on June 27, 2019. Information is available on the website: <https://www.radiotavisupleba.ge/a/30024502.html>

The above-mentioned regulations and so-called laws introduced by de facto Abkhazia may not have political or legal consequences, although the humanitarian consequences caused by these regulations are severe. For example, the restrictions imposed by the de facto authorities create artificial obstacles for international organizations implementing humanitarian and human rights projects and the above clearly demonstrates the occupation regime's goal of further isolating the regions and reducing access to them for international organizations.

As already mentioned, the so-called checkpoints have often been closed in recent years. During 2019 and 2020, movement across the Enguri Bridge was restricted several times for various reasons. In early 2019, the so-called Enguri checkpoint was closed in connection with the spread of H1N1 flu virus on the territory of Georgia. Exceptions were made only for patients who had a document from the local medical facility certifying their medical needs. Later, in June, the Enguri Bridge was completely closed due to the restrictions artificially created by the de facto authorities, which affected the school leavers living in the occupied territories. Those wishing to get higher education in the territory controlled by Georgia could not take the Unified National Examinations due to the restrictions imposed by the de facto authorities. Later, movement across the Enguri Bridge was restored, however, certain restrictions were imposed. Men only under the ages of 14 or over 60 could enjoy to right to movement. The restriction did not apply to women. According to the information received by the Public Defender from a confidential source, in case of paying a bribe of 5000 Russian rubles, which is about GEL 225, everyone could cross the so-called border despite the restrictions.

Later, in June 2019, the Enguri Bridge was closed again for 6 months. The de facto authorities named the provocative rallies in Georgia as the reason for the closure.<sup>13</sup> In November 2019, the so-called checkpoint was unexpectedly closed again due to the murder committed in Sokhumi.<sup>14</sup>

The next closure took place on March 14, 2020, due to the increased number of coronavirus cases in Georgia. The first COVID-19-infected patient was reported in occupied Abkhazia on March 30, 2020.<sup>15</sup> The de facto authorities introduced strict restrictions to prevent the spread of coronavirus.<sup>16</sup> Everyone except the employees of Enguri HPP was banned from entering or leaving Abkhazia. Later, the de facto

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<sup>13</sup> In Sokhumi, two so-called "thieves-in-law" were killed. A waitress was seriously injured. Information is available on the website: <https://bit.ly/3naoG8v>

<sup>14</sup> State of emergency and patient's path from occupied Abkhazia. Information is available on the website: <https://bit.ly/3408xLm>

<sup>15</sup> The residents of Gali had applied self-isolation before the de facto authorities ordered it. <https://bit.ly/2Kg9mbC>

<sup>16</sup> On May 26, June 22, and July 13, 2020, the de facto authorities opened the so-called checkpoint in one direction, so that only return to the occupied region was possible. In particular, before July 17, 2020, several dozen citizens, who had travelled to the rest of Georgia for various needs, including medical treatment, were given the opportunity to return to their homes. The returnees had to spend two weeks in self-isolation.

authorities of Abkhazia changed its position and opened the so-called border for a few days, three times, in one direction,<sup>17</sup> which enabled people to return to the occupied region.

By the end of November 2020, the de facto authorities of Abkhazia, after an 8-month closure, opened the so-called Enguri checkpoint only for pensioners, though with some restrictions. In particular, three times a week, pensioners are allowed to move to the end of the Enguri Bridge, where a car of the pension bank is waiting for them.<sup>18</sup> As of February 11, 2021, as already mentioned, the Enguri Bridge is open in both directions, but still with some restrictions.<sup>19</sup>

After almost a year of complete restriction of freedom of movement, from February 11, 2021, a certain category of the population of occupied Abkhazia (families with many children, socially vulnerable people, persons with disabilities) have been allowed to enter the territory controlled by the central Government of Georgia through the so-called checkpoint on the Enguri Bridge. This decision was a relief for our fellow citizens living in Gali. However, the above could not substantially change the dire humanitarian situation, as the right to movement can be enjoyed only by a small part of the community. At the same time, another difficulty faced by the population is the 5-day mandatory quarantine imposed by the Georgian authorities on citizens moving from the occupied territories to the Georgian-controlled territory. Due to the imposed restrictions, the residents of Abkhazia use various avoids to reach the territory controlled by Georgia at the cost of their own lives. Obvious examples of the above are the cases of the 7 April 2021 tragedy in Enguri River, also 2 people died while trying to cross across the Enguri River in order to enter the territory controlled by Georgia in 2020. The victim of the 5-day mandatory quarantine, is the nurse from the Gali region of Abkhazia who died in a quarantine hotel several hours after crossing to Georgian-controlled territory to seek urgent medical care. The Public Defender released public statement on the above cases as well.<sup>20</sup>

The radically reduced daily statistics on movement across the Enguri checkpoint also refer to the challenges in terms of freedom of movement. When the above crossing point is fully open, it is used by about 1400-1500 people daily<sup>21</sup> while today this number is reduced to 20-30<sup>22</sup>.

The Public Defender calls on the Georgian authorities to increase pressure on the so-called occupation forces, with the assistance of the international community, in order to achieve the full opening of the so-called checkpoint for the entire population, as well as to revise the 5-day mandatory quarantine

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<sup>17</sup> After 8 months of closure, the Enguri Bridge is open for pensioners, information is available on the following website: <https://bit.ly/3m7LcgV>

<sup>18</sup> The Enguri Bridge was opened in one direction for certain categories of persons. Information is available at: <https://bit.ly/3uCqvPM>

<sup>19</sup> The Enguri Bridge was opened in both directions for certain categories of persons. Information is available at: <https://bit.ly/3shjEsZ>

<sup>20</sup> Statement of the Public Defender of Georgia of April 7, 2021. Information is available at the following website: <https://bit.ly/3x0Xezl>

<sup>21</sup> Letter #SSG 6 20 00131318 of the State Security Service of Georgia, October 21, 2020.

<sup>22</sup> Letter NSSG 9 21 00037784 of the State Security Service of Georgia, March 26, 2021.

measures, which would alleviate the additional barrier to movement for the population of occupied Gali<sup>23</sup>.

The Public Defender of Georgia considers that frequent and unpredictable closure of the so-called checkpoint on the Enguri Bridge, which is the only bridge connecting the occupied region with the Georgian-controlled territory, restricts the freedom of movement of Gali residents and creates unjustified barriers to their access to livelihoods. The Enguri Bridge is not only a checkpoint. It is a bridge connecting Georgians living in Gali with education, better, quality medical services, cheaper products, pensions, relatives and family members, which is vital for them. The closure of the checkpoint has a particularly negative impact on older population, who are left alone in the occupied territories and are unable to visit their family members.

### Occupied Akhgori

In terms of freedom of movement, the situation is alarming in the occupied Akhgori district as well. In early 2019, in the period of January-March, the Ossetian side restricted freedom of movement due to the spread of the flu virus. However, the situation regarding the closure of the checkpoint has been especially tense since the end of August 2019, after the occupation regime demanded from the Georgian authorities to remove a police post opened near the village of Chorchana in the Khashuri municipality. Later, on September 4, 2019, the de facto authorities completely closed the so-called checkpoints.

The closure of the so-called checkpoint, which had been used by up to 400 people daily, created a difficult humanitarian situation for both ethnic Georgians and Ossetians living in Akhgori.<sup>24</sup> As a result of the above-mentioned artificial restriction, the local population has been completely isolated. Like Abkhazia, the so-called checkpoint, in addition to movement, provides access to adequate medical care, food, pensions and other essential services for the residents of occupied Akhgori. The Public Defender constantly pays attention to the humanitarian crisis in Akhgori both in her parliamentary reports<sup>25</sup> and public statements.<sup>26</sup>

With regard to the humanitarian crisis and with a request to open the so-called checkpoint, the co-chairs of the Geneva talks paid a special visit to Tskhinvali on February 11, 2020,<sup>27</sup> but the talks did not yield any result. Following the visit, the de facto authorities of Tskhinvali said that they did not plan to open the so-called border until the Georgian authorities would not remove the police post opened near the village of Chorchana in the Khashuri municipality in late August.

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<sup>23</sup> Statement of the Public Defender of Georgia of April 7, 2021. Information is available at the following website: <https://bit.ly/3x0Xezl>

<sup>24</sup> Letter #SSG 6 20 00131318 of the State Security Service of Georgia, October 21, 2020.

<sup>25</sup> Parliamentary Report of the Public Defender of Georgia 2019, p.396. Information is available on the website: <https://bit.ly/2LqTgwC>

<sup>26</sup> Statement of the Public Defender of November 15, 2019. Information is available on the website: <https://bit.ly/342pO6u>

<sup>27</sup> The co-chairs of the Geneva talks raised the issue of the opening of the "border" in Tskhinvali. Information is available at the following website: <https://bit.ly/3qhkO6C>

Later, the de facto authorities relatively softened its approach and opened the Akhagori district for the residents who were in need of urgent medical care, as well as for pensioners<sup>28</sup> receiving pensions only in the Georgian-controlled territory.<sup>29</sup> However, it should be noted that this exception affected only a very small part of the population, while most of the people living in Akhagori are still in complete isolation. Like the population of Gali, the unpredictable closure of the so-called checkpoint and the dire social situation in the region are forcing people, especially pensioners, to abandon their permanent place of residence and go to their relatives in the Tserovani IDP settlement. Consequently, there is a high risk that the number of ethnic Georgian population will decrease in Akhagori from year to year.

At the same time, it should be noted that most of the population living in Akhagori district have houses, small farms and jobs in the IDP settlement of Tserovani, on the territory of Georgia. After the closure of the checkpoint, part of the population have been stuck in Akhagori district, while their family members are in the territory controlled by Georgia. This fact has put people living on both sides - Akhagori district and the territory controlled by Georgia - in an even worse social and economic situation.

The closure of the so-called checkpoint and the artificial barriers imposed by the de facto authorities of Tskhinvali also have a severe impact on access to health care for the population living in the occupied territories. Clear examples of the above were the cases of deaths caused by inadequate access to medical services in 2019-2020.<sup>30</sup> According to the information provided to the Public Defender, it had been much easier to transfer a patient from occupied Akhagori to Tbilisi in previous years. In particular, for the purpose of transferring a patient to Tbilisi, a doctor of the Akhagori Hospital used to make the relevant decision, based on which the patient's family used to apply to the governor of Akhagori. The latter used to write a "letter", which was enough to show to the Russian border guards at the so-called checkpoint. The current situation is much more complicated. In order to transfer a patient to the Georgian-controlled area, it is necessary to go through several stages: 1. The meeting of a group of doctors of occupied Tskhinvali and their consent; 2. Consent from the Akhagori local municipality and doctors to transfer the patient to Tskhinvali; 3. After transfer to Tskhinvali, assessment of the patient's condition by Tskhinvali doctors; 4. After getting the permission of doctors, the family has the right to apply to the de facto agencies to obtain a "permit" to transfer the patient to the territory controlled by Georgia; 5. At the last stage, the International Committee of the Red Cross takes the patient to Ergneti.<sup>31</sup>

## **2. COVID-19-related situation in the occupied territories**

Given the severe humanitarian conditions and artificial isolation, the population living in the occupied regions have found themselves in a particularly dangerous situation during the pandemic. In the very

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<sup>28</sup> The road was opened for Akhagori pensioners for ten days. Information is available on the website: <https://bit.ly/375GnAs>

<sup>29</sup> The de facto authorities eased regime on the so-called border near Akhagori. <https://bit.ly/37QQYOP>

<sup>30</sup> A year has passed since the closure of Akhagori. Information is available on the website: <https://bit.ly/2Lt0jVB>

<sup>31</sup> Information provided by a confidential source to the Public Defender, September 2020.

first days of the spread of coronavirus, the Georgian authorities expressed their full readiness to help the people living in the occupied territories. In 2020, a total of 892 patients were transferred from both occupied regions, 256 - from Abkhazia and 24 - from the occupied Tskhinvali region.<sup>32</sup>

Despite the readiness expressed by the Georgian Government, the positions of the de facto authorities turned out to be different. As soon as the pandemic started, the de facto authorities of Abkhazia expressed interest in receiving information (which was later carried out through online consultations between Georgian and Abkhaz doctors) and material assistance (medical equipment) from Georgia through international organizations. However, the Tskhinvali regime still categorically refuses to accept aid from the Georgian-controlled territory and demands that the cargo be imported from the Russian Federation. In addition, the de facto authorities refused to allow the World Health Organization specialists to enter Tskhinvali from the territory controlled by Georgia and gave consent to their arrival only from the Russian Federation.<sup>33</sup>

The situation in occupied Abkhazia is relatively better than in Tskhinvali. The de facto Government of Abkhazia allowed representatives of the World Health Organization to enter the region through the Enguri Bridge and study the existing health care system on the ground.<sup>34</sup>

#### COVID-19 related situation in occupied Abkhazia

As already mentioned, from the very first days of the spread of coronavirus, the Georgian Government declared its readiness to help all people living in the occupied territories. Since the beginning of March 2020, the people living in the occupied territories have been assisted in several areas: timely delivery of information, sharing expert knowledge, on-site delivery of medical equipment and treatment of transferred patients. The relevant information materials were promptly translated and distributed in Abkhazian and Ossetian languages. Infectious disease specialists have been giving advice remotely as needed. Hygiene items and medical equipment necessary for the prevention of the spread of coronavirus have been supplied to Abkhazia through various channels several times and this process still continues.<sup>35</sup> In addition, 10 000 out of 235,000 doses of seasonal flu vaccine purchased by Georgia were transferred to occupied Abkhazia.<sup>36</sup>

In addition, the State Security Service and relevant agencies jointly developed a patient management plan and doctors were sent to the field hospital opened near the Enguri Bridge. Each patient from the occupied territories was checked for temperature and transferred to the relevant medical facility

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<sup>32</sup> Letter #78-1-2-202101291750 from the Office of the State Minister of Georgia on Reconciliation and Civic Equality, January 29, 2021.

<sup>33</sup> Tskhinvali refuses the help of international organizations. Information is available on the Radio Liberty website: <https://bit.ly/33YRcV>

<sup>34</sup> Tskhinvali refuses the help of international organizations. Information is available at the following website: <https://bit.ly/3qMskr4>

<sup>35</sup> Report of the Government of Georgia on measures taken against COVID-19. Information is available at: <https://bit.ly/3gyOkkM>

<sup>36</sup> 10 000 doses of the flue vaccine provided. Information is available at: <https://bit.ly/2W5YYpy>

according to his/her complaints. The Rukhi Hospital, which was built for long-term purposes, including for the facilitation of access to medical care for the population living in the occupied territory of Abkhazia, has also been equipped and opened for the purpose of treating the infected patients.<sup>37</sup>

According to Abkhazian news sources,<sup>38</sup> as of December 31, 2020, the number of confirmed cases of COVID-19 amounted to 8,920 in occupied Abkhazia; 7,682 people recovered and 123 died. The increase in the number of COVID-19 cases in occupied Abkhazia can be explained by two main reasons: 1. Abkhazia has opened its border with Russia without any restrictions from August 1, 2020.<sup>39</sup> As a result, the flow of tourists entered the region virtually without any control; 2. Defective medical infrastructure in the region, shortage of doctors and their inadequate medical qualifications. The health care system of occupied Abkhazia had been in dire situation for years even before the pandemic. The Public Defender has been talking about these challenges in her annual reports for years.<sup>40</sup>

The Public Defender of Georgia believes that the Georgian Government should use all existing formal and informal communication channels to reach an agreement with the de facto authorities on issues such as organized transfer of patients to hospitals, sending medical staff and relevant resources to Abkhazia. Such efforts are significant, especially considering that Abkhazia's de facto Minister of Health requested assistance from Abkhaz volunteers due to the shortage of medical staff.<sup>41</sup>

#### COVID-19-related situation in occupied Tskhinvali

As of December 31, 2020, 2,409 cases of COVID-19 infection were reported in the occupied Tskhinvali region; 1,647 people recovered and 27 died.<sup>42</sup> On February 27, 2020, the de facto Government of South Ossetia, for the purpose of preventing the spread of coronavirus, closed the last open section of the so-called border with Georgia<sup>43</sup> and imposed temporary restrictions on citizens of more than 60 countries, except for Russia.<sup>44</sup>

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<sup>37</sup> Report of the Government of Georgia on measures taken against COVID-19. Information is available at: <https://bit.ly/3gyOkkM>

<sup>38</sup> De facto Abkhazian news agency ApsniPress. Information is available on the website: <https://apsnypress.info/ru/>

<sup>39</sup> Russia opened borders with occupied Abkhazia on August 1, 2020. Information is available on the website: <https://bit.ly/3gDIiB>

<sup>40</sup> Parliamentary Report of the Public Defender of Georgia 2019, p.396. Information is available on the website: <https://bit.ly/2LqTgwC>

Parliamentary Report of the Public Defender of Georgia 2018, p.306 <https://bit.ly/3ma8EtZ>

<sup>41</sup> The De Facto Ministry of Health of Abkhazia requests the help of volunteers. Information is available on the website: <https://bit.ly/3sukenR>

<sup>42</sup> New Cases Revealed in Tskhinvali, 2020, 16 October. Information is available at: <https://civil.ge/archives/342486>

<sup>43</sup> Until February 27, the de facto authorities had opened only the so-called Kardzmani checkpoint, that connects the occupied Tskhinvali region with the rest of Georgia via the Sachkhere municipality.

<sup>44</sup> Fearing coronavirus de facto Tskhinvali closes “border” with over 60 countries, including Georgia. Information is available on the website: <https://agenda.ge/en/news/2020/651>

Citizens of South Ossetia, who had been left on the Georgian-controlled territory after the closure of the so-called border, were allowed to enter the occupied Tskhinvali region through the so-called Razdakhani checkpoint by the decision of the de facto Security Committee. The above was carried out on the basis of special rules and lists. After entering Akhagori, the citizens were placed in a 14-day quarantine zone. The persons detained for the so-called illegal border crossing, as well as patients taken to Tskhinvali by the International Committee of the Red Cross, were also quarantined. As it is known, the International Committee of the Red Cross transports patients with various diseases from Tskhinvali to Georgian clinics, where they are treated free of charge, and after recovery, they go back to Tskhinvali.

Later, the de facto Government of Tskhinvali tightened restrictive measures. From March 28, 2020, the movement of vehicles has been banned, self-isolation has become mandatory for persons aged 65 and over, all cafes and restaurants have been closed. One of the preconditions for the tightening of restrictions was the return of Tskhinvali students and cadets from the Russian Federation, where higher education was suspended due to an increase in the cases of infection.<sup>45</sup> According to the decision of the de facto authorities, the students wishing to return to the region had to call the hotline of the Ministry of Health and apply self-isolation, although their registration was problematic. According to Ossetian media,<sup>46</sup> the number of returning students was quite high, although only 26 students called the hotline of the de facto Ministry of Health. Consequently, it was not possible to control whether the students followed the rules of self-isolation after returning to the region. In view of all the above, the increase in COVID-19 infections in occupied Tskhinvali as well as in Abkhazia can be explained by the uncontrolled opening of the border with Russia. A difficult situation was created in Akhagori as well, which has only two hospitals. Both of them were transformed into a quarantine zone, while patients who had been treated there for various diseases, were discharged. Consequently, the population of Akhagori found themselves in an even worse situation. Under the conditions of complete isolation, access to critical health care services has been restricted for both COVID-patients and others.<sup>47</sup>

In May 2020, the Georgian Government asked the International Committee of the Red Cross, the only international organization on the ground, to increase humanitarian and medical assistance.<sup>48</sup> In October 2020, the epidemiological situation in the Tskhinvali region worsened, the number of infected people increased and no free beds were left at the Tskhinvali Infectious Diseases Hospital.<sup>49</sup> The above caused a shortage of medicines and relevant medical equipment. It should be noted that from this period, the de facto Government has been allowing the Red Cross to transport patients from Tskhinvali more frequently, unlike Akhagori that still remains isolated.

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<sup>45</sup> 12 more coronavirus infections in Russian-occupied Tskhinvali, total cases increase to 57. Information is available at: <https://www.agenda.ge/en/news/2020/1771>

<sup>46</sup> De facto Tskhinvali news agency Res. Information is available at: <http://cominf.org/en?page=1>

<sup>47</sup> Akhagori patients without hospital. Information is available on the website: <https://bit.ly/2Lofxv0>

<sup>48</sup> Malfunctioning healthcare system in Tskhinvali and the feeling of insecurity. Information is available at: <https://bit.ly/38JFLkG>

<sup>49</sup> They started transferring the COVID-infected people from Tskhinvali to Tbilisi. Information is available on the website: <https://bit.ly/3765qDi>

Despite the difficult situation, the transfer of patients from Akhagori to the Georgian-controlled territory is still problematic. The de facto Government continues to impose illegal and discriminatory restrictions on the issuance of movement permits. Given the difficult situation, it is important for the Georgian authorities, with the assistance of the international community, to continue intensive negotiations with the de facto authorities of occupied Tskhinvali to facilitate freedom of movement and not to restrict access to health services on the ground of ethnicity. In addition, the State should spare no effort to share medical expertise with Ossetian doctors in managing the epidemic, like in case of occupied Abkhazia.

### **3. Issues relating to documents**

One of the major challenges in terms of free movement, apart from the closure of checkpoints, is the availability of necessary documentation.

Neither the citizenship of Abkhazia or South Ossetia, nor passports issued by the de facto authorities, is a legal document recognized by Georgia or the international community. However, their possession is associated with the realization of many rights for the population living in these areas. At the same time, according to the census data provided by the relevant de facto services, about 40,000-45,000 people live in the Gali district, while the population of Akhagori district is about 600 people.<sup>50</sup>

#### **Issues relating to documents in occupied Abkhazia**

At this stage, movement across the so-called Enguri checkpoint is possible only with the following documents: 1) so-called Form No. 9; 2) de facto (new) passport;<sup>51</sup> 3) so-called certificate of residence; 4) birth certificate - for persons under the age of 14; 5) Georgian passport for those who have a permit to enter the territory of Abkhazia (so-called visa).

The issue of the so-called passports and the policy of the de facto Government in this regard have been changing over the years. In 2010-2011, forced passportization was carried out in Gali. During that period, if a person living in Gali did not have a de facto passport, he/she would not be able to enjoy a number of rights, inter alia, it was possible to travel to Zugdidi only with that so-called passport. In addition, in order to obtain an Abkhazian passport, a person had to present a document certifying the renunciation of Georgian citizenship. At the same time, according to the de facto Abkhazian law, all ethnic Abkhazians (Abaza) were considered citizens of Abkhazia "regardless of their citizenship", unless they "fought against the state of the Republic of Abkhazia in an unconstitutional manner." Persons who had continuously lived on the territory of Abkhazia for 5 years until 1999 were considered to be citizens of Abkhazia.<sup>52</sup> In addition, dual citizenship is allowed only in case one citizenship is Russian.<sup>53</sup>

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<sup>50</sup> Information provided by the Ministry of Reconciliation. The National Statistics Office of Georgia has not been able to produce statistics on Abkhazia for almost 30 years. Accordingly, Georgian government agencies rely on statistics of the de facto authorities.

<sup>51</sup> Old de facto passports were confiscated in 2014.

<sup>52</sup> Article 5 of the Law on Citizenship of Abkhazia; Information is available on the website: <https://bit.ly/2W420L1>

<sup>53</sup> Ibid. Article 6

Due to the fact that the population of the Gali district are Georgian citizens, the de facto Government of Abkhazia does not issue an Abkhazian passport unless they renounce Georgian citizenship. Abkhazian citizenship is not recognized by Georgia or the international community, therefore persons with only Abkhazian passports are considered stateless persons, while the offer to obtain an Abkhazian passport in exchange for renouncing Georgian citizenship makes these persons apatriote.

In 2011, the Human Rights Watch said in its report that the attitude of the Abkhaz authorities towards the population of the Gali district was discriminatory, as those who did not have a passport had no access to the territory controlled by the Georgian side. The organization demanded that the Georgian population could enjoy the right to move freely.<sup>54</sup>

Later, in 2014, the passportization policy towards the Gali population changed. The de facto authorities began confiscating "illegally issued" Abkhazian passports. According to the de facto Prosecutor's Office, 14,988 residents of the Gali district had received the so-called Abkhazian passports with violations in 2007-2014.<sup>55</sup> After the completion of the investigation, the de facto authorities of Abkhazia decided to invalidate old Abkhazian passports and issue new ones only for those who had renounced their Georgian citizenship, while the residents of the Gali district who had not renounced their Georgian citizenship would receive a residence permit only.

Since 2017, the de facto administration has further aggravated the situation, after it withdrew old Abkhazian passports and made a decision to replace Form No. 9 with a residence permit. As of 2017, Form No. 9 was issued to approximately 12,000 individuals.<sup>56</sup>

Many of Gali residents refused residence permits that would grant them the status of foreigners. The residence permit has strict criteria and is valid for 5 years, which can be used as a mechanism for exerting additional pressure on the residents of Gali. It does not give a person the right to own real estate either, which is one of the most important factors. However, at the same time, this document for the residents of Gali is a means of moving across the occupation line and therefore they are forced to get the document. It is especially difficult for students to obtain a residence permit because the local administration does not issue a document certifying their residence in the district. According to the information provided to the Public Defender, they have to return home with the so-called visa, which is not long-term and is valid only for a certain period of time.<sup>57</sup>

Data on the possession of the so-called "Abkhazian passports" and "residence permits" among the population of the Gali district are unavailable, however, in 2019, more than 13,400 residents of Gali applied for the so-called "residence permits". Of these, up to 6,000 applications were granted. As for 2020, no separate data is available on Gali. As for occupied Abkhazia, 27,230 people filed applications

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<sup>54</sup> Georgians in Gali, Human Rights Watch, 2011. Information is available on the website: <https://www.hrw.org/news/2011/02/18/georgians-gali>

<sup>55</sup> Abkhazia to issue residence permits, 20 April 2017. Information is available on the website: <https://oc-media.org/abkhazia-to-start-issuing-residence-permits/>

<sup>56</sup> Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2018, p. 308. <https://bit.ly/2JRi8gx>

<sup>57</sup> Georgians in Gali - Foreigners on their own land, information is available on the website: <https://bit.ly/37M7gsg>

and more than 19,500 “residence permits” were issued.<sup>58</sup> As for the de facto passports, 372 “Abkhazian passports” were issued in occupied Gali in 2019 and more than 700 in the past months of 2020.<sup>59</sup>

The documents mentioned above, which are necessary for movement, are not available to many people living in Gali, which has various reasons. For example, they do not want to take the so-called Abkhazian passport, because the occupation regime offers them to change their surname in exchange,<sup>60</sup> which is unacceptable for some of the ethnic Georgian population. Form No. 9, which needs to be extended and therefore certified each month, is not free of charge. The residence permit is not free of charge either and it also requires a lot of documents to be submitted. In addition, the de facto authorities often impose various kinds of artificial restrictions on getting the residence permits.<sup>61</sup>

### Issues relating to documents in occupied Akhgori

As for the issues relating to the documentation in the Akhgori district, movement with the so-called passports has been prohibited since March 29, 2019. Data on applications filed by Akhgori residents for the so-called “passports” are unavailable according to years. However, as of today, most of the 600 residents of Akhgori have the so-called “passports of South Ossetia”, which they received in 2019-2020.<sup>62</sup>

A “permit” issued by the de facto Tskhinvali Security Service is necessary for moving across the so-called checkpoint. The procedure involves filing of an application by a person concerned, in which he/she has to justify the need for the “document”. However, in fact, this so-called “permit” can be issued as a result of paying a certain amount of money as a bribe, which is requested from the locals by the so-called security officials.<sup>63</sup>

## 4. Illegal detentions and ill-treatment

The vicious practice of detaining people living in Georgian-controlled or occupied territories continues along the occupation line, in the directions of both Abkhazia and South Ossetia. Officers of the occupation regime and the de facto Security Service regularly detain civilians for crossing the administrative boundary line. Such detentions are arbitrary and a violation of the right to liberty and security.

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<sup>58</sup> Letter #1310 of October 27, 2020 of the Office of the State Minister of Georgia on Reconciliation and Civic Equality.

<sup>59</sup> Letter #1310 of October 27, 2020 of the Office of the State Minister of Georgia on Reconciliation and Civic Equality.

<sup>60</sup> Abkhazian surname for more rights. Information is available at: [shorturl.at/fgirL](http://shorturl.at/fgirL)

<sup>61</sup> Georgians in Gali - Foreigners on their own land, information is available on the website: <https://bit.ly/37M7gsg>

<sup>62</sup> Letter #1310 of the Office of the State Minister of Georgia for Reconciliation and Civic Equality, October 27, 2020

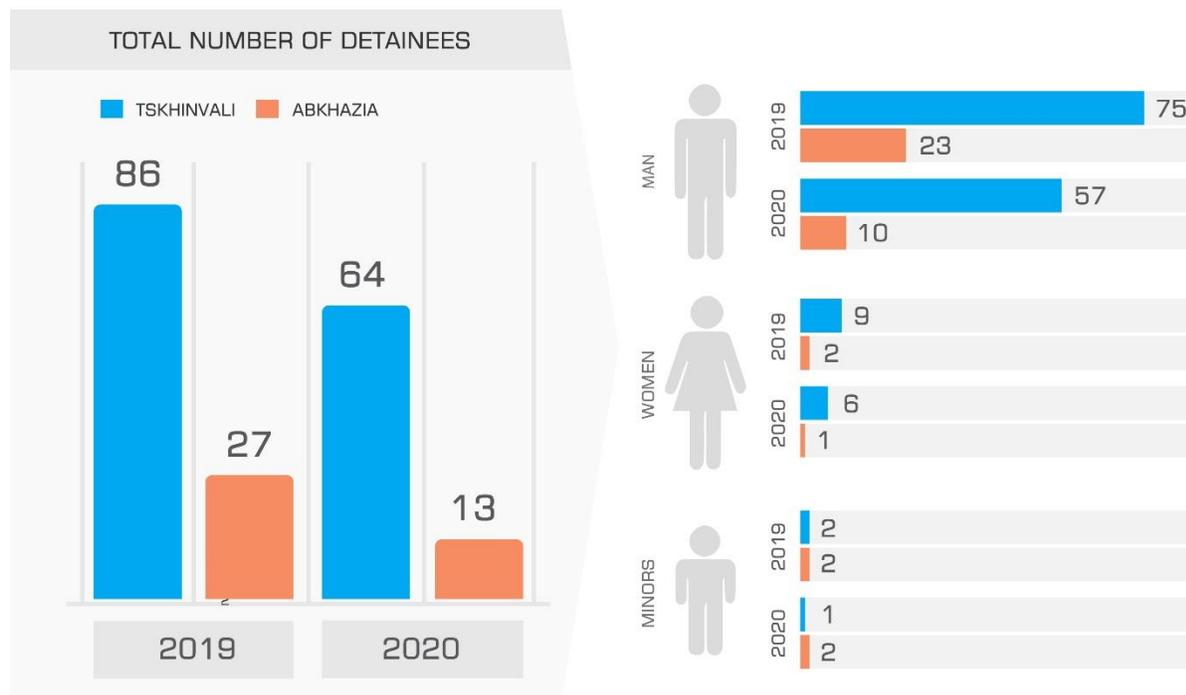
<sup>63</sup> Letter #1310 of the Office of the State Minister of Georgia for Reconciliation and Civic Equality, October 27, 2020

The right to liberty and security of a person is enshrined in the European Convention on Human Rights.<sup>64</sup> In particular, according to the Convention, no one shall be deprived of liberty unless there is a judgment delivered by a competent court. However, the judgment delivered by a court of de facto republics cannot be lawful or in conformity with the European Convention.

According to the official data, 86 people were detained near the occupation line in the direction of the Tskhinvali region in 2019,<sup>65</sup> including 9 women and 2 minors;<sup>66</sup> 64 people were detained in 2020,<sup>67</sup> including 6 women and a minor. 27 people were detained in the direction of occupied Abkhazia in 2019,<sup>68</sup> including 2 women and 2 minors; 13 people were detained in 2020, including a woman and 2 minors.<sup>69</sup>

## ILLEGAL DETENTIONS

Statistics of illegal detention cases across the Line of Occupations with Abkhazia and Tskhinvali Region reported by the Georgian authorities



<sup>64</sup> Convention for the Protection of Human Rights and Fundamental Freedoms, Article 5. Information is available at: [https://www.echr.coe.int/documents/guide\\_art\\_5\\_eng.pdf](https://www.echr.coe.int/documents/guide_art_5_eng.pdf)

<sup>65</sup> Letter #SSG 6 20 00131318 of the State Security of Georgia, October 21, 2020.

<sup>66</sup> Persons detained on the territory controlled by Georgia or during crossing the occupation line, the respective data in 2018 was 96.

<sup>67</sup> Letter # SSG42100015800 of the State Security of Georgia, February 4, 2021.

<sup>68</sup> In 2018, the respective data was 28.

<sup>69</sup> Letter #SSG42100015800 of the State Security of Georgia, February 4, 2021.

In most cases, people are detained in the occupied territories of Georgia on charges of the so-called illegal border crossing and they are released after paying fines. In case of occupied Tskhinvali, the illegal detention of persons lasts mainly 2-3 days, although in recent years, there have been frequent cases of long-term illegal detentions in both occupied regions.

The study of the practice of illegal detentions of Georgian citizens near the occupation line in 2019-2020 shows that earlier the occupation regime was more likely to establish the so-called administrative offence and impose a fine, although recently the de facto authorities have changed this policy and started to launch criminal proceedings. A clear example of the above was the indictment of Vazha Gaprindashvili in 2019 under Article 322 of the Russian Criminal Code. The Public Defender reviewed the case in detail in her 2019 parliamentary report,<sup>70</sup> as well as public statements.<sup>71</sup> In late December 2019, the Tskhinvali de facto court sentenced Genadi Bestaev, a resident of the village of Zardiantkari of the Gori municipality, to 2 years in prison. Representatives of the occupation forces arrested Gennady Bestaev on November 21, 2019 and charged him with the so-called border violation.<sup>72</sup> He still remains in the captivity of the occupation regime. Irakli Bebuva,<sup>73</sup> Zaza Gakheladze,<sup>74</sup> Ramaz Begheluri,<sup>75</sup> Mirian Taziashvili<sup>76</sup> and Khvicha Mghebrishvili<sup>77</sup> also remain in captivity. The Public Defender released public statements on the above cases as well.<sup>78</sup>

Over the years, one of the most problematic issues in the occupied territories, along with the illegal detentions of citizens, has remained the beating, ill-treatment<sup>79</sup> and torture of prisoners in temporary isolators and prisons. The Public Defender has been referring to the above problem in her annual

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<sup>70</sup> Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2019, p. 400.

<sup>71</sup> Public Statement of the Public Defender of Georgia, November 15, 2019, available on the website: [shorturl.at/eoKT4](https://shorturl.at/eoKT4)

<sup>72</sup> Detention was ordered for Genadi Bestaev, a person detained near the village of Zardiantkari. Information is available on the website: <https://www.radiotavisupleba.ge/a/30299317.html>

<sup>73</sup> Irakli Bebuva was sentenced to 9 years in prison for burning a separatist flag. Information is available on the following website: <https://bit.ly/37wQ62G>

<sup>74</sup> Statement of the State Security Service. Information is available on the following website: <https://bit.ly/3bm8dt7>

<sup>75</sup> The detainee, Ramaz Begheluri, was transferred to Tskhinvali. Information is available at the following website: <https://bit.ly/3aAwQD1>

<sup>76</sup> 2 months of pre-trial detention was ordered for Mirian Taziashvili in Tskhinvali. Information is available on the following website: <https://bit.ly/3aDWzdX>

<sup>77</sup> Khvicha Mghebrishvili was sentenced to 2 months in prison by the Tskhinvali court. Information is available on the following website: <https://bit.ly/3qFFN3w>

<sup>78</sup> Statement of the Public Defender of Georgia of February 6, 2021. Information is available at the following website: <https://bit.ly/3aD5vjS>

<sup>79</sup> Statement of the Public Defender of October 25, 2019 on beating and ill-treatment of prisoners in the Tskhinvali temporary placement isolator <https://bit.ly/37P3SNj>

reports over the years.<sup>80</sup> At the same time, the Public Defender uses various international formats to inform the international community about the dire human rights situation in the occupied territories.<sup>81</sup>

On July 3, 2020, Khvicha Mghebrishvili, a resident of the village of Mejvriskhevi, was arrested and transferred to Tskhinvali.<sup>82</sup> Later, the Tskhinvali de facto court ordered 3 months of pre-trial detention for him. Mghebrishvili was accused of illegally crossing the so-called border and attempting to catch rare species of bats included in the Red Book.<sup>83</sup> On September 25, 2020, after his release from a 86-day custody, reports were spread about his beating, ill-treatment and torture in the temporary detention isolator in Tskhinvali.<sup>84</sup> According to Khvicha Mghebrishvili's representative, he had to stay in unbearable conditions for 12 days, during which he was being beaten continuously. According to him, the conditions in the pre-trial detention facility and Tskhinvali prison are unbearable. Prisoners are beaten daily. Zaza Gakheladze was also in the cell together with Khvicha Mghebrishvili. Gakheladze was wounded in the leg and illegally detained by the occupation regime on July 11, 2020, in the vicinity of the Skhvilov Fortress in the Kaspi municipality.<sup>85</sup> Zaza Gakheladze still remains in the captivity of the occupation regime. From the moment of his detention, the Public Defender of Georgia has been monitoring his case and hopes that his right to health will be protected and he will return to his family in a timely manner.<sup>86</sup> The unbearable conditions in the occupied Tskhinvali prison are also proved by the fact that 28-year-old Inal Jabiev was beaten to death by the occupation regime.<sup>87</sup>

On September 30, 2020, Irakli Bebuga, a citizen of Georgia, was illegally detained in the Gali district of occupied Abkhazia.<sup>88</sup> According to reports,<sup>89</sup> Irakli Bebuga burned a flag of the de facto republic, however, the law enforcement agencies of occupied Abkhazia also accuse him of deliberately destroying property and illegal possession of ammunition. Later, on December 7, 2020, Irakli Bebuga was sentenced to 9 years in prison by the de facto court of occupied Abkhazia.<sup>90</sup> The Public Defender

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<sup>80</sup> Public Defender of Georgia, Report on the Situation of Human Rights and Freedoms in Georgia, 2019 <https://bit.ly/374CATW>

<sup>81</sup> Statement of the Public Defender of Georgia, October 25, 2019, available at: <https://bit.ly/2W7hYEL>

<sup>82</sup> Another Georgian citizen detained by the occupation regime, information is available on the following website: [shorturl.at/ehrAX](http://shorturl.at/ehrAX)

<sup>83</sup> The trial of Khvicha Mghebrishvili is underway in the Tskhinvali court. Information is available on the website: <https://bit.ly/3n8FHZH>

<sup>84</sup> Khvicha Mghebrishvili's 86-day imprisonment. Life in Tskhinvali prison. Information is available on the Radio Liberty website <https://bit.ly/37VoVOK>

<sup>85</sup> Statement of the State Security Service of Georgia regarding the illegal detention of Zaza Gakheladze. Information is available on the website: <https://bit.ly/3a4zVeO>

<sup>86</sup> Meeting of the Public Defender with the family of the person detained by the occupation regime. Information is available on the website: <https://bit.ly/2ID49u4>

<sup>87</sup> According to the information spread in Tskhinvali, the young man was beaten to death in the isolator. Information is available on the website: <https://bit.ly/3qQh5OK>

<sup>88</sup> Statement of the State Security Service, October 1, 2020. Information is available on the website: <https://ssg.gov.ge/news/633/saxelmtsifo-usafrtxoebis-samsaxuris-gancxadeba>

<sup>89</sup> Irakli Bebuga, detained in occupied Abkhazia, is accused of possessing ammunition. Information is available at: <https://bit.ly/2JM98JL>

<sup>90</sup> Statement of the State Security Service of December 8, 2020, regarding the illegal sentence of 9-year imprisonment against Irakli Bebuga: <https://bit.ly/341baMP>

believes that due to the nature of the action allegedly carried out by Irakli Bebuia, there is a high probability that the de facto authorities artificially aggravated the charges against him.<sup>91</sup> The occupation regime's illegal deprivation of Irakli Bebuia's liberty is aimed at intimidating the Georgian population living in the region and further aggravating their intolerable conditions.

The above facts are a clear example of the challenges facing our fellow citizens living in the occupied territories in terms of exercising their right to freedom of movement. Similar illegal actions by the occupation regime grossly violate the rights and freedoms of people living in the above territories, which reaffirms the necessity of access of international human rights observer missions to the occupied regions.

According to the Principles of Responsibility of States approved by the UN Resolution, de facto authorities have a responsibility to protect human rights even though they are not subjects to international law. In particular, the de facto government, which is in fact exercising elements of the governmental authority in the absence or default of the official authorities, is obliged to respect the rights of the population under its control, including the ethnic Georgian population.<sup>92</sup>

When talking about illegal detentions near the occupation line, it is important to clarify the issue of state jurisdiction and responsibility. Given the fact that the Georgian Government is unable to exercise effective control over the occupied territories and that the de facto regime is not recognized by the international community, effective protection of human rights is a significant challenge. The Georgian Government has a positive obligation to take all measures to protect the rights of its citizens, which implies the launch of an investigation by the Georgian law enforcement bodies into the illegal actions committed along the occupation line.

## **5. International standards and responsibilities relating to the Freedom of Movement**

Under international human rights law, the right of freedom of movement may be restricted only for legitimate purposes and the restrictions imposed must be proportionate. Under the International Covenant on Civil and Political Rights, the right to movement shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, and are consistent with the other rights recognized in the present Covenant.<sup>93</sup>

As for the proportionality of the restrictions, it should be no stricter than necessary to achieve the goal of the restriction.<sup>94</sup> In occupied territories, the state exercising effective control shall take only the kind of measures of control as may be necessary as a result of the war.<sup>95</sup> The artificial barriers to movement

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<sup>91</sup> Statement of the Public Defender of Georgia of October 5, 2020 regarding the illegal detention of Irakli Bebuia by the occupation regime. Information is available at the following website: <https://bit.ly/2M8LsQJ>

<sup>92</sup> Responsibility of States for Internationally Wrongful Acts, 12 December 2001 UN General Assembly Resolution No A/RES/56/83, 28 January 2002, Article 9.

<sup>93</sup> The third paragraph of Article 12. Both Georgia and Russia are parties to this international Covenant.

<sup>94</sup> UN Human Rights Committee, 27<sup>th</sup> General Comment on Freedom of Movement. <https://undocs.org/CCPR/C/21/Rev.1/Add.9>

<sup>95</sup> 1949 Geneva Convention IV, Article 27.

created by the de facto authorities cannot be justified by any of the above grounds and thus they contradict the principles of the European Convention on Human Rights and the International Covenant on Civil and Political Rights.

As for the obligations of the states relating to the human rights violations in the occupied territories, the 1949 Geneva Convention obliges the States exercising effective control (in this case Russia) to protect civilians and protect their human rights when crossing the occupation line and to ensure their freedom and security, protect them from torture and ill-treatment.

Although Georgia does not have effective control over the occupied territories, it still has a positive obligation to protect human rights in the occupied territories under international law. The fact that both occupied regions are recognized as parts of Georgia under international law imposes an obligation on the Georgian authorities to use all legal and diplomatic levers to protect the local population's rights and freedoms enshrined in the Convention.<sup>96</sup>

As for the illegal detentions along the occupation line, the right to liberty and security of a person is enshrined in the European Convention on Human Rights.<sup>97</sup> In particular, according to the Convention, no one shall be deprived of liberty unless there is a judgment delivered by a competent court. The judgment delivered by the court of de facto republic cannot be lawful or in conformity with the European Convention.

Although the de facto authorities are not a subject to international law and these territories are not widely recognized under international law and are not parties to international human rights treaties, they have an obligation to respect universally recognized human rights and freedoms. This obligation arises from a variety of circumstances: a) a significant part of the Universal Declaration of Human Rights is recognized as customary law, which implies the universal recognition of some of these norms; B) The de facto government, as a non-state entity controlling a certain territory and population, is obliged to respect the rights of the population under its control, including the rights of ethnic Georgian population as a minority.<sup>98</sup>

It should be noted that on January 21, 2021, the Grand Chamber of the European Court of Human Rights delivered a very important judgment for Georgia in the case of Georgia v. Russia (II). The European Court of Human Rights discussed the legal liability of the Russian Federation in the occupied territories for the first time and held that due to the deployment of Russian troops in the occupied territories, and the political and military support for the de facto authorities, Russia exercises de facto control and therefore is responsible for the human rights violations.

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<sup>96</sup> In the case of *Ilașcu and Others v. Moldova and Russia*, the European Court of Human Rights held that even though Moldova did not have effective control over Transnistria, the fact that this territory was part of Moldova according to the international public law, Moldova had the responsibility to use all legal and diplomatic means to protect the rights of people living there." *Ilașcu case* § 333.

<sup>97</sup> Convention for the Protection of Human Rights and Fundamental Freedoms, Article 5. Information is available at: [https://www.echr.coe.int/documents/guide\\_art\\_5\\_eng.pdf](https://www.echr.coe.int/documents/guide_art_5_eng.pdf)

<sup>98</sup> Responsibility of States for Internationally Wrongful Acts, 12 December 2001 UN General Assembly Resolution No A/RES/56/83, 28 January 2002, Article 9.

The decision of the European Court of Human Rights is one of the most important documents adopted in connection with the 2008 war, which is of great legal and historic importance for Georgia. This decision once again confirmed the fact that Russia has established control over the conflict regions of Georgia and that these regions are occupied today. The European Court of Human Rights found violations of a number of rights, including the rights to movement and property.

## **Conclusion**

The cases discussed in the report show that, in terms of free movement, the rights situation of people living in the occupied regions is facing particular challenges.

Freedom of movement is guaranteed by a number of international instruments, including Article 2 of the Protocol No. 4 to the European Convention for Human Rights.<sup>99</sup>

The formal regime established by the de facto authorities and the imposition of various barriers, such as the unpredictable closure of the so-called checkpoints, illegal detentions and problems with de facto documentation necessary for movement, restrict the freedom of movement of the residents of the occupied regions and create unjustified barriers to their access to livelihoods. Given that these restrictions are not one-time, it is important that the Georgian authorities, with the support of the international community, use all possible mechanisms to protect the human rights of people living in the occupied territories.

According to the Public Defender of Georgia, given the current socio-economic and legal situation, there is a danger that the local population will abandon the occupied regions. Accordingly, the Georgian Government needs to pay special attention to assessing the security risks and improving the rights situation.

The dire human rights situation in the occupied territories is particularly troubling in the light of the fact that international human rights organizations have no access to the regions. In addition, the number of international donors or non-governmental organizations that could strengthen the Abkhaz and Ossetian civil societies is low. All this has a negative impact on the rights of people living in the conflict regions.

The Public Defender of Georgia calls on all parties to start a meaningful and result-oriented dialogue to improve the rights situation of the conflict-affected population. The international community must step up its efforts, including by negotiating with the occupation regime about the presence of international delegations in the conflict regions. The Georgian authorities must show maximum flexibility in establishing mechanisms for monitoring and protecting human rights in the conflict regions.

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<sup>99</sup> Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms <https://bit.ly/3oHGvwl>

## Recommendations

### To the Government of Georgia

- Hold negotiations, by using all possible international formats, to ensure that the Government of the Russian Federation allows the full and unrestricted access to the occupied territories of Georgia for international human rights monitoring missions.
- Hold negotiations, by using all possible international formats, to ensure that the occupation regime fully respects its obligations under international human rights law, in particular, protects the rights of people living in the territory under its effective control, without discrimination on the ground of ethnicity.
- Hold negotiations, with the help of the international community, to ensure that the occupation regime protects the freedom of movement of the population, in particular, protects this right by removing illegal restrictions on the entire perimeter of the administrative boundary line and ensuring the smooth operation of the so-called checkpoints.
- Increase pressure on the so-called occupation forces, with the assistance of the international community, in order to achieve the full opening of the so-called checkpoint for the entire population, as well as to revise the 5-day mandatory quarantine measures, which would alleviate the additional barrier to movement for the population of occupied Gali.
- With the support of international organizations, the Georgian Government should develop certain projects aimed at relieving the damage suffered by the local population by the unpredictable closure of the so-called checkpoints.
- Hold negotiations to ensure that the occupation regime ensures protection against alleged cases of torture and ill-treatment of persons illegally detained while or after crossing the administrative boundary line.