

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review:
2nd Cycle, 23rd Session

GEORGIA

I. BACKGROUND INFORMATION

Georgia ratified the *1951 Convention Relating to the Status of Refugees* and its *1967 Protocol* (hereinafter collectively referred as the *1951 Convention*) in 1999. Georgia also acceded to the *1954 Convention Relating to the Status of Stateless Persons* (the *1954 Convention*) in December 2011 and to the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*) in July 2014.¹ However, Georgia has not yet signed the *Council of Europe 1997 European Convention on Nationality*.

As of January 2015, Georgia hosted 265,750 persons of concern to UNHCR, comprised of 903 refugees and humanitarian status holders (including 467 Syrians in Abkhazia); 1,792 asylum-seekers; 262,285 internally displaced persons (IDPs), including persons in an IDP-like situation; and 770 stateless persons.²

UNHCR has operated in Georgia since 1993 and is represented in different regions, including Abkhazia, where UNHCR is mainly involved in assistance to persons of concern who have returned and/or are in the process of returning in the Gali and Ochamchira districts of Abkhazia. Since the August 2008 conflict, UNHCR has had no access to South Ossetia apart from participating in preparatory missions of the Geneva Discussion on Security and Stability in the South Caucasus.

Refugees and Asylum-Seekers: Since 2012 the number of asylum-seekers has been steadily growing, from less than 100 applications per year (from 2009 to 2011) to 609 asylum-seekers

¹ Accession to the *1954 Convention relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness* was recommended during the 1st cycle UPR examination of Georgia. See: Report of the Working Group of the Universal Periodic Review: Georgia, A/HRC/17/11, 16 March 2011, para. 106.11-106.12 (recommended by Slovakia and Bolivia), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/118/21/PDF/G1111821.pdf?OpenElement>.

² UNHCR has been waiting for the final 2014 data from the MRA, some changes in statistics are possible.

in 2012; 715 in 2013; and 1,792 in 2014. The main countries of origin of refugees and asylum-seekers in Georgia are Iraq, Ukraine and Syria.

The key legislative act regulating asylum in Georgia is the *Law on Refugee and Humanitarian Status of Georgia*,³ adopted in December 2011 and entered into force in March 2012. During 2012, the Government adopted amendments on refugee laws in order to bring them in line with international standards. Although UNHCR was involved in the drafting process, not all UNHCR's comments were positively considered by the Government. Therefore, despite progress, the national legislation still requires further amendments to comply with international standards. Other laws and regulations (mainly related to health and social protection) also need to be amended to enable refugees and asylum-seekers to enjoy rights and services in accordance with international standards.

Internally Displaced Persons: Internal displacement is an ongoing issue in Georgia, as a result of secessionist conflicts in two of Georgia's regions, South Ossetia (1991-1992) and Abkhazia (1992-1993) and smaller scale displacements in May 1998 (Abkhazia) and July - August 2004 (South Ossetia), as well as the August 2008 war. As of January 2015, there were 262,285 IDPs in Georgia, according to the results of the 2013/2014 IDP registration exercise.

In general, the issues of IDPs have high priority on the Government's agenda. IDPs have full access to documents, social assistance and health care. In 2007, the Government adopted the *State Strategy for Internally Displaced Persons* which lays out conditions for dignified and safe return and includes the improvement of the socio-economic conditions of IDPs as one of its key goals. The accompanying *IDP Action Plan* translated the goals of the *State Strategy for IDPs* into concrete measures. The initial *IDP Action Plan 2009-2011* was extended to the year 2014. An extension of the *IDP Action Plan* beyond 2014 is currently being developed by the Government.

Stateless Persons: Statelessness concerns in Georgia arise in the context of broader large-scale migration and displacement, and as a consequence of the break-up of the Soviet Union. At the end of 2014, there were some 770 registered stateless persons in Georgia.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

The Government of Georgia is interested in migration issues and by the adoption of the *State Migration Strategy and Action Plan* demonstrated its political will and commitment to meet international standards in the field of migration. The *State Migration Strategy* was developed in order to combat irregular migration and human trafficking, to protect human rights and fundamental freedoms of migrants and to manage migration processes in the interest of society and in accordance with international standards. The *State Migration Strategy for 2013-2015* highlights the need to: (i) improve the asylum system; (ii) further develop mechanisms for the integration of refugees and persons with humanitarian status, including access to employment, education and healthcare; and (iii) develop a system to effectively obtain country of origin information.

³ Georgia: Law No. 5370-IIS of 2011 on Refugee and Humanitarian Status [Georgia], 6 December 2011, available at: <http://www.refworld.org/docid/5225a49f4.html>.

By adoption of the *Law on Refugee and Humanitarian Status* in 2012, Georgia has made a big step forward in developing the national framework to meet international standards by: (i) expansion of the definitions of asylum, asylum application, country of origin information, family members, family reunification and unaccompanied minor; (ii) introduction of complementary protection in the form of humanitarian status; (iii) definition of procedural standards to be applied during the Governmental refugee status determination procedure; and (iv) implementation of a special procedure for unaccompanied minors.

In addition, in line with the State's commitment under Article 35 of the *1951 Convention*, the Law contains a specific provision on cooperation with UNHCR, with respect to its supervisory duty, and ensures access to persons of concern by UNHCR during their asylum procedures, including access to reception centres and border areas.

In 2014, the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia (MRA) established a unit responsible for country of origin information and research. It is expected that the new staff will be able to provide effective assistance and support at different stages of the asylum procedure.

By adoption of the *Law of Georgia on Forcibly Displaced Persons*,⁴ effective as of March 2014, Georgia has made a step forward to enhance the protection of IDPs. The *Law on Forcibly Displaced Persons* was revised in consultations with UNHCR and other protection agencies. The new Law has clarified a number of issues and enhanced the protection of IDPs against discrimination. The *Law on Forcibly Displaced Persons* introduces (i) a definition of an internally displaced person (IDP) which is more closely aligned with the *Guiding Principles on Internal Displacement*;⁵ (ii) equal treatment of IDPs living in collective centres and private accommodation; (iii) increased monthly IDP allowances that remain status-based; (iv) termination of monthly allowances for IDPs whose income exceeds 1,250 GEL per month; and (v) and the provision of IDP status to new-born children with one parent who is an IDP. The Law also foresees issuance of IDP cards, confirming lawful possession of housing. UNHCR explicitly welcomed that the comprehensive non-discrimination provisions are retained and that the draft reflects a compromise proposal made by UNHCR in order to bring the definition used in this national legislation closer in line with the IDP definition provided in the *UN Guiding Principles on Internal Displacement*. In addition, implementation of the *IDP Action Plan* contributed to integration and the improvement of living conditions for IDPs as more than 50 per cent of them have received some form of durable housing solution.

Georgia acceded to the *1954 Convention relating to the Status of Stateless Persons* in 2011, enabling stateless persons, including women and children, to obtain documentation which provides them with access to education and other services. Georgia also established a formal statelessness status determination procedure⁶ in 2012.⁷ In 2014, Georgia also acceded to the

⁴ *Law of 2014 on Internally Displaced Persons – Persecuted from the Occupied Territories of Georgia*, 6 February 2014, available at: <http://www.refworld.org/docid/44ab85324.html>.

⁵ UN Economic and Social Council (ECOSOC), *Guiding Principles on Internal Displacement*, 22 July 1998, E/CN.4/1998/53/Add.2, available at: <http://www.refworld.org/docid/3c3da07f7.html>.

⁶ “Whilst the *1954 Convention* establishes the international legal definition of “stateless person” and the standards of treatment to which such individuals are entitled, it does not prescribe any mechanism to identify stateless persons as such. Yet, it is implicit in the *1954 Convention* that States must identify stateless persons within their jurisdictions so as to provide them appropriate treatment in order to comply with their Convention commitments...recognition of statelessness plays an important role in enhancing respect for the human rights of

1961 Convention on the Reduction of Statelessness and to meet its requirements, changed its citizenship legislation.

The new *Organic Law of Georgia on Georgian Citizenship*⁸ was adopted in April 2014. The Law addresses previous gaps and gray areas; contains measures to prevent statelessness of children at birth (save the cases of children born to two foreigners, where naturalization of such a child is subject to 5 years of residence on the territory of Georgia); and reduces statelessness by eliminating loss of citizenship due to residence abroad. The new *Law on Legal Status of Aliens and Stateless Persons* was adopted in March 2014 and includes provisions on the rights and obligations of stateless persons.

Georgia is gradually improving its legislation, policy and practice on gender equality and on prevention and response to gender-based violence, including domestic violence. The Government adopted the *Law of Georgia on Gender Equality* on 26 March 2010, the *Law of Georgia on Elimination of Domestic Violence, Protection of and Support to its Victims* on 25 May 2006 and included an article on the crime of domestic violence in the *Criminal Code* in June 2012. There are three shelters providing psychological, medical and first aid assistance to survivors of domestic violence, which are funded and run by the state authorities. There are also two State shelters that provide psychological, medical and legal support to victims of trafficking. Special courses on domestic violence have been introduced into the regular curriculum for the training of newly recruited police officers and into advanced training for experienced police staff at the Police Academy.

In addition, despite significant pressure from the Orthodox Church and certain sectors of society, the *Law of Georgia on the Elimination of All Forms of Discrimination*⁹ was adopted in May 2014 and includes provisions prohibiting discrimination based on *inter alia*, sexual orientation, language and religion.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Access to the territory and non-penalization for illegal entry

There are some challenges in regards to access to the territory and to asylum procedures in Georgia. The new *Law of Georgia on Legal Status of Aliens and Stateless Persons*¹⁰ has introduced a new visa regime. As a result, foreigners may obtain a Georgian visa only at Georgian representations abroad which, in most cases, are not available in countries of origin of asylum-seekers (e.g. Iraq and Syria). According to Article 6 (4) of the *Law*, in some

stateless persons, particularly through access to a secure legal status and enjoyment of rights afforded to stateless persons under the 1954 Convention.” See UNHCR *Handbook on Protection of Stateless Persons*, 30 June 2014, available at: <http://www.refworld.org/docid/53b676aa4.html>.

⁷ Ordinance No. 523 of 2014 Approving the Procedures for determining the Status of Stateless Person in Georgia, 1 September 2014, available at: <http://www.refworld.org/docid/511cb8d82.html>.

⁸Organic Law of 2014 on Georgian Citizenship, 30 April 2014, available at: <http://www.refworld.org/docid/53835fe14.html>.

⁹ Law of 2014 on the Elimination of All Forms of Discrimination, 2 May 2014, available at: <http://www.refworld.org/docid/5374993b4.html>

¹⁰ Law of 2014 on the Legal Status of Aliens and Stateless Persons, 5 March 2014, available at: <http://www.refworld.org/docid/5343d0c24.html>.

exceptional cases a Georgian visa may be issued on humanitarian grounds, but asylum-seekers are not explicitly mentioned among recipients. This new visa regime could therefore result in asylum-seekers being denied entry into Georgia if they do not have the required visa.

The existing *Criminal and Administrative Codes of Georgia* and the *Law of Georgia on Refugee and Humanitarian Status* do not contain provisions on non-penalization of illegal entry in line with Article 31 of the *1951 Convention*. Article 344 (“Illegal Crossing of the Border of Georgia”) of the *Criminal Code of Georgia*, which stipulates that this Article shall not apply to a foreigner who asks for asylum in Georgia if there are no other criminal deeds committed by this person. This Article does not cover cases of asylum-seekers who have to use forged documents (visa, passport, travel document) to flee their country of origin and seek international protection abroad.

This gap in the legislation creates confusion in practice. As a result, this has led to the detention of asylum-seekers and initiation of criminal proceedings in a number of cases, and may lead to violation of the fundamental principle of *non-refoulement* envisaged by Article 33 of the *1951 Convention* and Article 21 of the *Law on Refugees and Humanitarian Status of Georgia*.

Recommendations:

UNHCR recommends that the Government of Georgia:

- Amend the *Law of Georgia on Refugee and Humanitarian Status* and the *Criminal and Administrative Codes of Georgia* in order to bring these laws in line with the *1951 Convention*;
- Uphold the principle of *non-refoulement* and establish a fair, effective and objective system allowing asylum-seekers access to the territory and to asylum procedures by providing visas on humanitarian grounds; and
- Ensure that the detention of asylum-seekers is only used as a last resort, and where necessary, for the shortest possible time period¹¹ and further apply alternatives to detention.

Issue 2: Fair and efficient asylum procedures

Georgia still needs to establish a fair and more efficient asylum procedure in accordance with international standards.

The Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia (MRA) does not have sufficient human and financial resources to address the significantly increased number of asylum-seekers. Despite the fact that the number of asylum applicants tripled in 2014, the number of eligibility staff remains the same (5 persons). As a result, there is a substantial backlog of some 1,200 cases.

¹¹ A recommendation was made to “[l]evel the maximum sentence of 90 days for administrative detention to that of 60 days for criminal detention” during the 1st cycle UPR examination of Georgia. See: Report of the Working Group of the Universal Periodic Review: Georgia, A/HRC/17/11, 16 March 2011, para. 107.3 (recommended by Austria), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/118/21/PDF/G1111821.pdf?OpenElement>.

Although the main countries of origin of asylum-seekers in Georgia are Iraq, Ukraine and Syria, places that objectively produce substantial numbers of *bona fide* refugees, the rate of refugee and humanitarian protection granted by Georgia is very low (in 2014 there was an 8 per cent refugee recognition rate and a 37 per cent humanitarian protection recognition rate).

Currently, there are a number of challenges in the asylum procedure that still need to be addressed, notably in regards to: (1) undue and informal influence of the Ministry of Interior for undisclosed “security concerns”; (2) influence of political considerations prevailing over individuals’ protection needs; (3) lack of continuous training opportunities for refugee status determination (RSD) specialists and lack of proper internal quality control mechanisms within the MRA’s department dealing with refugee issues; (4) unsystematic use of country of origin information during all stages of the RSD procedure; (5) lack of female RSD officers and translators; and (6) inadequate provision of separate interviews for all adult family members, which is necessary to ensure that gender-specific issues and needs of all family members are identified and addressed as required.

One of the main reasons invoked in the rejection of asylum claims is the threat to national security. The Ministry of Internal Affairs of Georgia (MIA), as the key state agency responsible for national security, remains reluctant to reveal details regarding their decisions, referring to secret internal materials and sources. Neither rejected asylum-seekers and refugees nor their legal representatives have access to MIA secret evidence and material, which undermines the adversarial system of justice and is an obstacle for effective representation of interests of asylum-seekers and refugees.

Recommendations:

UNHCR recommends that the Government of Georgia:

- Increase allocated funds for refugees status determination and protection of asylum-seekers, refugees and humanitarian status holders;
- Continue enhancement of refugee status determination procedures in line with international standards and avoid political consideration during the asylum procedures;
- Establish an effective and efficient quality control mechanism within the MRA;
- Use accurate country of origin information at all stages of the asylum procedure;
- Provide female staff and interpreters, as necessary, and provide independent interviews during the asylum procedures to all family members to ensure gender-sensitive refugee status determination;
- Avoid undermining refugee protection while addressing legitimate security concerns; and
- Ensure that all asylum-related decisions, including national security risk cases, are properly justified and that asylum-seekers and refugees or their representatives have access to evidence and materials.

Issue 3: Access to effective remedies

Asylum applicants who receive a negative decision have only ten days to appeal the decision. This ten-day time frame is unreasonably short, as in most cases asylum-seekers do not speak the Georgian language, are unfamiliar with navigating the legal system, and may not have access to free legal aid. It should be emphasized that, in contrast, citizens of Georgia benefit

from a 30-day period for appeal in administrative procedures. According to European standards, in practical terms, the applicant must have sufficient time and facilities in order to undertake all the steps required to exercise the right of appeal.

Recommendations:

UNHCR recommends that the Government of Georgia:

- Amend the *Law of Georgia on Refugee and Humanitarian Status* and other relevant legislation to provide asylum-seekers with reasonable time to appeal a negative decision; and
- Amend the *Law of Georgia on Free Legal Aid*, in order to ensure that asylum-seekers, refugees and humanitarian status holders have access to independent, qualified and free legal advice and representation.

Issue 4: Local Integration

Acknowledging the importance of local integration, in 2011 during the Ministerial Intergovernmental Event on Refugees and Stateless Persons in Geneva, Georgia pledged to “increasingly take over responsibilities related to accommodation of and assistance to asylum-seekers” and to “continue efforts towards the full integration of refugees.”¹² Despite this commitment, Georgia did not take further steps in the development of its local integration strategy, action plan and assistance policy towards refugees and humanitarian status holders, nor were appropriate financial and human resources allocated to address their needs.

Given the recent increase in the number of asylum-seekers in Georgia, the Government has faced a number of difficulties in addressing their growing needs. UNHCR has had to provide the Government with additional support to fill the financial gap, but the lack of a needs-based assistance strategy and criteria may lead to collapse of the system.

In 2014, UNHCR together with MRA staff conducted a participatory assessment with refugees and humanitarian status holders. The assessment demonstrated that refugees and humanitarian status holders experienced difficulties with housing, access to health care, social assistance, education and employment opportunities. It was agreed that all these issues should be addressed in the State strategy and action plan.

Naturalization is an essential, long-awaited development for refugees, especially refugee children. The Government has facilitated naturalization of Chechen refugees in Georgia in recent years. As a result, between 2009 and 2012, 536 refugees (55 per cent of whom are women and girls) were granted Georgian citizenship. However, in 2013, there was a 100 per cent rejection rate of Chechens seeking Georgian citizenship, including women and girls. The great majority of naturalization requests from refugees have been denied since 2013 due to undefined ‘security considerations.’ This disproportionately affects women and girls and particularly for the latter group, it is unclear what kind of threat they could pose to State security.

¹² Ministerial event to commemorate the 60th and 50th anniversaries of the *1951 Convention* and the *1961 Convention on the Reduction of Statelessness*, respectively. See: UNHCR, *Ministerial Intergovernmental Event on Refugees and Stateless Persons - Pledges 2011, October 2012*, page 74, available at: <http://www.refworld.org/docid/50aca6112.html>.

The new *Organic Law of Georgia on Georgian Citizenship* has introduced Georgian language proficiency and knowledge of Georgian history as mandatory requirements for naturalization of refugees. These requirements may limit naturalization possibilities for refugees with specific needs, such as the elderly or those who are illiterate.

The MRA has suspended the refugee status of some children of naturalized former refugees, in contravention of international norms. Refugees with suspended status due to the naturalization of the principle applicant(s) in their families, most of whom are children, and their relatives are not aware of the reason for the decision to suspend their refugee status.¹³ Refugee children with suspended status have encountered difficulties in accessing formal education and medical care. This is a violation of the principle of family unity and may lead to separation of the refugee family.

Recommendations:

UNHCR recommends that the Government of Georgia:

- Establish a special division responsible for assistance to asylum-seekers and local integration of refugees and humanitarian status holders and allocate proper state funds to address these issues;
- Develop a local integration strategy and action plan based on the identified needs of refugees and humanitarian status holders;
- Implement national citizenship legislation that facilitates the naturalization of refugees and humanitarian status holders who wish to become citizens of Georgia;
- Facilitate naturalization of refugees and humanitarian status holders by waiving language and history knowledge requirements and by providing support on administrative matters without application to the State authorities of the country of origin of refugees; and
- Revoke the decisions on suspension of refugee status for certain children of naturalized refugees.

Issue 5: Sexual and Gender-Based Violence

There are a number of shortcomings and gaps in the national sexual and gender-based violence (SGBV) response system in all sectors. These include practical challenges in the areas of effective identification, reporting and referral mechanisms; lack of specialized skills and knowledge among health and psychological care providers as well as the police; and difficulties for SGBV survivors in accessing legal aid. The police authorities are reluctant to issue restraining orders, especially in the regions, to separate the perpetrator from the survivor.

Recommendations:

UNHCR recommends that the Government of Georgia:

¹³ UNHCR Georgia, “Participatory Assessment 2013 Report: Local Integration of Refugees in Pankisi,” February 2014, available at: http://www.ecoi.net/file_upload/1930_1393577405_2013-pa-pankisi-fin-1.pdf.

- Improve implementation of the SGBV prevention and response mechanisms by capacitation of relevant state actors;¹⁴ and
- Amend the *Law of Georgia on Free Legal Aid*, in order to ensure that survivors of domestic violence have access to independent, qualified and free legal advice and representation.

Issue 6: Internally Displaced Persons

While Georgia took important measures to address the problems faced by internally displaced persons (IDPs), including the provision of housing and adoption of new legislation governing the treatment of IDPs, increased attention to the livelihood of IDPs as a component of durable solution efforts is required.

Recommendations:

UNHCR recommends that the Government of Georgia:

- Step up the efforts aimed at improving the situation of IDPs and, in addition to durable housing solutions, focus on local integration and provision of sustainable income-generating opportunities and other livelihood measures at new resettlement sites;¹⁵
- Ensure that all IDPs can exercise their right to make a free and informed decision as to whether to return voluntarily to their homes in safety and dignity, to locally integrate or to resettle elsewhere in the country;¹⁶
- Mainstream IDP assistance into national social protection systems and national as well as regional development plans.

Issue 7: Stateless persons

Statelessness concerns in Georgia arise in the context of broader large scale migration and displacement and as a consequence of the break-up of the Soviet Union. At the end of 2014, there were some 770 registered stateless persons in Georgia, which marked a decline compared to the previous years (776 stateless individuals were known in 2013; 1,569 in 2012).

¹⁴ A recommendation was made to “[f]urther implement policies to advance women’s role in society and combat gender-based discrimination and violence” during the 1st cycle UPR examination of Georgia. See: Report of the Working Group of the Universal Periodic Review: Georgia, A/HRC/17/11, 16 March 2011, para. 105.24 (recommended by Brazil), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/118/21/PDF/G1111821.pdf?OpenElement>.

¹⁵ A recommendation was made to “[d]evelop a comprehensive strategy to address the socio-economic challenges faced by IDPs, emphasizing their integration in the local communities to promote work and the autonomy of the individual” during the 1st cycle UPR examination of Georgia. See: Report of the Working Group of the Universal Periodic Review: Georgia, A/HRC/17/11, 16 March 2011, para. 106.61 (recommended by Canada), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/118/21/PDF/G1111821.pdf?OpenElement>.

¹⁶ A recommendation was made to “[i]mplement the recommendations made by the Representative of the Secretary-General on the human rights of internally displaced persons following his visit to Georgia on the eviction of IDPs and their relocation” during the 1st cycle UPR examination of Georgia. See: Report of the Working Group of the Universal Periodic Review: Georgia, A/HRC/17/11, 16 March 2011, para. 105. 85 (recommended by France), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/118/21/PDF/G1111821.pdf?OpenElement>.

According to the Government of Georgia, the root cause of statelessness for 80 per cent of stateless individuals in Georgia is related to the dissolution of the former Soviet Union, often paired with a migration history, while 20 per cent became stateless due to renouncing Georgian citizenship or being unable to produce evidence of the required period of residence in Georgia. Georgia is not yet a party to the *1997 European Convention on Nationality* nor to the *2006 Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession*.

Although Georgia has acceded to the *1954* and *1961 Conventions*, there is a need for comprehensive legal research on compliance of the national legislation with these international instruments, as well as an assessment of challenges and shortcomings faced by stateless persons in practice.

Since the adoption of the statelessness status determination procedure in 2012, 145 individuals have obtained stateless status and 35 persons have been rejected (of whom 8 persons were denied stateless status based on national security risk grounds). UNHCR has praised the Government for the high recognition rate (over 70 per cent) in the statelessness status determination procedure, though in most cases those acquiring stateless status are Georgians by origin, who were born or have grown up in Georgia. However, as in the refugee status determination procedure, the Ministry of Internal Affairs plays a key role in providing its advisory opinion on national security matters, without including proper justification of reasons and evidence. The rejected individuals may face difficulties in enjoying their right to effective remedies as they do not have valid documents and experience the same problems with lack of free legal aid and access to evidence as do rejected asylum-seekers.

Georgia adopted the *Organic Law of Georgia on Georgian Citizenship*¹⁷ in April 2014. The main deficiency of the new *Organic Law of Georgia on Georgian Citizenship* is related to the fact that it does not facilitate naturalization of stateless persons. Acquisition of nationality by stateless persons with strong links to Georgia, based on factors such as birth on the territory, descent or long-term residence, is a crucial means of giving them a stake in society and fully welcoming them by formally acknowledging their roots.

Recommendations:

UNHCR recommends that the Government of Georgia:

- Accede to the *1997 European Convention on Nationality* and to the *2006 Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession*;
- Undertake revision of the Georgian national legislation relating to statelessness issues in order to bring it further in line with the *1954* and *1961 Conventions* and assess protection needs and problems of stateless persons in practice;
- Amend the *Organic Law on Georgian Citizenship* to facilitate access to citizenship for the stateless population; and
- Amend the *Law of Georgia on Free Legal Aid*, in order to ensure that stateless persons have access to independent, qualified and free legal advice and representation.

¹⁷*Organic Law of 2014 on Georgian Citizenship*, 30 April 2014, available at: <http://www.refworld.org/docid/53835fe14.html>.

**Human Rights Liaison Unit
Division of International Protection
UNHCR
January 2015**

Excerpts of Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedure mandate holders

- Universal Periodic Review:

GEORGIA

We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations and Recommendations and from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Georgia.

I. Treaty Bodies

Human Rights Committee

[Concluding observations \(2014\) CCPR/C/GEO/CO/4](#)

Rights of internally displaced persons

17. While commending the State party for the measures taken to address the problems faced by internally-displaced persons (IDPs), including the provision of housing and adoption of new legislation governing the treatment of IDPs in February 2014, the Committee notes that increased attention is required to the livelihood of IDPs as a component of durable solution efforts (arts. 2, 12 and 26).

The State party should step up its efforts aimed at improving the situation of internally displaced persons and, in addition to durable housing solutions, focus on local integration and provision of sustainable income-generating opportunities and other livelihood measures at new resettlement sites. It should also ensure that all internally displaced persons can exercise their right to make a free and informed decision as to whether to return voluntarily to their homes in safety and dignity, to locally integrate or to resettle elsewhere in the country.

Rights of minorities

19. While noting the State party's efforts to integrate minorities into political and public life, the Committee remains concerned that poor knowledge of Georgian language continue to be the main barrier to their integration that translate into their limited representation in political life, as well as marginalization. It also remains concerned that local authorities must provide written replies to minorities in Georgian even if minority applicants do not read this language, a requirement that may also exclude members of linguistic minorities from assuming certain official functions at the local level. It is also concerned about the lack of specific programmes aimed at the social and economic integration of Roma (arts. 25, 26 and 27).

The State party should strengthen its programmes for teaching of the Georgian language to minorities, promote their representation in political and public bodies at all levels, and consider the possibility of allowing the use of minority languages at the level of local government and administration. It should also design and implement appropriate programmes and strategies to ensure social and economic integration of Roma, including

their access to employment, healthcare, education and social protection on an equal basis with others.

Committee on the Elimination of Discrimination against Women
Concluding observations (2014) CEDAW/C/GEO/CO/4-5

Applicability of the Convention

12. The Committee takes note that Abkhazia region, Georgia, and South Ossetia/Tskhinvali region, Georgia, continue to be outside of the effective control of the State party, which has impeded the implementation of the Convention in those territories. The Committee is particularly concerned about the violation of the right of large numbers of internally displaced persons and refugees, including women, to safe return.

13. **The Committee notes the State party's commitment to ensure that human rights are adequately protected throughout its territory. The Committee encourages the State party to continue its efforts, through the Special Interagency Commission, and initiate cooperation with the de facto authorities of Abkhazia and South Ossetia and other relevant stakeholders to afford women in those areas full and equal enjoyment of their rights.**

Trafficking and exploitation of prostitution

22. While noting the establishment of inspection mobile groups in 2013, the Committee remains concerned at:

- (a) The decreasing number of prosecutions and punishment of traffickers of women and girls in recent years;
- (b) The lack of effective mechanisms to identify women and girls victims of trafficking, especially among foreign women in prostitution, and the lack of information on witness protection programmes for them;
- (c) The lack of support and rehabilitation programmes for victims of trafficking, including in partnership with civil society; and

23. **The Committee recommends that the State party:**

- (a) **Ensure the prompt and effective investigation of all reports of trafficking in women and girls and prosecute and adequately punish perpetrators;**
- (b) **Establish effective permanent mechanisms to identify victims of trafficking, especially among foreign women in prostitution and allocate sufficient resources to rehabilitation and reintegration programmes for such victims as well as ensure that victims have access to witness protection programmes; and**
- (c) **Provide financial and other forms of support to civil society organizations working with women victims of trafficking in order to facilitate their rehabilitation and reintegration; and**

(e) Ensure that during raids of brothels and individual establishments, victims of trafficking and forced prostitution are not treated as culprits.

Education

26. While noting the overall high enrolment rate among girls in primary, secondary and higher education, the Committee remains concerned at:

(a) The low level of school attendance among children belonging to disadvantaged and marginalized groups, such as street children, children with disabilities, children in foster care and children in correctional institutions.

(b) The significant drop-out rate of girls at the secondary level reportedly due to child marriage and the disproportionately low secondary school attendance rate among girls belonging to ethnic minority groups;

(c) The exclusion from education after the ninth grade of girls and boys who do not possess Georgian citizenship or identity documents;

27. The Committee recommends that the State party:

(a) Ensure full-time attendance of schools at all levels by disadvantaged and marginalized children, including girls, in particular street children, children with disabilities, children in foster care and children in closed institutions;

(b) Promote school attendance by girls belonging to ethnic minority groups, in particular at the secondary level, and take measures to remove barriers to their access to education such as child marriages;

(c) Abolish the requirement for Georgian citizenship or identity documents for accessing education beyond the ninth grade;

Disadvantaged groups of women

34. The Committee is concerned about

a) The lack of a gender-based approach in services provided to internally displaced persons;

b) The lack of access to adequate health, education and employment for women belonging to ethnic and religious minorities and women with disabilities;

e) Physical violence and harassment faced by lesbian, bisexual and transsexual women and restrictions to obtain identity documents for transgender persons.

35. The Committee calls upon the State party to:

a) Ensure a gender-based approach in all services provided to internally displaced persons, in particular women;

b) Take further measures to provide women belonging to ethnic minorities and women with disabilities with access to appropriate health care services, inclusive education and employment;

e) Take measures to address violence and harassment of lesbian, bisexual and transsexual women and abolish restrictions for transgender persons to obtain identity documents.

Committee on the Elimination of Racial Discrimination
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17. The Committee is concerned that the Roma population of Georgia remains marginalized, continues to live in precarious economic and social conditions, has low representation in public life and that many of them do not possess identity documents. The Committee is also concerned at the low rate of enrolment of Roma children in schools and at reports that children, most of whom are of Roma origin, are living in the streets of Tbilisi. (art. 5)

In light of its general recommendation 27 (2000) on discrimination against Roma, the Committee recommends that the State party:

(a) Ensure the issuance of birth certificates and other documents to all members of the Roma minority;

(b) Enhance its efforts to improve the employment, social services, health and housing conditions of the Roma, alleviate their state of marginalization and poverty and ensure their greater representation in public life;

(c) Make every effort to increase the rate of school enrolment of Roma children and take effective measures to protect Roma children living and working in the streets, including by ensuring shelters and providing them with recovery and social reintegration services.

18. While noting the efforts made by the State party to facilitate the repatriation of persons deported by the USSR in 1944, among them the Meskhetian Turks, including through improved procedures, the Committee is concerned at reports that only a small number of them have been granted repatriation status. The Committee notes that Meskhetian Turks have never been compensated for their loss of property. The Committee is also concerned at reports that the population in regions to which the Meskhetian Turks would be returning, mainly the Armenian minority, may be hostile to them. (art. 5)

The Committee recommends that the State party adopt a comprehensive strategy to integrate persons deported, among them the Meskhetian community, in accordance with the principle of self-identification, including by facilitating the documentation requirements, in appropriate languages, and translation procedures and promptly reviewing applications for repatriation. Recalling its general recommendation 8 (1990), the Committee recommends that the State party consider providing compensation to the repatriated persons for the loss of property when they were deported. The Committee also recommends that the State party take measures to create an administrative environment facilitating and speeding up the repatriation process, and to sensitize the population of the regions to which Meskhetian Turks will be returning in order to promote inter-ethnic harmony.

19. The Committee is concerned at the lack of disaggregated data with regard to minorities, including the numerically smaller groups such as the Kists, Kurds, Jews, Greeks, Assyrians, as well as internally displaced persons (IDPs) and refugees. The Committee is also concerned that a large number of children, in particular from minority groups in remote parts of the country, have not been registered at birth and do not have birth certificates. (art. 5)

The Committee recommends that after the 2012 census, the State party provide it with disaggregated information on the composition of society, including on persons belonging to numerically smaller minorities, the inhabitants of the Autonomous Republic of Ajara as well as IDPs and refugees, as well as information regarding their access to health and

in particular on infant and maternal mortality among minorities, their level of income, their representation in important State jobs and disparities with regard to education. The Committee recommends that the State party take all the necessary measures to register the births of children, in particular those from minorities, born in remote parts of the country and provide them with birth certificates.

20. The Committee welcomes the measures taken to alleviate the situation of internally displaced persons (IDPs) but is concerned that they continue to face obstacles to integration and some experience dire living conditions due to poverty, that some of them are expected to remain in protracted displacement, while others have not been able to register and obtain IDP status. In addition, the Committee is concerned about the vulnerability of IDP women and girls, including those from ethnic minorities, in particular regarding abduction for purpose of marriage, as well as with regard to education, health and employment. (art. 5)

Recalling its general recommendation 22 (1996) on refugees and displaced persons, the Committee recommends that the State party continue its efforts to improve the situation of internally displaced persons (IDPs), including those displaced after the 2008 conflict, in particular with regard to integration and decent durable living conditions and food. It urges the State party to regulate the situation of those IDPs who will not be able to return soon and place special emphasis on the employment, job creation and income-generating schemes for all IDPs, with special programmes and strategies regarding IDP women, including those belonging to ethnic minorities.

21. While noting that legal safeguards exist for non-citizens and stateless persons, the Committee is concerned that a number of stateless persons have documentation problems and thereby no access to public services. It is also concerned that certain rights in the economic and social field are explicitly confined to citizens of Georgia. The Committee notes that the State party has not acceded to the 1954 Convention relating to the Status of Stateless persons and to the 1961 Convention on the Reduction of Statelessness. (art. 5)

In light of its general recommendations 11 (1993) and 30 (2004) on non-citizens, the Committee recommends that the State party take all legislative and other measures to avoid discrimination against non-citizens and stateless persons. It also recommends that steps be taken to solve the documentation issues of stateless persons so that they can be registered, including through mobile registration centres, and have access to public services. While welcoming the State party's recent commitment to accede to the 1954 Convention relating to the Status of Stateless persons, the Committee recommends that the State party also accede to the 1961 Convention on the Reduction of Statelessness.

22. The Committee notes that the Draft Law on Refugee and Humanitarian Status would improve the access of asylum-seekers to health care, education and employment, but that it has not been adopted to date. (art. 5)

The Committee recommends that the State party bring its Law on Refugees in conformity with international refugee law and standards through the adoption of the Draft Law on Refugee and Humanitarian Status (Draft Law on Refugees and Temporary Asylum-Seekers).

30. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one

year of the adoption of the present conclusions, on its follow-up to the recommendations contained in paragraphs 17, 21, and 22 above.

31. The Committee also wishes to draw the attention of the State party to the particular importance of recommendations in paragraphs 10, 11, 14 and 18 and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

II. Special Procedures

Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, Follow-up to the report on the mission to Georgia (14 January 2009)
[A/HRC/13/21/Add.3](#)

46. The August 2008 conflict caused considerable internal displacement in and from the relatively small area covered by the Tskhinvali Region/South Ossetia. Only very few of those who were internally displaced across the administrative boundary line have been able to return. Within the Tskhinvali Region/South Ossetia many internally displaced persons still wait for the reconstruction of their houses.

47. The Representative underscores that the issue of displacement has to be addressed comprehensively taking into account the recent and past armed conflicts and therefore reaffirms the recommendations made in the reports on his 2005 and 2008 missions to Georgia. He reiterates namely his call that all parties take all necessary steps to ensure persons displaced by the recent and past conflicts are able to enjoy their right to return voluntarily to their former homes in safety and dignity, and to guarantee recovery of their property and possessions, or where this is impossible, obtain compensation or other just reparation.

48. While progress on questions of peace and security, in particular the conclusion of an agreement on the non-use of force, would build confidence and open up political space to improve the situation of internally displaced persons, the conflict parties should not make the right to return conditional to political demands.

49. Resolving housing, land and property questions, which are to some extent an underlying cause of displacement, is very complex, in particular since possession may have changed several times since the end of the Soviet era during different waves of violence, conflict and displacement. The Representative therefore recommends that the parties agree to set up a property resolution mechanism involving international expertise to resolve all outstanding property claims, including those arising in the Tskhinvali Region/South Ossetia and Abkhazia.

50. Much of the displacement that occurred is linked to violations of international humanitarian law of conflict parties. With regard to the August 2008 conflict, the Representative is particularly concerned about the deliberate destruction and looting of ethnic Georgian villages on ethno-political grounds as well as the degree of destruction of

civilian houses and structures in the Tskhinvali Region/South Ossetia, which resulted from the use of weapons with indiscriminate effect in urban areas. These violations call for individual accountability, including for bearers of command responsibility, to the extent that they amount to grave breaches of international humanitarian law. At the same time, the Representative would urge the parties to consider comprehensive amnesties for militia and civilians who took up arms without committing international crimes, in order to facilitate the reintegration of certain displaced populations.

51. Until a more comprehensive solution to the conflict is found, the Geneva discussions or other appropriate forums can provide a venue for the conflict parties to come to pragmatic agreements that improve the situation of internally displaced persons and other conflict-affected populations. As a first step, building on the example set in Akhgori, the conflict parties should allow the local population freedom of movement across the administrative boundary line, while taking all measures to protect the civilian population from harassment and extortion by border forces.

52. The conflict parties also need to cooperate to help locate, mark and remove land mines and unexploded ordnance, including explosive remnants of cluster munitions of cluster projectiles, to guarantee the safety of returning internally displaced persons and other affected population. The Representative also calls on the Governments of Georgia and the Russian Federation to consider acceding to the Convention on Cluster Munitions, which prohibits all use, stockpiling, production and transfer of these weapons.

53. While the Tskhinvali Region/South Ossetia currently does not require emergency humanitarian assistance, the policies on both sides effectively deny humanitarian actors the access needed to provide other important assistance, in particular assistance to reconstruct housing for the most vulnerable. The current access policies on both sides are not in line with the Guiding Principles and are notably more intransigent than approaches taken in other conflict areas visited by the Representative. The Representative recommends that the Government of Georgia and the South Ossetian de facto authorities revisit their respective stance and provide access to all international assistance and personnel necessary for addressing the needs of internally displaced persons and other conflict-affected populations in the Tskhinvali Region/South Ossetia through the route that is most suitable, safe and economic in each case. This would mean that access from both South and North should be facilitated. The Representative welcomes efforts of the Government of Georgia to amend the Law on the Occupied Territory in line with the recommendations of the Venice Commission to allow entry of emergency humanitarian assistance from the North, but urges the Government to also facilitate the entry of non-emergency assistance necessary for recovery activities that allow internally displaced persons to find durable solutions.

54. The Representative would like to highlight that there is still a group of 3,500 internally displaced persons in collective centres in Tskhinvali/South Ossetia, who were displaced from across the administrative boundary line during the 1991–1992 conflict. The Representative urges the South Ossetian de facto authorities and other actors to initiate housing and livelihood programmes that allow these people to normalize their living situation and the international community to support such efforts. This would not detract

from their right to return and the right to restitution of their property, or where this is impossible, compensation or other just reparation.