

# **Human Rights in Abkhazia Today**

Report

by Thomas Hammarberg and Magdalena Grono

July 2017

## Foreword

An earlier version of this report originated through an initiative by the European Union's Special Representative for the South Caucasus and the crisis in Georgia, Ambassador Herbert Salber. He asked one of us, Thomas Hammarberg, to undertake a study of the human rights situation in the conflict-affected Abkhazia. The intention was that this would be a first step towards a broader monitoring and assessment of the human rights in Abkhazia. It was agreed that Magdalena Grono would join and work with Thomas Hammarberg in this project.

Given the limited independent information available on the situation of human rights in Abkhazia, this was seen as unique opportunity to facilitate a more substantive engagement on a topic that has direct impact on the everyday lives of the conflict-affected population.

During our work on the report, we visited Abkhazia six times (a preliminary trip in September 2015 and five fact-finding visits in May-December 2016), each time traveling through Tbilisi. We had meetings with decision makers and a broad range of interlocutors on both sides. We put an emphasis on talking with individuals and groups who could give relevant information on problems and efforts in relation to human rights, outside of political positions or framing. The scope of these investigations is spelled out in the Introduction to the report.

The focus was on human rights only. Inevitably, however, the politics of the conflict create a complex backdrop for the study of human rights in this conflict context, with implications for human rights protection.

Tbilisi, Sukhumi and Moscow do not agree on major aspects of the conflict: Between whom is the conflict? What is the conflict about? The view from Tbilisi emphasizes Russian aggression, and sees the conflict mainly as Georgian-Russian, and Abkhazia as occupied. Moscow disagrees and points out that the pre-existing Georgian-Abkhaz conflict of the 1990s is at the core of the problem, and it offers to act as a guarantor of security. The view from Sukhumi is largely aligned with the Russian version; some in Sukhumi even say there no longer is a conflict as Abkhazia's status has been resolved thanks to Russian recognition in 2008. While there is broad consensus in Sukhumi that Moscow is a key partner, there is also a concern among some people that Abkhazia may be assimilated into the

Russian space.

The divergences over political status issues are also reflected in the narratives about human rights. Tbilisi considers Moscow responsible for the protection of human rights in Abkhazia, consistent with its argument about Russia's occupation. Moscow says human rights protection is vested in the Abkhaz authorities. Actors in Sukhumi say they are working to meet the challenge even if Abkhazia is not able to seek accession to international human rights instruments and bodies because of its status.

Human rights concerns have been caught in between the conflicting political narratives. They have become politicised, often to the detriment of conflict-affected populations. The analysis in this report is a contribution to understanding the actual human rights situation on the ground.

It was agreed that the approach to be taken in this project was one of strict status-neutrality. No position was to be taken on how the political conflict issues should be resolved – other than the need to protect human rights. In fact, the status-neutral approach was also a prerequisite for this field-research based assessment to be feasible.

We delivered our initial assessment to the European Union in early January 2017. The EU handed it over to key interlocutors in Tbilisi, Sukhumi and Moscow, as well as to some interested diplomats and international organisations, but later decided that the January 2017 assessment would be categorized and used as an internal working document.

In order to ensure that important information given to us during more than 200 interviews would reach a wider audience, we are making public key aspects of our findings. The report published herewith is largely based on the assessment provided to the EU in January but it is also further edited and updated on a number of points, including some relevant 2017 developments. The responsibility for its content is solely the authors'.

As different actors in the context of the conflict interpret the situation in different ways, some might see some of the facts presented here as politically inopportune or unwarranted. We hope, however, that our intention to provide an independent and objective assessment of the actual situation will be understood and respected. For the nuances in a complex situation to become clear, it is advisable that

the report be read in its totality. We would recommend that the individual chapters be seen in the context of the complete report.

A major finding reflected in the report is that the unresolved conflict issues have a severe impact on the human rights for people living in Abkhazia, as well as for persons displaced by the conflict. The human costs must be a serious consideration in future dialogue and settlement efforts.

At the same time it is our conviction that several existing human rights problems can be addressed, and even resolved, before a comprehensive political agreement is reached.

Thomas Hammarberg and Magdalena Grono  
Stockholm and Brussels in July 2017

*Thomas Hammarberg, was as Senior Expert mandated to carry out the assessment. He was previously Secretary General of the Olof Palme International Center and has served as Council of Europe Commissioner for Human Rights, as well as expert adviser to the European Union and United Nations on Human Rights matters.*

*Magdalena Grono was made available by International Crisis Group where she is Europe and Central Asia Program Director. She previously worked with the European Union, as co-moderator in the Geneva International Discussions and adviser.*

## **Explanatory Note on Terminology, Language and Designations**

This report is focused on human rights only. The terminology, language and the designations used, and the presentation of the material, do not imply the expression of any political view or opinion regarding the legal status of any territory or authorities in control of it.

The Georgian-Abkhaz conflict of 1992–1993 led to the Georgian authorities' de facto loss of control over Abkhazia. Though Abkhazia unilaterally declared independence in 1999, no international actor recognised it at that time. This changed in August 2008 when the Russian Federation recognised the independence of Abkhazia (and South Ossetia) in the wake of the August 2008 war, and other countries – Venezuela, Nicaragua, and Nauru – followed suit. The European Union, together with the United States of America and the rest of the international community, support the territorial integrity of Georgia and do not recognise Abkhazia's claim to independence.

The authorities and institutions, which have operated in Abkhazia since the conflict are referenced in this report as "Abkhaz authorities" and "Abkhaz institutions". This and the use in this report of such terms as "the Constitution", "Criminal Code", "Law", "President", "Minister", "Prosecutor", "Judge", and "Treaty" does not indicate a recognition or any legitimisation of these normative acts, institutions or actors. They are used here to provide a substantive reference to the specific documents or actors.

The toponyms used in the report correspond to standard international usage. The only exception where the usage differs from pre-1992 place names is the Gali district whose boundaries the Abkhaz authorities changed after they took de facto control over Abkhazia; today's boundaries of the district are narrower than the pre-war ones as the Abkhaz authorities have administratively merged parts of the pre-war Gali district with the neighbouring Oчамchira and Tkvarcheli districts.

The views expressed in this report are solely of the authors, based on the independent human rights assessment undertaken, and do not express the position of the European Union or any other international body or institution.

## TABLE OF CONTENTS

EXECUTIVE SUMMARY .....	7
I. INTRODUCTION .....	11
II. ABKHAZ LEGAL FRAMEWORK AND PROCEDURES.....	13
Role of Laws for Human Rights .....	13
Constitutional Provisions .....	13
Criminal Code .....	15
Lawmaking .....	17
Law Enforcement, Prosecution and Judiciary.....	18
Penitentiary .....	23
III. MONITORING MECHANISMS AND ACTIVITIES.....	26
Ombudspersons and Other Offices for Independent Protection of Human Rights .....	26
Media and Access to Information .....	27
Civil Society Groups .....	30
IV. EDUCATION, PROPERTY ISSUES, HEALTH, WOMEN AND VULNERABLE GROUPS .....	33
Education.....	33
Property Issues .....	38
Health .....	43
Women, Children, the Elderly, and Persons with Disabilities .....	46
V. ETHNIC GEORGIANS, ARMENIANS, RUSSIANS AND OTHER NATIONALS.....	51
Key Issues around Gali District.....	52
Different Ethnic Communities.....	53
Laws on the Status of Foreign Citizens and on the Procedures for Exit and Entry .....	54
VI. THE GALI DOCUMENTATION GAP AND THE CONFLICT DIVIDE .....	58
The Documentation Gap .....	58
Crossing the Conflict Divide .....	63
Detentions.....	68
Criminality .....	68
VII. TREATIES WITH THE RUSSIAN FEDERATION AND THEIR IMPACT.....	69
VIII. HUMAN COSTS OF THE UNRESOLVED CONFLICT .....	71
Displaced Persons.....	71
Missing Persons .....	71
Travel, Contacts and Exposure to the Outside World .....	74
Economic and Social Issues .....	74
CONCLUDING REMARKS.....	76

## EXECUTIVE SUMMARY

The purpose of this study is to assess the human rights situation in Abkhazia today. The politics of the conflict inevitably create a complex backdrop for a study of human rights in a context, where Tbilisi, Sukhumi and Moscow do not agree on major aspects of the conflict. A major finding of the study is that the unresolved conflict has a severe impact on human rights of people living in Abkhazia, as well as those of displaced persons.

The report is status-neutral. It takes no position on how the conflict issues should be resolved, except for the need to ensure the protection of human rights. Consequently, no reference to Abkhaz legal frameworks or actors implies recognition.

The report draws on in-depth field research conducted in 2016 in the region over six trips, over forty days in total, as well as on prior expertise, and focuses on the situation on the ground. More than 200 people representative of all communities as well as decision-makers in Tbilisi, Sukhumi and Moscow were interviewed. Access to all locations was made possible in Abkhazia, including detention facilities.

When assessing the human rights situation anywhere it is essential to evaluate the existence of a legal framework which would define norms for the protection of human rights of the individuals in society. This is relevant also in situations where *de facto* laws are not recognized by members of the international community. These laws are described as they affect everyday realities of those living in Abkhazia today. A separate consideration is whether the formal protection of human rights is indeed secured in reality.

In the case of Abkhazia an institutional system with relevance for human rights protection has been developed. The existing legislation contains provisions on individual rights and freedoms, as well as references to international human rights standards. An Ombudsperson office has been set up. Awareness of the importance of respecting human rights seems to be fairly widespread, partly as a result of efforts by active civil society groups.

However, the implementation is uneven; especially the situation in the Gali district is of a most serious concern and many of the Georgians there feel rejected and deeply frustrated. Interlocutors there describe the current situation as uncertain, ill-defined and requiring urgent improvement.

The following is a summary of some of the key observations in the study:

***Normative framework and implementation.*** Human rights principles are generally positively

incorporated in the Abkhaz legislation. References to international standards imply that everyone residing in Abkhazia should benefit from constitutional protection of human rights. A need for broader local consultations on parliamentary drafts was evident; some interlocutors expressed a concern about the degree of professionalism in the lawmaking. Former and current Abkhaz lawmakers saw the legislative process as authentic though laws often draw on Russian legislation examples.

According to many interlocutors, implementation of legislation needed to improve. Even when processes were clearly defined by law, there were cases of insufficient or no follow-through. The need to combat corruption and to ensure high professional standards was cited regarding law enforcement and the judiciary. Both were generally seen as reasonably competent, but corruption and cases of political or clan interference were mentioned. Enforcement of judicial decisions is one priority; another is human rights education of law enforcement personnel.

***Situation in places of detention.*** The penitentiary system needs new and more humane detention facilities, which the Abkhaz authorities recognise and plan to act on. Interim steps need to be taken to improve the conditions for inmates: the Ombudsperson can play an important role and the International Committee of the Red Cross could assist with its longstanding independent expertise.

***Monitoring facilities.*** An Ombudsperson, the media and civil society organisations could play an important role in monitoring the implementation of laws. The first parliamentary Ombudsperson was appointed in November 2016 on the basis of a law which guarantees his independence; it is essential his office be given adequate resources.

***Media and civil society.*** The media is generally seen as independent but political. The mass media legislation needs an update to reflect the growing impact of electronic media. The TV media landscape is dominated by Russian TV channels though two Abkhaz channels inform on local developments. Abkhaz privately funded newspapers feel increasingly squeezed by Russian competition. Access to information legislation exists, but it is not clear how widely it is made use of.

Non-governmental groups are numerous in Abkhazia, and some are very active. They operate without registration problems or restrictive controls. However, many NGOs have said their operational space has in practice shrunk in recent years, while funding from external sources has become scarcer since 2008. NGOs have been viewed by some with suspicion and civil society activists have cited cases of social pressure.

***Education rights.*** There are problems in the education system, in part due to lacking financial and



personnel resources: there is a need to enhance capacities at all levels. The language of instruction issue in Gali has become critical and divisive, and requires urgent attention. In order to ensure adequate quality education as well as cultural maintenance for ethnic Georgian children in Abkhazia, Abkhaz authorities should ensure that any inclusion of Russian as a language of instruction be gradual, partial and respectful of local realities and capacities. Georgian language should be allowed as a language of instruction in schools attended by Georgian children. Further development of the Abkhaz language needs to be supported.

**Property rights.** Complex human rights issues relate to property rights. Problems are mostly rooted in the conflict context, but have become compounded since the war. Property and accommodation rights of many have been violated. Most ethnic Georgians (with the exception of Gali returnees) have been unable to return, and their right to the property they had left behind is often violated. But there are also some Abkhaz whose homes were destroyed by the war; and some ethnic Russians or Greeks unable to reestablish their property claims when they returned after the war. Some rules for dealing with these issues are now detailed in the legislation. Those who fled Abkhazia during the war are – by default – not fully protected by them. At the same time, the situation in practice is not a blanket disregard for their rights either: Abkhaz courts upheld the property rights of Georgian or Russian owners in numerous cases. But such court rulings are not always implemented. Solutions will be complex, but the issues need to be addressed.

**Health rights.** The health sector suffers from a significant lack of material and, to a lesser degree, human resources. Modern diagnostic equipment is scarce, especially outside Sukhumi. The health system has not been reformed; doctors cite a high demand for professional update trainings. Health authorities cite blood-borne infectious diseases, cancer, cardio-vascular diseases and diabetes as the greatest public health concerns. Many say they seek health care outside of Abkhazia for serious health conditions. Some travel to Tbilisi, where health care is offered for free. A 2016 law introduced a total ban on abortion, causing serious concern among many.

**Ethnic and national communities.** Inter-ethnic relations are playing out in the context of the conflict legacies though these are rarely discussed. Abkhaz interlocutors cited a sense of existential vulnerability. Georgian returnees cited a sense of being disenfranchised and not recognised as equals. Many ethnic Armenians and Russians saw the society as open and welcoming in everyday life but said in some cases Abkhaz were “more equal in front of the law than others”.

**Situation in Gali.** Underlying most issues in Gali is an ambiguity over the role of ethnic Georgian returnees. A political debate has been underway as to what status, and hence what political and civil rights, they should enjoy in Abkhazia. The Abkhaz leadership that came to power in 2014 has

advocated a generally less integration-oriented approach than their predecessors.

The *Law on Foreign Citizens* is now said to be the framework for regularising the Gali residents' status; December 2016 amendments provide for issuance of residency permits to Gali returnees. Once implemented, implications for their political, social and economic rights will be significant. Many said they resented "*being turned into foreigners in their own home*". A human rights approach would mean the status of Gali returnees in Abkhazia should be defined in a clear apolitical way that prevents any discrimination, with guarantees for their status, property rights and freedom of movement and all other human rights as defined in international standards.

***Freedom of movement.*** This is an acute issue. Their lack of documentation has had a serious impact on Gali residents' ability to cross the conflict divide, one of their essential requirements for living in Gali. Gali returnees should be provided with adequate documents that will allow them to cross the divide in a predictable, transparent and practical way. None of the crossing points along the divide should be closed – in fact the Nabakevi and Otobaia crossing points closed in March 2017 should be reopened for all those in need to cross and for humanitarian cases – in particular for medical emergencies and school children crossings. Further pressure on local population should be avoided.

***Relation to Tbilisi and treaties with the Russian Federation.*** Moscow provides decisive military, political and economic support to Sukhumi. Tbilisi sees this relationship as occupation, and Russia being the force in effective control; Tbilisi has adopted a *Law on Occupied Territories*. Sukhumi says that Moscow provides a strategic partnership and security guarantees. Their links have significantly deepened since Moscow's recognition of Abkhazia. The framework of cooperation is anchored by a number of agreements on foreign policy, defense, customs and border control, law enforcement, and also education and social welfare.

***Overall conclusions.*** The unresolved conflict issues have a severe impact on the human rights of people living in Abkhazia, as well as of persons displaced by the conflict. The human costs must be a serious consideration in future dialogue and settlement efforts. Several existing human rights problems can be addressed, and even resolved, before a comprehensive political agreement is reached. In this regard, all would benefit from further international visits to Abkhazia on human rights issues. Substantive dialogue with internationally recognised independent human rights experts should be encouraged.

## I. INTRODUCTION

The study draws on in-depth field research conducted in the region in the course of six visits totaling over forty days (a preliminary visit in September 2015, followed by research visits in May, June, September, October and November 2016); on comprehensive background research; and on the authors' expertise developed in the course of their prior engagement with relevant conflict-settlement processes and human rights situations.

In the course of the research trips we interviewed more than 200 interlocutors, some in small groups, on all sides of the conflict divide, in Tbilisi, Kutaisi and Zugdidi; in Sukhumi, Dranda, Gagra, Gali and Gali district villages, Gudauta, Novyi Afon, Tkvarcheli; and in Moscow.

Interlocutors included, on the Georgian side of the conflict divide, the highest-level political leadership of Georgia, including Prime Minister, Speaker of the Parliament, Minister of Foreign Affairs as well as his Deputy who is also the leading Georgian participant to the Geneva International Discussions, State Minister for Reconciliation and Civic Equality, Minister for IDPs from the Occupied Territories, Accommodation and Refugees, Minister of Justice, representatives of the Abkhaz Government-in-Exile as well as various sectoral ministries and agencies, including the interior and state security. We also met with the Public Defender, and civil society representatives, experts, teachers and parents as well as representatives of the community displaced from Abkhazia.

In Sukhumi, we met with representatives of the Abkhaz leadership: Abkhaz President, Deputy Speakers and Members of the Abkhaz Parliament, Prime Minister, Minister of Foreign Affairs, Minister of Interior, Deputy Ministers of Justice, Health and Education, as well as representatives of law enforcement, representatives of the court system, including the Deputy Chair of the Supreme Court, the Ombudsperson; furthermore throughout Abkhazia we met with representatives of civil society, including NGOs, parents of school children, experts and professionals like journalists, doctors and teachers, and the media.

In Moscow, we met with the Russian Federation's Secretary of State/Deputy Foreign Minister as well as independent experts and representatives of the Abkhaz diaspora.

We also interviewed diplomats and representatives of international institutions and inter-governmental and non-governmental organisations.

We placed a special emphasis on meeting with representatives of all communities and with ordinary people so as to understand the practical impact of the unresolved conflict situation on their everyday lives, with a special focus on human rights implications. We met positive cooperation from all interlocutors, including those representing authorities. In Abkhazia, we had full access to all places

we wanted to visit, including places of detention.

Chapter II gives an overview of today's Abkhaz legal framework and procedures to provide for justice. Chapter III discusses monitoring mechanisms. Chapter IV analyses human rights in the context of education, property issues, health, and the situation of women and vulnerable groups such as the elderly and disabled. Chapter V explores inter-ethnic issues, and the situation of ethnic Abkhaz, Armenians, Russians and Georgians in Abkhazia. Chapter VI analyses issues in the ethnic Georgian-inhabited Gali district. Chapter VII covers the *Treaties* signed between Russia and Abkhazia and their implications. Chapter VIII discusses long-term consequences of the conflict.

The report is intended to be read as a cohesive and holistic document and individual chapters should be considered in the context of the full report.

## II. ABKHAZ LEGAL FRAMEWORK AND PROCEDURES

### Role of Laws for Human Rights

Regard for the Rule of Law is essential for the protection of human rights everywhere. It is also imperative that the laws in substance reflect high standards for the protection of these rights. Moreover, there is a need for institutions and agreed procedures, which ensure that these legal standards are respected and made a reality.

Assessing the human rights situation in Abkhazia should therefore involve an analysis of the existing legislation and justice system there irrespective of whether these are politically recognised by international actors or not, and irrespective of the role and politics of other actors.

The fact that Abkhazia cannot be a party to the international human rights conventions does not, however, prevent actors there from referring to these standards and from doing what they can in order to secure their implementation.

### Constitutional Provisions

#### Respect for human rights and freedoms is referred to in the preamble of the Abkhaz Constitution:

*“We, the people of Abkhazia, exercising our right to self-determination, aspiring to promote general welfare, internal stability, respecting human rights and freedoms, establishing civil peace and harmony solemnly proclaim and institute the Constitution of the Republic of Abkhazia”.*

The Constitution states that “*the people*” to whom the government is accountable are “*the citizens of the Republic of Abkhazia*” (Article 2). While this is not an unusual formulation in this kind of constitutional language, it does in this particular context raise **questions about whether people residing in Abkhazia, but not recognised as citizens, also can benefit from constitutional protection of their human rights**. The Constitution was adopted in 1994 when polarisation of views as to the citizenship status of Gali returnees was not on the agenda (in fact, there were provisions for Gali returnees’ possible acquisition of Abkhaz citizenship in the 1993 *Law on Citizenship*<sup>1</sup>). Given the polarisation around the issue today, and the lack of a defined status for Gali residents, as discussed in Chapter VI, the distinction between a citizen and a non-citizen has acquired a very sensitive character in recent years.

---

<sup>1</sup> The 1993 *Law* offered the possibility of citizenship also to those for whom at least one grandparent had been born in Abkhazia.

**However, the Constitution also refers to international human rights standards (Chapter 2), which are not limited to citizens only:**

*“The Republic of Abkhazia shall recognize and guarantee the rights and freedoms proclaimed in the Universal Declaration of Human Rights, the International Covenants on Economic, Social, Cultural, Civil and Political rights, and other universally recognised international legal instruments” (Article 11).*

The next article stresses one crucial aspect of the international norms - **that equality and non-discrimination should be protected in the system of justice** (Article 12):

*“Basic rights and freedoms are the birth rights of human beings. Everyone is born free. All are equal before the law and the court without distinction of race, nationality, gender, language, origin, property status or position, domicile, religion, beliefs, ideology or other considerations”.*

Article 16 stresses other aspects of anti-discrimination: *“Everyone shall have the right to freedom of movement and choice of domicile, confidentiality of correspondence and other forms of communication”.*

**Other substantive articles in this chapter reflect international standards**, such as the ban on torture, ill-treatment or other cruel, inhuman or degrading treatment or punishment; right to freedom of association and to hold peaceful rallies, assemblies, marches and demonstrations; as well as the right to a home, economic freedom, and freedom of labour, the right to education and leisure, medical care and social welfare. The formulations of these provisions indicate that they would apply to all and everyone living in Abkhazia.

The Constitution also reflects a position on the status of the different languages, a matter of political significance: *“The official language of the Republic of Abkhazia shall be the Abkhazian language. The Russian language, equally with the Abkhazian language, shall be recognized as a language of State and other institutions. The State shall guarantee the right to freely use the mother tongue for all the ethnic groups residing in Abkhazia” (Article 6).*

The final paragraph highlights respect of the Constitution towards democracy and upholding of the laws safeguarding human rights in Abkhazia’s context. It also reflects prevalent concerns regarding its future political status, and control over land and other natural resources. Furthermore, it proclaims as illegal the change of the status of the state language in another reference to identity concerns in the conflict-affected environment:

*“The Constitution of the Republic of Abkhazia cannot be amended or revised, if the amendments or review of the Constitution would entail abolition or limitation of human rights and freedoms of the citizen; liquidation of independence or the violation of territorial integrity of the Republic of Abkhazia; directed against the principle of democracy, separation of powers or intended to change the state ownership of land and other natural resources, as well as the status of the state language of the Republic of Abkhazia”.*

## **Criminal Code**

The objectives of the Criminal Code are: the protection of rights and freedoms of man and citizen, property, public order and public safety, the environment, the constitutional system from criminal violations, ensuring peace and human security, and the prevention of crime (Article 2.1).

In order to implement these objectives, the Code establishes the basis and principles of criminal responsibility, determines which acts of crime are considered dangerous to individuals, society or the state and thus shall be recognised as offenses, and establishes the punishment or other criminal justice measures against an act of crime (Article 2.2).

The Criminal Code stipulates that *“persons who have committed crimes are equal before the law and subject to criminal liability irrespective of their sex, race, nationality, language, origin, property and official status, place of residence, attitude to religion, convictions, membership of public associations or other circumstances”* (Article 4).

Article 6 and Article 7 further establish the principle of justice and the principle of humanism, with guarantees of fair, humane and dignified treatment of perpetrators during prosecution and sentencing. Criminal liability would only apply to sane persons over the legal age for criminal responsibility (Article 18). Whilst Article 19 establishes such an age at sixteen at the time of the crime, amendments adopted in 2009 lay out a wide range of exceptions for when the legal age for accepting criminal liability is set at fourteen.

## **Death Penalty**

In spite of the constitutional ban of *“cruel, inhuman and degrading treatment and punishment”*, the possibility of using death penalty as an exceptional measure remains mentioned in the Criminal Code (Article 54).

However, a special law has been adopted for a moratorium of this punishment to be respected during peace time. It is reported that a stay of executions has been respected informally since 1993. This policy was formalised in 2007 *“pending the abolition of the punishment”*.

**A total ban of the death penalty, also for periods of non-peace, is the obvious conclusion of respecting the right to life.** No court system is fully protected against making mistakes. A wrongful decision leading to the execution of a suspect cannot be corrected when the individual sentenced is later found to be innocent.

### ***Organised Crime***

The Criminal Code foresees harsh sentences for crimes perpetrated by “criminal groups”. Our interlocutors with legal and law enforcement backgrounds said the classical notion of organised crime – i.e. serious crime planned, coordinated and carried out by criminal groups on a continuing basis – has only very limited applicability to Abkhazia. In the words of an expert interlocutor with twenty years of investigative and judicial practice – while there have been cases when a group came together in connection to a particular crime or issue, these were not groups organised on an ongoing basis.

In addition to high profile cases such as the assassination attempts against former President Alexander Ankvab or the killing of a Russian diplomat in September 2013, where involvement of a group of criminals with specific interests was widely discussed, kidnappings for ransom were also a cause for concern, especially shortly after the war. With the exception of the Gali district, numbers of such reported kidnappings fell basically to zero in the 2000s, with one case reported in 2011. In the last two years, four such cases apparently occurred. In the Gali district, however, kidnappings have been a continued cause for concern, as discussed in Chapter VI.

**Human rights principles are generally positively incorporated in the constitutional law as well as in the Criminal Code and some special laws. It would be important that all laws – existing and new – are consistent with these principles and to clarify that all people residing in Abkhazia are privy to legal protection of their human rights. References to international standards on human rights, including the UN Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities, could be further developed. A formalised full ban on the death penalty for both peace and war times would be important.**



## Lawmaking

The Abkhaz Constitution lays out the process by which the laws are established and administered, including by guaranteeing that the Parliament is elected through universal, equal and direct suffrage, by means of secret ballot (Article 37). Article 38 limits the right to hold political office to “*every citizen of the Republic of Abkhazia who has reached the age of 25 and has the right to vote*”.

The Parliament in Sukhumi – with 35 elected members – appears to be heavily involved in the lawmaking process. Members can take and have taken legislative initiatives themselves. Proposals can otherwise be submitted by the President, Supreme Court and the Prosecutor General (Article 46 of the Constitution). Draft pieces of legislation initiated outside Parliament have been turned down or considerably amended by the assembly.

Some of the recently adopted laws do impact heavily on aspects relating to human rights. This is particularly the case of the *Law on the Legal Status of Foreign Citizens* and the *Law on Exit from and Entry to Abkhazia*, which are analysed in Chapter V. The current Parliament has no human rights committee; but some previous assemblies did have one, which also worked actively. Important pieces of legislation promoting human rights, such as the *Law on Ensuring Equal Rights and Possibilities for Men and Women*, were passed during the time of previous assemblies.

Some interlocutors in Sukhumi expressed concerns about the degree of professionalism in the lawmaking process; they said that few members of the Parliament have a background directly relevant to lawmaking, and that the Parliament needed to develop more capacity in this regard. Several laws seen as controversial by some have been adopted recently and some legislation – for instance on education – are outdated.

Many former and current lawmakers and most expert interlocutors in Abkhazia stress that they see the legislative process as overall authentic. There has been an attempt to reform much of the Soviet-era legislation, though this has not yet been done in all spheres. Many new laws draw on examples of Russian legislation, in some cases heavily. But lawmakers and legal specialists cited numerous examples where important distinctions have been introduced and retained, or of laws that go well beyond the legislation in the Russian Federation today. They pointed out, for instance, the principle of cumulative evidence; or modern practices for transparency and accountability – such as provisions for audio and video recordings of court hearings; or special anti-discrimination legislation such as the *Law on Gender Equality*.

**A number of interlocutors said that it was the *implementation* of legislation that presented a**

**considerable problem. Even when processes were clearly defined in law there was in some cases no or insufficient follow through in practice, or an informal process was pursued.**

A decision has been taken to establish a Constitutional Court by June 2017. The purpose is to facilitate a more professional review of the constitutionality of various law proposals and amendments. Parallel to this reform the Parliament decided to abolish the existing Supreme Court's mandate to undertake such reviews. Until the Constitutional Court is established it is left to the Parliament to decide on the constitutionality of laws and processes, as necessary. Not surprisingly, this interim arrangement has been criticised.

### ***The Public Chamber***

The Public Chamber is another significant body in the lawmaking context. It is composed of 35 civic representatives nominated by the President, local administrations and by political parties and social movements. It offers an important possibility for consultations outside the Parliament. One of its aims is to facilitate public participation and to formulate recommendations on draft laws. Such consultations have taken place on proposed legislation as well as on issues of broader public concern. Many interlocutors stressed that the Public Chamber had *gravitas*, in part also thanks to the role played by its well-respected secretary. It has been appreciated that the Chamber has attempted to bridge positions on various issues over which the society has been divided. **A plurality of views and perspectives is essential for the most effective functioning of this body.**

**In addition to ensuring the incorporation of human rights principles in all legislation, comprehensive public consultations on legislative drafts are consistent with good practice, along with avoiding undue politicization.**

### **Law Enforcement, Prosecution and Judiciary**

This section provides a brief overview of the three pillars of the system of justice, and concludes with an analysis of issues that still remain to be addressed, and underlying problems and dilemmas.

#### ***Law Enforcement***

Given that the Constitution upholds the *Universal Declaration of Human Rights* in its entirety, law enforcement officials in Abkhazia are subject to principles of conduct setting out prerequisites for humane performance of the various agencies.

Generally speaking, the Constitution binds law enforcement agencies to maintain high ethical standards during the process of arrest and detention – Article 15 makes any act of torture, or any other cruel or degrading treatment or punishment illegal. Article 20 further asserts that “*a person’s home is inviolable. No one shall have the right to enter a person’s home against his will, except in cases prescribed by the law or on the basis of a court order*”. Article 23 of the Constitution expresses that those detained have prompt access to the assistance of a lawyer. The *Law on Healthcare* outlines that “*those arrested, detained or serving sentences in prisons or subjected to other types of administrative detention, have the right to receive medical care, including where necessary in the public health institutions*” (Article 49.1).

**The police, or *militia*, has capacities to investigate crimes and maintain law and order.** Most interlocutors thought the *militia* was a generally effective body though most interlocutors across different sectors said there was much space for development of its professionalism and capacities. Representatives of the Ministry of Interior informally said that resources were limited, and that the police force would benefit from further training and the introduction of new methods.

**Many interlocutors also said corruption remained an issue, and that it needed to be eradicated more forcefully.** Average salaries are a RUB equivalent of up to \$500 a month, a little less than average police salaries in Russia, and low enough to incentivise corruption. The corrupt practice was, according to a former law enforcer, apparently most spread among the traffic police and among police officers in the penitentiary structures. Several interlocutors also alleged cases of political or clan interference, or patronage, with police practice, especially when suspects were connected to prominent Abkhaz families. An interlocutor with in-depth knowledge of the governance system also said appointments based on clan links can undermine the competency of the police force. Several serious criminal cases in the first half of 2017 have brought accountability issues to the forefront.

**Interlocutors from Gali were generally much more skeptical about the police force. Locals said they did not always feel their interests were effectively defended** by the local police and stressed that corruption was an important factor. Some 50 per cent of the police in Gali is staffed by ethnic Georgians. Though the security situation in Gali has much improved over the past years, crime is still an issue, as discussed in Chapter VI.

### ***Prosecution***

The Prosecutor General is appointed and can be removed by the Parliament on proposal by the President; other public prosecutors are appointed by the Prosecutor General himself. The term of office is five years for the Prosecutor General as well as city and district prosecutors.

There are around 100 prosecutors and investigators. Especially among investigators, the number of women is significant, and growing. Average salaries for prosecutors are the RUB equivalent of around \$400.

A lawyer with a prosecutorial background said prosecutors in practice tend to cooperate far too closely with the police. A new draft law submitted to the Parliament in 2016 seeks to change this and put more emphasis on the obligation to protect the rights of suspects. The Prosecutor General appointments have apparently often had close links with the police, which has in practice sometimes disabled the necessary degree of oversight over law enforcement. Patronage links were also cited as a possible obstruction to due process. An additional issue is apparently a high turnover of personnel between the two institutions.

### ***Judiciary***

The principle of free and fair trials is expressed in the Constitution which states: "*the principle of presumed innocence shall hold sway. All accused shall be presumed innocent until proven guilty and their offence established by a judicial verdict having the force of law. The accused shall not be obliged to prove his/her innocence*" (Article 22). Furthermore, every detained or arrested person is entitled to an assistance of a lawyer "*from the moment of detention or arrest*" (Article 23). Case hearings are generally open to the public in all courts except when otherwise specified by law.

Judges are appointed by the Parliament on proposal by the President once they have gone through a qualification procedure run by the Qualification College of Judges, now headed by the Minister of Justice. It is also this College that takes cases and complaints against judges. Judges are elected for a term of ten years, renewable. Judges of the Constitutional Court will be elected for a term of fifteen years, non-renewable.

There are some 40 judges, just over 50 per cent of them are women, and five represent other ethnicities than Abkhaz. After the recent reform, the average salary of judges is the RUB equivalent of \$1,500. This significant salary increase was introduced to discourage judicial corruption.

The impartiality of the judiciary also requires that judges are free from competing interests: "*Judges may not hold any other office in state institutions or local authority outfits, to engage in entrepreneurial or other paid activity, except for teaching, scientific and other creative activity. Judges may not belong to political parties*" (Article 70).

**Many interlocutors said the courts work generally well, though problems remain: a number of interlocutors described cases of inefficiency and judicial corruption.** An experienced lawyer said most decisions are lawful, though sometimes they also, to a degree, take into account “*the general sentiment of the society*”, implying especially its ethnic Abkhaz segment.

A *Law on Reasonable Timeframes for the Investigation Process* came into force in January 2017 with the aim to prevent court proceedings from dragging on. Volumes of court cases may not be significant but some courts take time, according to interlocutors, especially in specifically sensitive cases. Provisions will be in place to allow for appeals against judges and investigators, and will allow for material and moral compensation.

The refurbishment of the old Supreme Court building, heavily damaged during the war, is currently being finalised, which will hopefully provide a better material base for its work.

### ***Reforms and Outstanding Issues***

A sweeping reform of the judicial system came into force in 2016. It was this reform that established the Constitutional Court and changed the procedures for appointment of judges, giving them more independence from the executive. It increased the length of their terms from five to ten years. Their salaries were raised as a step to increase independence and prevent corruption. Many interlocutors said the reform was a good step towards addressing shortcomings in the system.

Interlocutors with law enforcement and prosecution background explained there is an ongoing debate about a comprehensive reform of police, prosecution and the security services – as well as about their interaction. The authorities apparently promised such a reform in 2014 but this has been slow to take off: funding is an issue but – according to informal accounts – agencies that would be impacted by such a reform may also have a limited interest in seeing their powers diminished. Mechanisms for investigation are apparently a good example of where there is bureaucratic overlap between different agencies: the investigative structure is broad, with investigators in the Interior Ministry, Prosecutor’s Office, as well as State Security Service. Different options for increasing institutional efficiency have apparently been discussed – but the way forward is yet to be agreed on.

**Juvenile justice as such does not exist.** Several interlocutors were concerned that the current way of handling juvenile cases does not promise rehabilitation of the minors involved. There is a lot of awareness of this being an issue, though there are very few cases. Little debate exists on how to deal with juvenile offenders, and the decision to appoint an Ombudsperson for the Rights of the Child may aim to address this issue as well.

In addition to some allegations of corruption, interlocutors outlined the following main apparent issues that weaken the system of justice:

**The system is built on structures that have developed from a Soviet legacy**, without much external input in terms of training, capacity building, development of human capital, or incorporation of human rights protection standards into operational practices. The problem was termed by some as “*Soviet inertia*”.

**Resources for support of human rights protection and human rights culture in the institutions are scarce.** Even though cooperation between the system of justice bodies and equivalent structures in the Russian Federation has been ongoing, and more is foreseen by the 2014 *Treaty on Alliance and Strategic Partnership*, current and former representatives of these institutions have said the resource base is weak. **Some have stressed that despite this material and methodological want, they do try to implement human rights standards, but of course there can be no comparison with their colleagues who have been trained via systematic, targeted in-depth programmes.**

**A major outstanding issue is the implementation of judicial decisions.** According to a high-level representative of the judiciary this is a priority for the coming period. A *Law on Court Enforcement Proceedings* has been adopted, and was expected to come into force in January 2017. It establishes the institute of enforcement officers who will help ensure that judicial decisions are duly implemented (courts were able to use the *militia* until now but this has not always been an effective mechanism). Court decisions on property rights have been a particularly thorny issue, as discussed below in the section on property rights.

**Especially the judiciary is believed by many to be under pressure in Abkhazia’s social environment dominated by ethnic Abkhaz and a social structure in which extended families operate on the basis of deep loyalty. This is also largely relevant to prosecution and the police.** This can in a number of cases challenge the boundaries of individual rights and responsibilities, and even undermine accountability.

**It is essential to combat the problem of corruption in the judiciary, prosecution and law enforcement. It is also necessary to ensure those working in these bodies have opportunities to enhance their professional competence and knowledge of human rights requirements, and that people of different ethnic backgrounds be represented.**

#### ***The Khurcha Case***

On 19 May 2016, an ethnic Georgian man was shot dead in the Tbilisi-controlled village of Khurcha near the conflict divide. The victim was a Georgian IDP seeking to cross into Abkhazia. The alleged perpetrator, an Abkhaz border guard who was on duty at the time, was charged with premeditated murder by Abkhaz authorities, according to our interlocutors in Sukhumi. Georgian courts sentenced the Abkhaz border guard initially to 12, later to 14 years in absentia in early 2017.

This highly violent incident is unlike any past incidents along the conflict divide. It has been discussed since then in the Gali Incident Prevention and Response Mechanism (IPRM), a forum established under the Geneva International Discussions for addressing local level security issues.<sup>2</sup> The IPRM serves as a forum for exchange, including in relation to information and materials relevant to this case.

The Abkhaz law enforcement and judiciary ought to ensure justice is served. Shortly after the incident, the accused was first apprehended and then released, though a premeditated murder investigation had been opened against him. Later in 2016, he was placed under house arrest. However, it was reported in May 2017 that the Abkhaz authorities dropped all charges against the accused and that he was released.

It is essential that Abkhaz authorities pursue accountability and take measures to ensure that serious crimes are addressed as appropriate. This case must be fully investigated and justice be established. Political hurdles, such as the formal status of evidence material provided or the form of its delivery, or internal political considerations within Abkhazia where some war veterans and border guards have especially argued the accused was on duty and protecting his mother land, must be put aside. Some in the Abkhaz establishment have also cited past unresolved cases of disappearances or killings in Gali, alleging the involvement of elements from the Georgian side. **Any and all unresolved cases need to be investigated. But they must not serve as a justification for not pursuing accountability and justice in the Khurcha murder.**

## **Penitentiary**

We visited the main prison in Dranda where 278 inmates were held at the time. We also paid a visit to the pre-trial detention centre in Sukhumi where 42 persons were held and which in practice serves as the ordinary prison for women and the few minors who are incarcerated.

**The physical conditions in those two institutions are bad to the extent that they may well cause**

---

<sup>2</sup> The 27 May 2016 meeting was an extraordinary meeting of the IPRM. It was also the first meeting of the Gali mechanism since spring 2012. Regular meetings restarted in early July and have been taking place monthly since then.

**severe health problems, including of a psychological nature, for those kept there. The institutions are housed in old severely dilapidated buildings. Inmates are kept together in narrow cells with no possibility of privacy.** Possibilities to study or work are minimal. Possibilities for physical exercise are minimal in the Sukhumi facility; the prison in Dranda has a large yard which seems to be used especially in the warmer months, and prison staff said they welcome when prisoners take as much time outside as possible, also as a way of preventing disease. Genuine rehabilitation is absent.

The officials with whom we discussed these shortcomings made no attempt to hide the problems. On the contrary, they demonstrated deep concern about the situation, and expressed frustration with the lack of material resources.

There is a general recognition that the old buildings are not appropriate for use as detention facilities; penitentiary officials said neither of the buildings had originally been intended for use as a long-term prison. Given the objectively harsh conditions in the facilities and the fact that there is no differentiation of conditions for inmates sentenced for crimes of different gravity, a system has been put in place to reduce the number of days served according to the detention regime prescribed by the law for the crime committed. Inmates sentenced under the “ordinary regime”, i.e. light/er detention conditions, in practice serve one day in jail for each two days of their sentence, which effectively halves their terms. Even those sentenced under a “strict regime” will have some reduction: they will serve four days in jail days for six days of their sentence, given the overall harshness of conditions. Only prisoners sentenced for particularly grave crimes serve in a one-to-one ratio: such prisoners also exist.

We observed that family members had possibilities to visit inmates in the Dranda prison and that such visits were given time and reasonable privacy. Some health services could be given in these institutions while more severe cases had to be treated in outside hospitals, with special provisions put in place in the hospital concerned. Some interlocutors queried the measures put in place in outside hospitals. 16 people were hospitalised in the prison ward during our visit. Tuberculosis remains a problem.

Given the overall poor physical and material conditions, a plan has been adopted for the construction of a new prison which would allow for a more humane treatment of both pre-trial detainees and sentenced prisoners. This facility, the construction of which is to be funded by the Russian Federation, will – according to the plan described by Abkhaz penitentiary authorities – be ready by the end of 2017.

**New and more humane facilities need to replace the existing places of detention as a matter of**



**priority.** It was obvious to us that **steps must be taken also before the new institution is built in order to improve the conditions for all those now deprived of their liberty,** including through creating more individual space for them. **Likewise, their access to fresh air, exercise and meaningful activities should be increased.** There is a need for expert monitoring of and advice into the whole penitentiary system. The ICRC should have the opportunity to provide its independent humanitarian expertise. The Ombudsperson has stressed that he would pay the necessary attention to the situation of persons deprived of their liberty: he visited the institution within days after his appointment.

### ***Pardons***

Punishment for crimes can be reduced or commuted. A Pardon Commission exists under the authority of the President, to which the inmate, his/her lawyer or family members can appeal. The Commission recommends a decision which the President can accept or refuse. In practice, the Commission and the President usually seek an unequivocal approach, said an interlocutor with in-depth knowledge of the process, adding that Abkhaz Presidents have not been “*too generous*” as far as pardons are concerned.

Another form of sentence reduction is the so-called conditional pre-term release, for which the detention institution or the inmate’s lawyer can appeal to court after a mandatory part of the sentence has been served, as prescribed by the Criminal Code, and in case the inmate has exhibited good and constructive behaviour and given reason to believe he/she can be rehabilitated also when not in prison. If the court decides to grant this form of sentence reduction, administrative oversight by the *militia* follows. It is also possible to request a change of the inmate’s detention “regime” to a lighter one, which effectively reduces the time in jail. An interlocutor, however, said this possibility in some cases facilitated corruption.

### III. MONITORING MECHANISMS AND ACTIVITIES

Laws based on human rights are essential but there is also a need for a system of monitoring the concrete implementation of the principles and norms. Lack of implementation tends to undermine the public respect for the legislation and the judiciary as such. People should be able to complain and have their concerns addressed in an objective and meaningful manner. For this purpose, there is a need for official and independent institutions, like offices of ombudspersons, but also of free and independent media outlets as well as possibilities to have access to governmental information. Space for independent civil society organisations is crucial for a democratic atmosphere which facilitates full respect of human rights.

#### **Ombudspersons and other offices for independent protection of human rights**

The *Law on the Ombudsperson for Human Rights* was adopted in February 2016 and the position was filled in November. The officeholder was appointed by the Parliament for a five-year term, with the possibility of prolongation for another five-year term (no officeholder can serve more than two terms consecutively). The office can receive complaints from citizens and others who live on the territory.

**The law gives the ombudsperson a strong mandate, including to determine independently the use of the agreed budget.** Complaints against decisions and actions by any state body or local authority can be reviewed by the office, except for complaints against decisions adopted by the Parliament.

Interference from the outside into the work of the Ombudsperson and manipulation in any form is prohibited by law. This might be a crucial clarification as the protection of the independence of the office will determine the degree of its impact.

Until the adoption of the *Law on the Ombudsperson*, a plenipotentiary for human rights was in place, reporting directly to the President. The role was less impactful and independent than a fully-fledged Ombudsperson and had limited resources, but it did facilitate the development of the law that institutionalised the Office of the Ombudsperson.

Through a Presidential order in December 2015, it was decided that an office should be established also for an Ombudsperson working for the rights of the child. The task would include receiving and acting upon complaints as well as helping to coordinate work for children's rights among various governmental bodies. The office holder would be appointed by the President for a term of three years. He/she would work on a voluntary basis.

The Ombudsperson working for the rights of the child has not been appointed yet and knowledge about the task and role of this particular office appears to be limited. **It seems that there is disconnect between the “voluntary” approach and the potentially substantial tasks of this office. This may indicate that a fairly low level of resources is foreseen for this office. It is also not clear what role the office is expected to have in relation to problems such as juvenile justice, domestic violence or child abuse, and education, including schooling of children with special needs.**

In many places in Europe the concern about *discrimination* against various groups of people has led to the establishment of a special independent body with the task to combat negative discrimination through receiving complaints but also by taking preventive action against such practices. This is seen as an important supplement to the work of the Ombudsperson.

The Abkhaz Constitution states that “[e]very one shall respect the rights and freedoms of others”. There is, however, no comprehensive law on anti-discrimination, spelling out what grounds of separate treatment is deemed unacceptable and no separate anti-discrimination body exists.

However, gender equality is covered in the legislation through a law about guarantees of equal rights and opportunities of men and women. Its stated purpose is to eliminate all forms of discrimination based on gender.

**This piece of law contains several useful provisions for the protection of women’s rights, including on employment and salary discrimination.** As remedies the possibility of filing a lawsuit or to appeal to the Public Chamber are mentioned in the law. The Ombudsperson will also be free to take up cases in this area.

**The appointment of an Ombudsperson has been welcomed by people concerned about human rights protection; the Ombudsperson should be given adequate resources which should increase gradually while its work develops. Ombudwork for the rights of children should also be developed, possibly integrated into the Ombudsperson’s portfolio.**

## **Media and Access to Information**

The traditional media – press, radio and television – have an important role in giving information to the public, also on political matters. When free, independent and competent they may act as an important “watchdog” on the performance of the authorities and other centres of power. This means that bodies set up to regulate mass media – including those which issue broadcast licenses, registration certificates and accreditation of journalists – should be independent from the

government.

Another important aspect when assessing the media landscape in relation to democratic values is whether there is diversity so that different opinions can be voiced. This, in turn, tends to highlight issues of financing and ownership of media as well the existence of public service media.

The *Law on Mass Media* dates back to 2004. Several experts said the law mainly drew on the former Soviet and Russian media laws. A leading journalist stressed it was **outdated, especially because of the rapidly changing media environment and the increasing importance of electronic media, which the law does not cover.**

Rules for the granting and cancellation of broadcast licenses indicate that the Ministry of Justice would have decisive influence. This in itself does not give strong protection for the independence of the media: according to a leading journalist “*the system whereby the director of the State TV was appointed by the government needed to change*”. Media offices can apply to the authorities, various institutions and public associations for accreditation of their journalists. Their accreditation could, however, be withdrawn if they are convicted for defamation.

Defamation is criminalised by the Criminal Code (Article 124); a separate article (Article 300) penalises defamation of judges and law enforcement officers. The *Law on Mass Media* is more vague: one article states that spreading of rumours under the guise of authentic reports is not allowed. Also, journalists are prohibited from spreading information with the aim of discrediting a private citizen or particular categories of private citizens. The definition of “rumour” and “discrediting” are somewhat unclear, which affects the substance of some key restrictions in the law.

The TV media landscape is dominated by Russian TV channels though the Abkhaz state channel is an important source of information on local developments, and also airs material in the Abkhaz language. There is one independent TV station, Abaza-TV, with coverage across the whole of Abkhazia. Georgian TV channels are not accessible other than via satellite.

**Many in Abkhazia have been proud of the fairly independent printed media landscape, though many say it is not apolitical, and hence the coverage of Abkhaz issues tends to be very polarised.** Some see this as a plus, saying this demonstrates there is freedom of speech. Others regret analysis is missing amidst the politics.

Local newspapers include the official paper *Respublika Abkhazia* (in Russian, three times a week) and the official weekly *Apsny* (in Abkhaz); and the private weekly papers *Chegemskaya Pravda*, *Nuzhnaya*

*Gazeta, Ekho Abkhazii* and *Novyi Den*. Russian papers have made a decisive move into Abkhazia – there is for instance an Abkhazia edition (in Russian) of the Russian newspaper *Komsomolskaya Pravda*. For the coverage of internal Abkhaz issues, Abkhaz papers are in demand.

**Local journalists say it is very difficult for them to compete with well-funded and well-produced Russian newspapers, given how small and underfunded the local outlets are.** The salary difference between the Russian agency and a local newspaper can be up to seven-fold, according to an editor. *Komsomolskaya Pravda* is printed in color and given out for free – something local papers feel is unfair competition. Some journalists said the legislation should be overhauled to create a level playing field for local media, which should benefit from economic support.

The state news agency *Apsnypress* provides official coverage; a professional alternative is available through the private news agency *Abkhazia-Inform*. The Russian state-run news agency *Sputnik* is also active in Abkhazia.

**Journalists would benefit from deeper training to become more competitive in the fast-paced modern media world.**

**Little has been done to encourage a system of effective self-regulation among the media. Such an initiative would be based on an agreed code of ethics and a mechanism to receive and respond to complaints, for instance through an independent media council.** With the Russian media so prominent in the media landscape, local journalists feel this may not be feasible.

An increasingly important role is played in Abkhazia by social media – debates on matters of public interest are vivid and often polarised in Internet fora and discussion groups. Access to the Internet is widespread and has grown fast across Abkhazia. Yet, it is important to strike a fair balance between freedom of expression and protecting the integrity of individuals.

### ***Access to Information***

Democracy requires that the public, including the media, have access to relevant information about decisions and other steps by elected and appointed persons with authority. Transparency in this regard is an important aspect of a meaningful discussion on political affairs.

There is a *Law on the Right to Access to Information* in Abkhazia. In its first article it states that a purpose of the law is to facilitate the “realisation of public control over the activities of organs of State power, other State bodies and organisations, as well as of local self-government”.

There is a reference to a *Law on State Secrets* for definition of cases which will not be available for

free access. Appeals against the denial of access would be possible to the body in question but also to court. Those who have wrongfully been denied access or have been given distorted, forged or incomplete information shall be entitled to compensation.

**Lawyers and experts said the law was overall appropriate though some clarification needed to be introduced (such as a better definition of the term “information”).** The 2015 amendments, which made it possible for legal persons to also approach authorities for information, were seen as a good step forward. **Some said the month-long response period was too long and that institutions were sometimes reticent to provide full information.**

**More importantly though, successful implementation of such legislation depends on whether it is known to people at large, and whether it is seen as generally appropriate as part of the political culture to demand access and be “allowed” such access.** Abkhaz civil society actors said much improvement was needed in this regard. An interesting indicator, according to one legal expert, was that only very few institutions had open websites that would detail their work and promote a healthy debate on their respective issues. **It seems the law has been actively used by NGOs and the media, but the underlying political culture was still fairly closed.**

**The protection of freedom and diversity of the media is important. Problems of defamation are best resolved through a system of self-regulation to be worked out with the media community. The positive provisions of access to information would be enhanced with a strengthened political culture of accountability.**

### **Civil Society Groups**

**Civil society organisations (CSOs) and groups are active and vocal in Abkhazia.** A number of them launched their work in the 1990s in response to the wartime hardships, and started humanitarian programmes, working with vulnerable populations, children, and victims of the conflict. They gained expertise through practice and engagement with international and regional organisations, supporting the development of civil society, and the creation of more CSOs, throughout Abkhazia. Today, several hundred non-governmental organisations (NGOs) are registered in Abkhazia though not all work actively<sup>3</sup>.

NGOs have, over the years, played an essential role in promoting human rights and pluralism, and advocating for accountable and inclusive governance.

---

<sup>3</sup> Ministry of Justice 2011 data indicated over 600 NGOs. Experts say a much smaller number are active but precise data is difficult to establish.

NGOs have promoted essential humanitarian programmes and practical work with groups like children, women or professionals like teachers. In a number of cases, initiatives launched by NGOs have developed into important social institutions: *The Rehabilitation Centre for Disabled Children*, originally a civil society initiative, has turned into a publicly funded institution; the same is true for the *Home for the Elderly*.

**NGOs have played an effective monitoring role:** for instance, the *League of Voters for Fair Elections* was a local NGO initiative whose aim was to observe presidential elections in 2004. NGOs have also provided free legal aid and accompaniment, including in complex or controversial cases such as those dealing with property. They have also played an important role in public awareness-raising on complex social issues – from the need for human rights protection including in politically sensitive contexts, to road safety issues.

**Some NGOs have aspired to channel reform and modernisation expertise from outside Abkhazia, including in areas ranging from the judiciary to penitentiary to education.** But they, too, have had to struggle with status-related limitations.

**Some have engaged in conflict resolution dialogue initiatives.** Although the receptiveness for this in the society is very limited today, these groups have developed a deep understanding of the conflict dynamic and retained – despite divergent political views – pragmatic contacts with colleagues beyond the conflict divide.

Because of substantive cooperation with organisations abroad or access to funding from external sources, some in the society have viewed NGOs with suspicion and they have been exposed to social pressure. This resonates with the broader trend of suspicion against NGOs, especially those that are externally funded, across a large part of the post-Soviet space. Hostility towards liberal values expressed by many CSOs has also been much more visible, as NGO leaders have told us.

**In general, NGOs have not reported problems with registrations or highly restrictive controls known to take place in many places in the former Soviet Union, though most NGO activists have said their operational space has in practice significantly shrunk in the recent years.**

Though there is no restrictive legislation directed against NGOs, there was some concern among them that the equivalent of Russia's *Law on Foreign Agents* could be instituted. Interviews in early autumn 2016 with Abkhaz counterparts showed that at that point this was not actively discussed among authorities, though some Russian media have since then called for the need to tighten control

over non-profit organisations in Abkhazia and there have even been calls for a ‘foreign agents law’ in Abkhazia. Abkhaz President Raul Khajimba said in a press interview in March 2015 that *“in Abkhazia, there were no non-profit organisations that would fall under the category of foreign agents”* and noted their positive role in the development of Abkhazia. In December 2016, he proposed “state funding” for NGOs, stressing, however, that this did not imply tighter controls: *“If the authorities and the state do not work on the matter, then other forces will appear in this free niche and will use it for completely other purposes [...] we must know what representatives of the non-governmental sector are doing in our society, how to help them, how to create opportunities in order to have NGOs working for the country and the state [...]”*. His comments elicited concern among civil society and observers.

**Funding from external sources has become scarcer especially since the 2008 recognition of Abkhazia by the Russian Federation, and various NGOs have complained it has been hard for them to keep their organisations alive.** Funds made available from the Russian Federation have appeared to aim mainly at the implementation of Russian-Abkhaz cooperation programmes. The NGO community as a whole is quite heterogeneous and in some cases divided along political lines.

For the most part, Abkhaz civil society representatives also express a concern that being an active, outspoken watchdog on internal issues in Abkhazia could undermine Abkhazia’s aspirations. Hence they tend to keep criticism on internal developments for discussions within Abkhazia.

**Civil society contribution is crucial for promoting an environment that facilitates the protection of human rights. NGOs in Abkhazia play a crucial role in the development of a more mature political culture, which facilitates the protection of human rights. Their work should be supported, especially in terms of human rights, humanitarian, educational and youth initiatives as well as awareness-raising (including on issues such as drug abuse, road safety issues and the environment) and conflict transformation. NGO experts ought to be involved in the development and implementation of approaches to increasing human rights protection in law enforcement.**



## IV. EDUCATION, PROPERTY ISSUES, HEALTH, WOMEN AND VULNERABLE GROUPS

The section below explores issues in education and health; issues pertaining to property rights; and issues relating to women, children, elderly and people with disabilities.

### Education

The Abkhaz Constitution guarantees that all children have access to and receive education (Article 19). The education system, though, has not undergone a comprehensive reform since the conflict, and is still generally along the lines of a Soviet-era model. The *Law on Education* is obsolete, and a discussion about a new law has been ongoing, so far with limited results<sup>4</sup>.

**The quality of education is impacted by a lack of material and methodological resources.** Though some schools have been repaired with external funding support (in the framework of the Russian Federation's assistance or – on a smaller scale and with a focus mainly of individual classrooms – with donor support from the EU, the UN or other actors), infrastructure is in many cases dilapidated. Schools tend to lack equipment and teaching aids, though some donors have focused on providing these.

**The level of teachers' qualifications is often cited to be a serious issue.** Teachers occasionally benefit from teachers' training but this is not done systematically; sometimes teachers go to Russia for training.

Parents generally contribute to the running of the schools. This, alongside costs for textbooks coming mostly from the Russian Federation, has been an economic burden on families, especially those with multiple children.

**Ensuring support to education capacities in Abkhaz schools at all levels, including through teacher training and the introduction of new and interactive methodologies, is essential to increase access to quality education. Equipping schools with modern teaching aids and exposing teachers to international experience would also be a useful step towards this goal.**

### *Language of Instruction*

---

<sup>4</sup> One Member of Parliament said he was working on a draft education law but this was likely to have to wait for the new Parliament after elections in spring 2017.

**Given the importance of language for identity and identity preservation, the context of the conflict and its historical root causes have bearing on education and language of instruction issues as well.**

The Abkhaz language was targeted by the Stalin-era repressions: in the late 1930s the Abkhaz writing was switched to an adapted version of the Georgian script (it was later switched back again); and in 1945–1946 Abkhaz language schools were closed, their pupils forced to switch to Georgian, which had previously not been a language of instruction or social usage for them.

Today's decision makers in Abkhazia sometimes recall traumatic stories of their parents, victims of these repressive policies and Soviet social engineering, which Abkhaz historiography portrays as then Soviet Georgia's effort to assimilate the Abkhaz *ethnos*. A significant majority of interlocutors in Abkhazia cite the need to develop the Abkhaz language, and there exists a special law on its protection. Abkhaz is a complex language whose pervasiveness as a language of social discourse and its penetration in the population suffered through the Stalin-era policies and through a strong impact of Russian as the USSR's state language and *a lingua franca* in Soviet-times Abkhazia.

National language schools exist in Abkhazia pursuant to the Soviet-era practice. Formally, there are Abkhaz, Russian, and Armenian language schools in the Education Ministry's charge<sup>5</sup>. Russian and Armenian schools follow Russian and Armenian curricula respectively. Abkhaz language curricula only exist for first to fourth grade; when children go to secondary school they transfer to study in Russian and with Russian textbooks. Regardless of the curriculum, all schools also teach Abkhaz history (in tenth and eleventh grades in Russian).

Georgian language schools which started working with the return of ethnic Georgians to Gali and some parts of Tkvarcheli and Ochamchira were migrated into Russian instruction in 1994 based on an oral decision of education authorities. This excluded schools in Gali district's southernmost part, the so-called "lower zone", situated immediately along the conflict divide, where education in practice continued in Georgian until mid-2015.

### ***Abkhaz, Armenian and Russian Schools***

Abkhaz language schools have seen considerable progress over the past one and a half decades, with textbooks and resources gradually being developed to support the Abkhaz language teaching. Still, education professionals, parents and experts cite the need to further develop textbooks and teaching tools that would facilitate the teaching.

---

<sup>5</sup> According to Ministry of Education sources, there are 156 schools, out of which 59 are Abkhaz, 46 Russian, 25 Armenian, 15 Abkhaz-Russian and 11 schools in the lower zone of the Gali district (which had been Georgian schools but were recently migrated into Russian).

Armenian language schools, mainly located in the Gagra, Gulripshi and Ochamchira districts, are a good example of a well-functioning multilingual model. Children learn in Armenian based on Armenian textbooks, but also study Russian, and learn Abkhaz as the state language. These schools can also be better resourced given support by Armenian diaspora communities. Some Armenians have said that while it is important for them to see their children study Armenian, an in-depth knowledge of Russian is essential for the children to have opportunities in Abkhazia or Russia. Some Armenian parents opt for Russian language schools for their children from the outset; this was described as an increasing trend by Armenian and Abkhaz interlocutors. Some in the Armenian community were worried that the Armenian schools may see a decline, and called for bilingual education.

Russian schools follow the Russian educational system, as per the Russian Federation's curricula.

### ***Georgian Language and Instruction***

**Georgian language schools have not been operating in Abkhazia the same way as, for instance, Armenian schools. Georgian language schools in the Gali and Tkvarcheli districts were formally shifted into Russian language instruction in 1994.** Georgian was taught as a foreign language or an elective subject. In some of the schools, especially in Tkvarcheli, the elective option was later disallowed, though Sukhumi authorities stress this may be overzealous implementation of an otherwise looser policy.

In a number of these schools, ethnic Georgian teachers continued to use Georgian in an informal way to facilitate the learning process for ethnic Georgian children who have had a limited command of Russian, and given the strong interest among parents to ensure children's comprehensive knowledge of Georgian.

**All interviewed parents and teachers in Gali town and villages told us they considered Georgian their and their children's mother tongue, and wished their children to have comprehensive command of Georgian. Many said they also wished their children to have an excellent command of Russian.**

**11 schools in the villages of lower Gali have, for many years, been an exception: the Georgian language instruction, according to the Georgian language curricula, continued in these schools without major hindrance through summer 2015.** An interlocutor from lower Gali said these schools were in fact not integrated into the Abkhaz system up until 2005 and only started issuing the first

Abkhaz diplomas in 2007. Our contacts stressed a history of feeling abandoned by all: they said the Georgian government also was not helping these schools until well into the 2000s.

Though formally the Abkhaz administration did not consider these Georgian language schools, the teaching process was entirely in Georgian, on the basis of Georgian textbooks. The textbooks – especially for subjects like history and geography where narratives of the conflict are reflected – had caused a high degree of discomfort and Sukhumi insisted the history of Abkhazia be taught as per Abkhaz textbooks. There was, however, also an understanding that few choices were available in a setting where very few speak, let alone can teach in Russian.

The situation in these schools changed dramatically in summer 2015 when they were switched to the so-called “*Republican Standard Educational Programme*”. In preparation for the 2015–2016 school year, the Gali head of administration announced that instruction in lower Gali schools would be migrated into Russian. This was later confirmed by the Minister of Education who said to a teachers’ conference that grades one and two would shift to Russian, whereas the Gali administration head later specified this would concern the first through the fourth grade.

**Since September 2015, instruction has been formally conducted in Russian in the first four grades of these schools, with plans to gradually phase out instruction in Georgian from the secondary school in several years.** Georgian language and literature classes have continued in these schools: it is mostly taught for three hours a week as a foreign language.

**A majority of lower Gali teachers are not fluent Russian speakers, some barely speak basic Russian, the majority having acquired their qualifications in Georgian.** In preparation for the switch, the teachers were requested to attend summer courses of Russian in July and August 2015. The three-times-a-week training summer courses were insufficient to advance their Russian enough to make the teaching process credible, though there are some exceptions.

Authorities in Sukhumi argue Gali children need to learn Russian as well as Abkhaz in order to be able to integrate into life in Abkhazia; high-level representatives also said the children need to learn Georgian and know Georgian literature and culture. A high-level official explained that Abkhaz authorities want these children to pursue higher education in Abkhazia, and enter the labour market there, rather than on the Georgian side of the conflict divide where most ethnic Georgian high school graduates presently go to pursue their education.

The Tbilisi authorities view this as a Russian-orchestrated policy to drive Gali returnees from Gali, or to undermine their Georgian identity. Tbilisi authorities cited some 60 children having transferred to

Zugdidi schools (by the end of the academic year 2015–2016) where the children could study in Georgian. Some parents and school directors from lower Gali have confirmed several cases of children being transferred, even if this meant the families would be separated<sup>6</sup>.

**In practice in lower Gali today, children struggle and the Georgian language is often used in addition to Russian in an effort to explain basic subject matter to pupils who otherwise cannot keep up.** The worst affected tend to be those who had already started their school attendance in Georgian. A director said his pupils in the fifth grade were unable to grasp the continuation of a subject matter in which they had been very good just a year ago. But all children, according to parents and teachers in lower Gali villages, struggle and are under heavy stress.

Over the past year, teachers have also expressed concern about compliance controls by the Gali administration and in some cases even by law enforcement actors (on one occasion, school teachers cited a visit from the Prosecutor's office). During some of these checks, children have felt intimidated. Teachers cited cases when school bags were searched for Georgian language books. Some teachers, though, said that some in the Gali administration understood that this shift was unrealistic and closed their eyes on the use of some Georgian or Mingrelian in classrooms.

**The *Convention on the Rights of the Child* stresses that education should be directed towards the development of the child's personality, talents and abilities to their fullest potential. Consequently, it stipulates that every child has the right to receive quality education. If education is provided in a language inaccessible to children or teachers, quality cannot be guaranteed. Many parents and teachers we spoke with expressed a concern about a lost, half-educated generation which will fall in between languages, none of which the children will master sufficiently.**

International best practice (as per recommendations by the OSCE High Commissioner on National Minorities) equally recommends for parents to have a choice as to the language of instruction of their children. All those we interviewed in lower Gali said that the language of instruction of choice for their children is Georgian. Gali returnees mostly speak Mingrelian at home, which shares the Kartvelian linguistic family with Georgian, Svan and Laz, but has no codified written standard.

None of our ethnic Georgian interlocutors in Gali considered Russian a suitable medium of instruction. Most ethnic Georgian parents said they would welcome if their children spoke Russian but the process for ensuring this would have to be gradual and respect the right of the children to study in their mother tongue.

---

<sup>6</sup> Directors also cited cases in which parents move to Gali just before children are to graduate from high school; the compulsory school attendance is a year shorter there than on the Georgian side of the divide. A number of Georgian social grants are available for Gali pupils.

A multilingual education model would allow for continuity and deepening of the children's command of their mother tongue, while acquiring an in-depth command of other languages. In this manner, Russian and Abkhaz would be taught in all schools, in parallel to Armenian and Georgian in schools for Armenian and Georgian children respectively. The language of instruction should in all cases be the mother tongue for the first several years; other languages would be introduced in parallel, with some non-linguistic subjects potentially taught in them, provided cadre with adequate training were available.

The situation in Gali schools requires urgent attention. In order to ensure adequate quality education as well as cultural maintenance for ethnic Georgian children in Abkhazia, and to respect their parents' choice of the language of instruction, any inclusion of Russian as a language of instruction needs to be gradual, partial and respectful of local realities and capacities. Georgian language should be allowed as a language of instruction in schools attended by Georgian children.

### **Property Issues**

Property issues and property rights are among the most sensitive problems in Abkhazia at present. Property rights of ethnic Georgians displaced from Abkhazia are one of the key issues that will need to be addressed as part of a comprehensive conflict settlement.

Before the war, accommodation real estate was either privately owned, or state-owned with individuals having occupancy titles. There has been no private ownership of land.

The 1992–1993 war caused major population movements: the number of ethnic Georgians the conflict drove out is disputed, the lowest cited figure is over 200,000; other estimates are higher<sup>7</sup>; some 45,000–55,000 have since then returned, mainly to the Gali district<sup>8</sup>. A large number of Russians, Armenians, Greeks and some Ukrainians fled the conflict. Some came back right after the war, others took time and returned later, be it after 1999 when Abkhazia unilaterally declared independence, or after 2008 when the Russian Federation recognised Abkhazia and property prices soared, and some have chosen not to return at all.

### **Property and accommodation rights of many residents of Abkhazia at the time of the conflict have**

---

<sup>7</sup> Abkhazia's pre-war population, according to the Soviet census of 1989, totaled 525,061 people, of whom 45.7 per cent (or over 239,000) were ethnic Georgian, 17.8 per cent Abkhaz, 14.6 per cent Armenian, 14.3 per cent Russian, 2.8 per cent Greek, 2.2 per cent Ukrainian and some Ossetians and Jews. "National Composition of the Population of the USSR According to the Data of the All-Union Census of 1989", Moscow: Finance and Statistics, 1991.

<sup>8</sup> In April 1994, a "Declaration of Measures for a Political Settlement of the Georgian-Abkhaz Conflict" and a "Quadripartite Agreement on the Voluntary Return of Refugees and Displaced Persons" were adopted in Moscow, the latter signed by the Abkhaz and Georgian sides, the Russian Federation and the UNHCR.

**been affected: the fighting destroyed homes that belonged to people of all ethnicities.** The greatest number of destroyed houses was in Sukhumi and in Ochamchira districts. The 1998 escalation in Gali led to the destruction of houses especially in lower Gali villages.

**In the wake of the conflict, a tumultuous, controversial and unregulated process of arbitrary property acquisitions started.** Many Abkhaz took hold of property left behind by ethnic Georgians but also by others. While some settled in empty homes because they had lost their own homes to destruction, many more grabbed hold of empty property for material gains. Homes were taken by commanders who gained particular respect in the fighting, or simply by people who came first and did not shy away from occupying – or staking a claim to – what was empty. Looting took place in the post-war frenzy, something one of the former leaders recalls as a process that was impossible to control, in which rights were disregarded, and that some in the society nowadays feel will need to be reckoned with in the future.

**The property and accommodation rights of many were violated in the process.** Ethnic Georgians (with the exception of those who have returned to Gali) are still deprived of the right of return, and in the majority of cases also of their right to the property they had left behind. Ethnic Abkhaz whose homes were destroyed by fighting needed a home to live in, but by taking other people's homes, they violated the rights of the owners whom the war had forced to leave. People who took hold of flats for material benefit are clear-cut offenders, but their children living in homes once acquired through such a process might now claim to have acquired rights to live in what has become their family home.

In informal discussions, many in Abkhazia told us that the property issues were among the difficult legacies the society needs to come to terms with and deal with in the future.

For Tbilisi, the main concern is that violations of property rights of ethnic Georgians displaced from Abkhazia be upheld. Tbilisi also considers any property transactions in Abkhazia illegal and illegitimate in principle, and in contravention to Georgia's *Law on Occupied Territories*<sup>9</sup>.

### ***Abkhaz Framework for Property Rights***

The Abkhaz rules for dealing with these complex property issues are detailed in the Civil Code.

---

<sup>9</sup> A 2011 survey among IDPs showed that IDPs living on the Tbilisi-controlled side of the divide had some information about their property in Abkhazia: some 50 per cent said their property was destroyed or ruined; another 25 per cent said others live in their homes, mostly without their consent. *"Displacement in Georgia: IDP attitudes to conflict, return and justice,"* Conciliation Resources, April 2011.

The 2008 Civil Code sets out an approach to regularise property ownership issues in today's Abkhazia by elaborating the notions of a) ownerless property; b) property subject to usucaption, i.e. the acquisition of a title or right to property by uninterrupted and undisputed possession for a prescribed term. It also defines a process for dealing with claims to property that falls into either of the two categories.

For ownerless property, once established that no one has lived there for ten years, the local administration (usually municipal), would put the property on record as ownerless property. The municipality can then determine, as per a waiting list, who will be given the right to live there and use the property. In order to acquire a title to the property, the user has to purchase the property from the administration.

In case of usucaption, individuals can acquire a title or right to property by uninterrupted and undisputed possession for ten years. If original owners claim the property, are in contact or demand compensation, there are no grounds for usucaption. The usucaption process endows the claimant with immediate full property rights, and there is no need for a payment. Acquisitions of property through usucaption are much more common than through the process related to ownerless property.

Both of these processes are part of a one-sided approach to property issues which are one element of a multi-layered conflict legacy. In this approach, the rights of those who fled Abkhazia during the war are – by default – not fully protected. At the same time, the situation in practice is not a blanket disregard for their rights either: there were numerous cases, especially in the time of President Sergey Bagapsh, when Abkhaz courts upheld the property rights of Georgian owners. These were not popular rulings and Sergey Bagapsh faced numerous criticisms which fed into complex local politics. A separate problem, though, is that court rulings which have upheld the property rights of other ethnicities than Abkhaz are often not implemented.

Prior to the entry into force of the 2008 Civil Code, the question was regulated through a 1994 Parliamentary decree, which also introduced the notion of ownerless property. Already in 1993, the so-called temporary orders were introduced, though not by law, to help then Abkhaz leadership deal with the property situation. It also helped map the situation as it was dominated by flux, when some families sought to register several “occupied” properties in different family members’ names.

There remain abandoned houses that are not “registered”, and many “taken” or “claimed” buildings which have not been used. Numbers remain unclear. At the same time, property prices are high. Young people in Sukhumi complain that young families do not have a possibility to acquire flats. A



few young people moved into unused flats in 2015, which led to the authorities providing several young families with accommodation in a building originally intended for housing refugees from Syria.

Abkhaz experts said there was little appetite in society for a broader inventorisation because many have acquired homes but had not formalised this. Others may have acquired three or four properties and later sold them, which also had not been formalised, an interlocutor with a legal background said, adding that this will be a problem for Abkhazia.

### ***Only Abkhaz Citizens Can Buy***

**The Civil Code also stipulates that only Abkhaz citizens can acquire property in Abkhazia.** This issue has had significant ramifications.

**Some of those who left and have not come back since the war have expressed an interest in reestablishing their titles, among them mainly Greeks and Russians with roots in Abkhazia. Some were able to pursue this by a court process, but a number of sources informally told us that this worked especially for those who had links with influential Abkhaz.** In some other cases, considerations relating to restrictions posed by the *Law on Citizenship* also came into play: some of those who came back well after 1999 were unable to reestablish their citizenship, and with it their property titles. So for instance, a Russian or a Greek born and raised in Sukhumi who had not lived in Abkhazia for at least five years prior to the 1999 declaration of independence can inherit a house of his/her parents, but would be unable to sell it given he/she would not have Abkhaz citizenship, according to an Abkhaz legal expert.

In the past decade, cases have also arisen in which older people, especially ethnic Russians, with no broader family links in Abkhazia registered pressure since others in the community had an interest in their homes. An expert mentioned isolated cases of informal but strong pressure against elderly Russian women who, as a consequence, chose to leave, and leave their property behind.

**A number of such controversial property cases were taken to court, and some were decided in favour of the original owners. But judicial decisions are not implemented in all cases.**

### ***Abkhaz-Russian Property Dilemmas***

**In addition to the controversies over homes of Russians with roots in Abkhazia, the property issue has also been a matter of political discussion between Abkhazia and Moscow, given a significant interest of Russians who do not have roots in Abkhazia to be able to acquire private property**

**there.**

Abkhaz leaderships, under significant public pressure, have resisted making it possible for non-Abkhaz citizens to acquire property there. Russians therefore cannot acquire property titles for private property. The Russian side has argued that since Abkhaz can have Russian citizenship, reciprocity should be possible. The Abkhaz constituency has been polarised over this. Many among the Abkhaz community fear this would ultimately diminish their positions in Abkhazia, and in case Abkhaz citizenship were extended to Russians – this could lead to their loss of control over the political direction of Abkhazia.

In practice though, there have been numerous cases in which Russians bought property in Abkhazia by reaching informal deals with locals who formalised the title in their own name. **Abkhaz experts and lawyers cited numerous cases in which the informal deals were not honoured and Russian buyers became victims of manipulation.**

A bilateral Commission was set up in 2011 to deal with controversial cases of all types. The Commission assessed various property cases and provided compensation to a number of ethnic Russians from Abkhazia, especially in cases where original titles were reestablished, but court decisions not implemented. Two high-rise buildings in Sukhumi provided such compensation flats. Russian and Abkhaz sources said some compensation flats were also provided in the Russian Federation for cases that had to do with the informal arrangements.

Russians effectively have a possibility to acquire commercial property in Abkhazia when a legal entity is registered in Abkhazia. This legal entity can rent land, and if a house is built on that land, it becomes the property of that entity.

**Problems relating to property are in many cases rooted in the conflict but issues have become compounded over the years that followed. Their solution will be complex and multi-layered, but they need to be addressed. The property rights of Georgians displaced from Abkhazia need to be addressed as part of a comprehensive conflict settlement. Full property rights of Georgians now living in Abkhazia should be upheld and secured without delay.**

**There is a need to ensure that court decisions on property issues are fully implemented. Any undue pressure against non-Abkhaz residents on ownership and accommodation rights must be stopped and, if necessary, prosecuted. Starting an inventories process would be an important first step towards preparing for the necessary provisions for the protection of property rights.**

## Health

The Constitution guarantees the right to medical care for everyone (Article 19). The *Law on Health Care*, adopted in January 2016, was the result of long deliberations on the reform of the health care sector.

**The health care sector suffers from a significant lack of material and, to a lesser degree, human resources.** Hospitals and clinics have seen some reconstruction since the 1992–1993 war, both funded by the *Russian Federation's Investment Programme* and, on a lesser scale, international assistance implemented especially by UN agencies, often with EU funding. In many hospitals and medical facilities, infrastructure is obsolete.

**Modern diagnostic equipment is scarce, especially outside Sukhumi.** The Sukhumi Children's Hospital, our interlocutors said, is significantly under-equipped. However, some key equipment – absent for much of the past two decades – is now available, mostly funded by the *Russian Federation's Investment Programme*. A magnetic resonance tomograph has been available for the last two years, and computer tomography and dialysis equipment slightly longer; there is mammography equipment in one private clinic. This broadens diagnostic possibilities, especially in acute conditions. But treatment options for more serious conditions remain basic, and an overall emphasis on preventative medicine is yet to take root. Laboratory facilities have limited capacities, and lab tests are typically sent to Sochi; this makes local medicine slower to respond, for instance in cases of acute infections.

**The health system has not been reformed and doctors often struggle to make ends meet both in terms of the resources at hand, and their remuneration. The doctors – educated in the Soviet times or in Russia – cite a high demand for professional update training, and say their lack of access to new methodologies and health protocols is a serious problem.** Several doctors cited *ad hoc* specialised training provided by the Russian Federation as very useful, and would be very keen on more professional qualification opportunities and exchanges, also beyond Russia.

**Health authorities cite blood-borne infectious diseases, cancer, cardio-vascular diseases and diabetes as the greatest public health concerns.** The blood-borne diseases include HIV and Hepatitis C and are often related to the use of narcotics. Tuberculosis remains a problem; it has also not been possible to eradicate it from detention facilities though programmes addressing it have been in place.

There are no insurance schemes in Abkhazia – and authorities say it would not be a workable consideration given the population size and what people can afford. Access to health care is therefore limited also by material circumstances.

**A significant number of our interlocutors said that for more serious health conditions they opt to seek health care outside of Abkhazia, if they can afford it.** Many go to Russia, but travel and the service is costly and many struggle to cover the bills. Some travel to the Tbilisi-controlled side of the conflict divide, where health care is offered for free to those from Abkhazia (and South Ossetia)<sup>10</sup>. Tbilisi says over 1,000 patients from Abkhazia have sought help on the Tbilisi-controlled territory in 2016<sup>11</sup>.

A number of our interlocutors said this was silently accepted by Abkhaz society as last resort in serious cases. Those who have returned say they were treated well and with courtesy, but many in Abkhazia say they see this as an option only in the absence of any other option. However, especially professionals involved with drug issues or emergency/cardio-vascular and trauma medicine said that cooperation was pragmatic and useful – and helped save lives.

The new *Law on Health Care* prohibits medical personnel from performing euthanasia (Article 67).

**Efforts to increase the capacities of medical staff and medicine in Abkhazia should be supported. Professional training for doctors and nurses on modern treatment protocols would be an important start. A focus on preventative medicine would also be important.**

### ***Women's Health and Abortion Legislation***

Women's health has been a strong focus of international assistance over the past few years. Basic preventative procedures have been put in place in many areas, with focus for instance on prevention of breast cancer and cervical cancer.

Maternal and infant health have also seen significant improvement over the past several years. The maternity hospital in Sukhumi has been modernised and appears impressively run. However, a number of women tend to leave to give birth in Russia. As a maternal health care professional

---

<sup>10</sup> Gali returnees are generally registered as displaced persons hence the Georgian insurance coverage system applies to them.

<sup>11</sup> The *Georgian State Referral Programme* is open to all those from Abkhazia and South Ossetia who present a passport issued by the local authorities. The fact that many non-Abkhaz do not have Abkhaz passports may have led to widespread perceptions, which we encountered, that this programme is closed to Armenians or Russians living in Abkhazia. The programme is open to all irrespective of their ethnic background.

explained, those with Russian citizenship who also manage to register in Russia are entitled to Russian Federation's maternity benefits, a one-off payment which is a significant bonus.

**Of particular concern is the very strict legislation on abortion, adopted in spring 2016. The legislation stipulates a blanket ban on abortions.**

The *Law on Health Care* asserts that the state recognises the right to life of the unborn child from the moment of conception and prohibits the artificial termination of pregnancy, referring to the "*equal right to life of mother and child*" (Article 40.1/5).

Abortions are now permitted only in cases of ante-natal foetal death, and there is no additional list of medical conditions under which an abortion may be carried out. The law establishes "*liability for the artificial interruption of a pregnancy in accordance with the criminal law*" (Article 40.6/1).

Interlocutors said the law was sponsored by a Member of Parliament with a conservative religious background, but not only religious arguments were used to advocate for its adoption. The more nationalistic constituencies lobbied for the restrictive law on the grounds of post-conflict demographic concerns in Abkhazia. Women's organisations and health care professionals have criticised the law as draconian. They saw the decision-making process related to the adoption of this law as politicised, and said that expert opinions they provided to the Parliament were disregarded. **Several women leaders said the law was adopted with no serious consideration for women in precarious health conditions.** A key medical professional has said there have been numerous cases since these legal provisions were adopted when women chose to leave to have abortions performed outside of Abkhazia. In some cases, this was linked with severe health risks.

**Legislation on abortion should be reviewed to ensure more flexibility for pregnant women in precarious health conditions, at least in cases of pregnancy that could threaten their lives, or when pregnancy results from rape.**

### ***Mental Health***

**The psychiatric hospital is currently housed in a brand new well-equipped building near Dranda. The conditions in the hospital appeared professional, and so did the approach of the medical staff.** There is no ambulatory psychiatric help in other medical facilities in Abkhazia. A key interlocutor working in the field cited this as a factor that hampers preventative care.

### ***Narcotics***

**Drug abuse appears to be a problem for the society.** Law enforcement interlocutors said addicts are typically not as young as elsewhere in the region. For the older generation of addicts, too, the use of narcotics is a consequence of the war. The greatest problem is with hard and synthetic drugs, according to former law enforcement officials and professionals dealing with drug issues.

**The legislation on narcotics criminalises drug use.** It does not differentiate between drug types and quantities held, and criminal responsibility also for personal use is harsh. A former law enforcer said this, among others, also facilitates corruption.

Professionals dealing with the issue said drugs were generally imported through Sochi, and that this was typically handled by a few dealers, most of whom would not come into contact with users. The Internet is used to communicate about caches in which drugs would be placed on order. Combatting narcotics has been very difficult: *“it is a very lucrative business for all”*, said one interlocutor, *“like in many other places”*.

**An institution for addressing drug addiction issues has been set up in Sukhumi and is run by committed expert staff with a humane approach. The chief doctor said the institution would need additional resources, from extra patient capacity, to testing and lab capacities, to more opportunities to reach out to the districts beyond Sukhumi where they make ambulatory trips.**

**Further material support to the work of this institution would be important; it would benefit from material and expert support in developing a drug prevention education program.**

## **Women, Children, the Elderly and Persons with Disabilities**

### ***Role of Women in Society and Decision-Making***

**Men and women alike stressed that women had a particular place in Abkhaz society, and that traditionally they have been granted special respect and have been a source of authority in the society.** A number of our interlocutors argued that this general attitude to women is very much alive today. In some cases, women are also able to take up leading roles where men might struggle to accept another man’s authority: for instance, over 50 per cent of judges are women.

**But many also told us there was powerful mythology attached to the notion of women’s special status, and that in practice the picture is much more complex.** Though many women are very active and vocal in families as well as in professions that deal with difficult issues in the society, a glass

ceiling exists as far as decision-making posts are concerned.

There are many women leaders in the civil society: in fact, most non-governmental organisations are headed by experienced and active women intellectuals, who have been shaping many aspects of the broader discourse in Abkhazia. Their constructive activities impact political decision-making processes. Women are also active in the Public Chamber, and in the media sphere, as well as in academia, among medical doctors and in the humanitarian sphere. But there are few women in the legislature and the executive – especially among parliamentarians and ministers. The current Parliament (2012-2017) has only one woman Member, though in previous convocations there were more. There were two women government ministers in the last Cabinet.

**A majority of women leaders we spoke to said it was difficult to convince women to run for elected posts:** money plays a progressively more important role in elections, and the political landscape has apparently become harsher, which makes it more difficult for these women to consider running. **Many of them also said the Abkhaz society was not yet ready to throw support behind women leaders – in fact some argued that Abkhaz women were themselves quite unlikely to vote for female candidates.** Others argued for a quota system for the Parliament to ensure that an appropriate number of women is represented.

### ***Gender-based Violence***

**Domestic violence is, according to a number of civil society leaders, doctors and lawyers clearly an issue – but it is difficult to discuss. Women rarely speak up, and boundaries of what is or is not considered domestic violence, and therefore acceptable, can be fluid.**

The issue is notoriously difficult to explore and discuss in all societies, let alone in more traditional ones where extended families are much involved in the lives of family members, and it is seen as shameful or inappropriate to deal with private matters beyond the family circle. Some of our interlocutors argued that the involvement of extended families can be a strong plus: a wife who risks being mistreated had the support of her own male relatives; others said extended families would hush up incidents to avoid scandal. It seems that cases of domestic violence are mostly dealt with informally and it is exceedingly rare that they would be investigated, and when appropriate, prosecuted or punished.

**Some have raised concerns about a recent emergence of honor killings.** The concerns expressed by civil society representatives are linked to rare cases but merited a statement by the *Women's Initiative Club*, signed by seven NGOs, in September 2016. They in particular highlighted the need to

genuinely investigate the death in summer of 2016 of a young woman in Gudauta. After the revelation of a sexual abuse case of a minor girl in June 2017 and the subsequent killing of her elder sister, allegedly by their father, a large group of women addressed the Abkhaz Parliament, demanding an end to silence around, and to impunity for, crimes against women. It is essential for authorities to investigate all such cases and, prosecute culprits as necessary, so as to ensure justice be served.

During our November 2016 visit, the issue of underlying homophobia came up in connection to a scandal in the city of Gagra where defenders of traditional values mounted a campaign against homosexuals who have been “revealed”. Homosexuality is not sanctioned by the law, though it is a taboo in the society. It is not discussed or accepted by families, though homosexuals generally live their private lives unperturbed. The November scandal was unusual, according to a number of interlocutors, and the issue was also instrumentalised in connection to settling business interests. The police issued a constructive statement “in relation to the current public situation” in the Gagra region, warning against defamation, public humiliation and violence<sup>12</sup>.

**Reports of gender-based violence cases should be investigated, and confirmed cases should be prosecuted. Organisations working with victims of domestic or gender-based violence should be supported. A discourse in which these problems may become less of a taboo would be helpful.**

### ***People with Disabilities***

**Medical care for people with disabilities is guaranteed by law. There is no policy of institutionalisation, and experts working in the field stress that outsourcing care for disabled people is not compatible with traditional norms of the Abkhaz society. Issues of disabled people are also seen with more attention and respect given that there are numerous disabled war veterans.**

**The degree of integration of people with disabilities into regular life is, however, limited.** In great part this is a matter of resources. Some rehabilitation possibilities have been developed thanks to civil society organisations. The *Association of Assistance in Disability* has pushed the agenda. One of its leaders is a prominent young war veteran with disability who was also in the past a Member of Parliament. He and his organisation attracted attention to issues of inclusion and access, though access for people with disability – with some exceptions – is still generally a problem.

Another NGO, organised by a mother of a disabled child, was later turned into a publicly funded

---

<sup>12</sup> Appeal of the Interior Ministry of the Republic of Abkhazia, 25 November 2016.



*Rehabilitation Centre for Children* from across Abkhazia. It offers physical and mental rehabilitation, and support to families of the disabled.

**Disabled children are often schooled at home, especially outside of Sukhumi. This leads to varying results, and in some cases the children risk getting basically no education.** The new Ombudsperson explained that home schooling for disabled children is not regulated; parents may organise for teachers to come but the education is then highly uneven. It would be important to develop a unified curriculum for disabled children.

**There is no comprehensive legal framework which could be used to assert rights and freedoms of disabled children and adults. Likewise, there is an absence of specific legislation to ensure the capacity of disabled adults and children for social and occupational integration, and participation in community life. There are, however, legal provisions for additional social benefits payments to disabled persons and their families, and to disabled veterans of war and their families.** We did not get the impression that responsible officials had started analysing the package of principles and norms defined in the *International Convention on the Rights of Persons with Disabilities*, though some among the civil society had advanced awareness and knowledge of this.

**Approaches with regard to supporting persons with disabilities could usefully be reviewed in line with the principles of the *International Convention on the Rights of Persons with Disabilities*. People with disabilities should be as integrated as possible and children with disabilities should receive full-fledged schooling in the context of general education, where possible. Resources should be made available to support them.**

### ***The Elderly***

**One of the main tenets of Abkhazia's culture is respect for the elderly.** One interlocutor said Abkhaz elders were deeply respected as a source of wisdom, which in turn gives them validation and a place in the society. Most interlocutors cited this, as well as the closeness of family ties, as explanations for why care for the elderly is generally organically integrated in families.

In social terms, most elderly persons live at home. Many benefit from the Russian Federation's pension scheme. The basic pensions amount to the RUB equivalent of some \$80. Abkhaz pensions are much lower, approximately the RUB equivalent of \$10. Elderly people who only get Abkhaz pensions are also entitled to additional support through the *Russian Federation's Investment*

*Programme*<sup>13</sup>.

**There are, however, cases of lonely or uncared for elderly people from among the ethnic Russians or others living in Abkhazia, who do not have families there. Over time it became clear the society needed to care for them.**

A specialised home for infirm or lonely elderly persons was established. The home was started as a civil society organisation, funded by voluntary contributions. It was recognised as a positive initiative and funding was allocated from the Abkhaz budget. A small number of elderly people in need of long term care have also been hospitalised in the psychiatric hospital, which however treats them separately from the psychiatric patients.

**Several health professionals have said that a hospice would be needed in Abkhazia for treatment of terminally ill patients.**

---

<sup>13</sup> Gali residents whose Abkhaz passports have also been annulled are apparently entitled to these pensions if they do not get pension from the Tbilisi-controlled territory. Abkhaz sources say there are 6,800 such cases.

## V. ETHNIC GEORGIANS, ARMENIANS, RUSSIANS AND OTHER NATIONALS

Constructive and peaceful relations between ethnic groups, and representation of persons of all ethnic backgrounds in decision-making and governance is essential in order to guarantee respect of human rights in all its aspects.

**In Abkhazia, inter-ethnic relations, too, are playing out in the context of the conflict legacies, though these are rarely discussed and addressed directly.**

**Considerations over demographic composition have, among other issues, impacted on approaches to conflict settlement, including the issue of returns. Abkhaz interlocutors cite a sense of vulnerability – the ethnic Abkhaz community is acutely aware of its small size – which is further compounded by the vulnerability of the Abkhaz language.**

**A majority of ethnic Georgians fled Abkhazia during the war and only a small part was able to return. Those who have returned often cite a sense of being disenfranchised and not recognised as equals in Abkhazia, especially since 2014 when their status in Abkhazia became ill-defined.**

Ethnic Armenians are a traditionally strong community and a large number – though not all – took part in the war on the side of the Abkhaz. Many have strong links not only to Armenia but to the Armenian diaspora in the south of Russia, which also helps them pursue business opportunities. Ethnic Russians in Abkhazia are still a sizeable community though many left during and after the war, and they are also an aging community.

Expert research shows, and our interviews confirm, that many ethnic Armenians and Russians perceive the society as open and welcoming to them in the context of everyday interaction and inclusion at the level of daily lives. They saw the inter-ethnic relations as good and peaceful but **many seem to perceive themselves limited in terms of access to decision-making roles and – in many cases – also to resources.** Some interlocutors from these communities said that there are cases when Abkhaz are *“more equal in front of the law than others”*. **Ethnic issues are, among others, widely believed to play a role in some of the cases of property rights violations, or non-implementation of related court decisions, as discussed above.**

**Ethnic Georgians from Gali are an especially vulnerable group.** Relations have significantly improved over the past two decades: in the early 2000s, Gali returnees barely dared to travel to Sukhumi; today there is no risk for them and many travel frequently, for trade, work and administrative

requirements. The Abkhaz authorities say they have sought to integrate them – and the district – into public life in Abkhazia, but the degree and mode of this integration leave many questions unanswered.

### **Key Issues around Gali District**

Underlying many issues in Gali today is an ambiguity over the role of ethnic Georgian returnees.

**A political debate has been underway in Abkhaz society and among the Abkhaz authorities, under different leaders, as to what status, and hence what political and civil rights, ethnic Georgian returnees should enjoy in Abkhazia in the post-conflict context. The Abkhaz society appears to be split on the issue.** Those favouring integration have argued that multi-ethnic Abkhazia is the only way forward and that Gali returnees are a constituency that formed an integral part of today's Abkhazia, irrespective of the conflict, and that they needed to be integrated. On the other hand, given the powerful links between Gali residents and their kin on the Georgian side of the divide, some in Abkhazia say the loyalty of Gali returnees' is not to be trusted, and see them as a fifth column, with attendant risks and fears of potential future Georgian dominance or aggression. Representatives of nationalist-leaning Abkhaz groups accuse more pro-integration politicians of lacking the patriotism the conflict setting would require.

Political considerations also shape the debate. As far as Tbilisi is concerned, all those living in Abkhazia are Georgian citizens. This *de jure* claim has little practical resonance in Abkhazia today. Practically speaking, it is only ethnic Georgians from Abkhazia who would have registered on the Georgian side since the conflict, mostly as displaced persons, and claimed Georgian documents. Many – though not all – have done this. The ethnic Georgians from Abkhazia are therefore generally seen by Abkhaz as foreign nationals – though not everyone in Gali has Georgian documents. A majority of our Abkhaz interlocutors seemed to agree that double Abkhaz and Georgian citizenship would be inadmissible given the conflict legacies. One issue of concern voiced in this context was that of military service.

**A particularly sensitive point is whether and to what degree Gali residents should have political rights.** Prominently connected to this is the issue of the Gali vote: given the numbers of the returnees, the Gali vote has had and would have the potential to significantly impact on the outcomes of elections. This issue has played an important role in several previous Presidential elections and, indirectly, in the change of power in 2014. In that same year, there was a substantial reduction of this voting bloc, when Abkhaz passports of a large part of the Gali residents were annulled.

The Abkhaz leadership that came to power in 2014 has advocated a generally less integration-oriented approach than their predecessors. The *Law on the Status of Foreign Citizens* is now said to be the framework for regularizing the Gali residents' status – though this is fraught with difficulties, as discussed below. Implementation of this law with regard to Gali has apparently started as of Spring 2017.

### **Different Ethnic Communities**

Armenian and Russian communities in Abkhazia are sizeable; the Armenian community is roughly twice the size of the Russian community. They are well integrated, and in some sectors they are said to be in the lead, for instance Armenians in small and medium businesses and trade. However, their representation in political and public life is limited. There were three Armenian Members of Parliament, one ethnic Georgian and no ethnic Russians in the 2012-2017 Parliament.

**Only few Armenians serve in the government and there is one ethnic Armenian judge. There are few Russians in the executive, and three ethnic Russian judges. Ethnic Armenians and Russians are among law enforcement officers;** a former prosecutor however said there are none in the current Ministry of Interior leadership.

**Some interlocutors said minorities themselves are not actively pursuing high posts. Among the reasons is that the role they played in the war matters and those who did not fight in the war feel there are few chances for them to break through today's culture shaped in part by legacies of war.** This may change with the younger generations coming to power, though a certain dominance of ethnic Abkhaz over social and political life is not merely a generational issue.

**Effective participation of persons with ethnic background other than Abkhaz in all governance structures should be guaranteed.**

As discussed in Chapter IV, section on education, Russian and Armenian language education is widely available. Many interlocutors said a growing number of Armenians seem to preference Russian schooling over attending only Armenian language schools, given Russian-language education opens more opportunities for future studies and for employment.

Issues of political and property rights which have come up in the context of non-Abkhaz ethnic groups in Abkhazia are directly or indirectly linked to the citizenship question.

Abkhaz citizenship is carefully regulated by 2013 amendments to the 2005 *Law on Citizenship*, according to which the individuals eligible for Abkhaz citizenship, in addition to ethnic Abkhaz, are those who had been living in Abkhazia for “at least 5 years at the moment of the declaration of Abkhaz independence in October 1999” and who do not have any other foreign citizenship.

The 2013 version of the *Law on Citizenship* is more restrictive than its predecessors of 1993 and 2005. The 1993 law for instance allowed for most ethnic Georgians from Gali to be citizens through a formulation which said that anyone who has at least one grandparent born in Abkhazia could become a citizen.

The 2005 law introduced the notion that anyone who lived in Abkhazia for no less than five years prior to Abkhazia’s 1999 declaration of independence was a citizen. The 2013 amendments added that citizens could not hold double citizenship other than that of the Russian Federation.

Some of those who returned to Abkhazia after the war – interlocutors spoke, based on anecdotal evidence, especially about Russians and Greeks – have not been able to obtain citizenship. This limits their ability to take part in the Abkhaz political process and to carry out property transactions.

**A number of Gali residents have Georgian citizenship – which, together with internal political debates in Abkhazia over their place in the society – has led to a lack of clarity over their status, as described below in Chapter VI.**

An effort to regulate the status and rights of both pre-war residents of Abkhazia who have returned and been unable to claim their Abkhaz citizenship, and their children, as well as the status of other nationals, such as for instance guest workers from Central Asian republics, was made by the adoption of the *Laws on the Status of Foreign Citizens* and on the *Procedures for Exit and Entry*.

### **The Laws on the Status of Foreign Citizens and on the Procedures for Exit and Entry**

The *Law on the Status of Foreign Citizens* and the *Law on the Procedures for Exit and Entry* were adopted simultaneously in December 2015. They are a step towards regulating, among others, the status of the Gali residents – but this is fraught with difficulties.

#### ***The Law on the Status of Foreign Citizens***

The *Law on the Status of Foreign Citizens* regulates the legal status of foreign nationals on the territory of Abkhazia, including permissions to visit, stay on a temporary basis, acquiring a residency permit for long-term stays, and regulating work permits and employment rights of foreigners. The

law, which a high-level official with legal background called *“the longest discussed law in Abkhaz modern history, with discussions on it effectively starting in 2003”*, formally entered into force on 1 April 2016. Its implementation was postponed until after amendments would clarify its implications for Gali residents, and is apparently underway as of Spring 2017.

A high-level Abkhaz official explained that the law was needed given there had been no basis and no instruments governing the rights of foreigners in Abkhazia. He said there was also a national security consideration at play: a number of people lived in Abkhazia without a legal basis. The law certainly seeks to regulate the status of ethnic Georgians living in Gali as well – and most are expected to fit in one of the prescribed categories.

The law foresees the option of residency permits (*“vid na zhitel’stvo”*) and temporary residency permits (*“razreshenie na vremennoe prozhivanie”*) for foreigners’ long-term stay in Abkhazia.

According to the law as originally adopted, residency permits are issued to foreign citizens who are married to citizens of Abkhazia; and *“if legally grounded, to stateless persons born in the territory of the Abkhaz ASSR and residing permanently in the territory of the Republic of Abkhazia for at least 10 years since 12 October 1999, by members of his family on the basis of personal written application”*. Residency permits, valid for five years, can be renewed without limitation on the number of extensions. In effect, after holding the residency permit for ten years, the holder (foreign citizen or a stateless person) can apply for Abkhaz citizenship provided they have been residing in the territory continuously (pursuant to the *Law on Citizenship*). After much debate and several attempts to amend the law, on 29 December 2016, the Abkhaz Parliament adopted an amendment to the law, with the aim to *“regulate the status of residents in Eastern Abkhazia”*, also giving them the possibility to apply for the residency permits. The amendment provides for the *“residency permits”* to be issued to *“foreign citizens born in the territory of the Gal district of the Abkhaz ASSR and residing permanently in the territory of the Republic of Abkhazia for at least 10 years since 12 October 1999”*. This would apply to Gali residents, who have formalised and declared their Georgian citizenship, but who have returned and lived in Abkhazia on a long-term basis.

Temporary residency permits can be issued, according to the law, to foreign citizens who, among others: *“have been declared unfit for work and have non-disabled/capable son or daughter who is a citizen of the Republic of Abkhazia; have at least one parent unfit for work who is a citizen of the Republic of Abkhazia; are married to a citizen of the Republic of Abkhazia; have a child bearing the citizenship of the Republic of Abkhazia; have joined military service, for its duration; are younger than 18 years and having received the temporary residency permit together with parent, a foreign citizen covered by the above points; are receiving education in the Republic of Abkhazia; have professional*

*skills or qualification which is of national interest; or were born on the territory of the former Abkhaz Autonomous Soviet Socialist Republic and permanently residing in Abkhazia no less than five years, and members of his family".*

The last point would also likely apply to those in Gali who have formalised and declared their Georgian citizenship but are more recent arrivals than those covered by the December 2016 amendment. A temporary residency permit up to four years can be extended for another four-year period, without limitations on the number of extensions.

People to whom the *Law on the Status of Foreign Citizens* would apply do not have the right to vote or be elected to state bodies, or work in civil service, prosecution and local administration (though they could work as teachers); they also cannot purchase property. **Political, social and economic rights implications of this law, if applied, for Gali residents are therefore significant.** In fact, their undefined status has meant that these rights were in practice not guaranteed since 2014 (and their protection prior to that was reportedly uneven). Some aspects of property rights seem to be a special case, irrespective of these developments: the Gali administration and Sukhumi authorities alike claim that property already registered in the name of Gali returnees can be inherited by their children.

**A large number of Gali residents we spoke to expressed strong frustration with the law's approach in principle: in most cases, natives of the Gali district resented what they saw as "being turned into foreigners in their own home". As of early 2017, there was uncertainty as to plans to apply this law to Gali residents, and related timeframes. By May 2017, the process for applications for these permits has already started, according to an international agency, though only very few have applied.**

A Gali lawmaker who had proposed amendments which led to the December 2016 changes to the law however said he saw the amendments as a way to facilitating Gali residents' situation. In his view, this would in effect both give them a clear status which they currently lack, and open the possibility for Gali returnees to apply for Abkhaz citizenship (even this was something not all in the Parliament were ready to support wholeheartedly when the amendments were first discussed earlier in 2016).

During our visits in the course of 2016, the amendment on the issuance of residency permits to Gali dwellers, ultimately adopted in December 2016, was vividly discussed. Residency permits were perceived as an offensive option by most we met in Gali, though a Gali MP stressed Gali residents "needed to be pragmatic". After a half year, these people could then apply for Abkhaz citizenship if



accompanied by a confirmation of their renunciation of any other citizenship, according to the lawmaker. Parallel amendments were apparently being prepared to amend property rights provisions and the *Law on Exit and Entry* so as to facilitate the movement of these people. Some in Sukhumi said already at the end of 2016 that the *Law on the Status of Foreign Citizens* would be applied once the amendments are adopted. According to international observers, this application was off to a slow start in Spring 2017 though only very few in Gali were interested in registering as foreigners.

**Most in Gali said they were not interested in any other form of status than Abkhaz citizenship given the Gali district has always been their home, even in very difficult times.** Some among Abkhaz civil society have also criticised the intention for this law to cover the situation of the Gali returnees whose roots are clearly in the Gali district. Many among these and some among the authorities have advocated for the Gali residents to have the rights to vote to and be elected to local governance bodies. Many others among the Abkhaz elite continue to stress that Gali residents cannot have equal rights if “*they are nationals of an enemy state*”. The situation of those living in Gali is analysed in detail in Chapter VI.

#### ***The Law on the Procedures for Exit and Entry***

This law regulates procedures for entry to and exit from Abkhazia of Abkhaz citizens and foreign citizens alike. In addition to various general provisions, the law cites circumstances when restrictions to travel outside Abkhazia can be imposed on Abkhaz citizens, e.g. if a person holding Abkhaz citizenship has been exposed to “*data of special significance*” or “*strictly confidential data*”, the term of restriction that may be placed on their right of exit from Abkhazia may be extended to 10 years. As for foreign citizens, the law enumerates conditions under which visas can be refused to foreign passport holders.

**As of December 2016, the law did not in practice apply to Gali residents but a concern exists that this would be the law that would regulate their entry to and exit from Abkhazia if they are formalised as foreign citizens. This could have negative consequences on their ability to cross the conflict divide.**

The *Law on Exit and Entry* opens the possibility for all Georgians to apply for entry to Abkhazia as per regular procedures. A number of visa applications were processed since spring 2016 though some in Abkhazia have queried the procedure given the conflict is not settled.

## VI. THE GALI DOCUMENTATION GAP AND THE CONFLICT DIVIDE

**Issues in the Gali district are among the most contentious in the Georgian-Abkhaz context, and in Abkhazia since the conflict of 1992–1993.** The Georgian returnees to Gali have, over the past two decades, experienced significant vulnerability: broader conflict legacies left them exposed to suspicion on both sides of the divide, and the general security situation was perilous in the 1990s and the early 2000s. Since 2009, the general security situation has significantly improved in Gali overall, with a further improvement after 2012. The lower zone of the Gali district, which runs along the conflict divide, has remained relatively most affected by crime.

Over the past several years, the conflict divide has become much less permeable given Abkhaz and Russian efforts to build and reinforce what they see as a border. This has imposed restrictions on the Gali residents' freedom of movement. Tbilisi considers the Abkhaz and Russian efforts to formalize and strengthen the divide *borderisation*, and sees it and the related limitations on the freedom of movement of Gali residents as unacceptable and illegal. The general consensus in the international community is that this is a violation of the territorial integrity of Georgia, though not including those states that have recognised Abkhazia.

### The Documentation Gap

**Most ethnic Georgian returnees to the Gali district face a complex situation regarding basic documentation. The prevalent lack of clarity over their status in Abkhazia, and the resulting documentation gap, have been among the strongest grievances ethnic Georgian returnees voice.**

Georgian authorities consider Abkhaz documents illegitimate but accept Abkhaz passports for identification purposes for all the services they offer to the Abkhaz<sup>14</sup>. In practice, however, these documents are necessary for those living in Abkhazia today to function there. **The lack of documentation impacts the returnees' lives in very direct ways, including basic recognition of individuals in question in the Abkhaz legal space (irrespective of its status); their ability to exercise political, civil and property rights; access to education as well as social benefits such as pensions or maternity support; and effective freedom of movement across the conflict divide. This lack of clarity may slowly be followed by a shift to classifying Gali returnees as foreigners. This would be unacceptable to Gali residents. It would not adequately address their situation or rights.**

---

<sup>14</sup> For instance, vehicles registered in Abkhazia can cross into the Tbilisi-controlled territory as well.

### ***Background on Passport Issues***

In the years following the 1994 ceasefire, under Abkhaz President Vladislav Ardzinba's rule, Georgian returnees to Gali used mainly old Soviet passports with a stamp "*registered by the State Security Service of Republic of Abkhazia*". Those who had lost documents were entitled to the ID replacement document – the *Form n.9*; some also got Soviet foreign passports of the series number 41 or 42. These documents cannot be issued to those who are not citizens, according to a former top official, and consequentially they "used these as citizens" and for all legal purposes in Abkhazia, as well as for crossings. They also used these documents to vote in Abkhaz elections.

Vladislav Ardzinba's successor Sergey Bagapsh devised a policy aimed at integrating the Gali district. A need arose as well to address documentation issues as Soviet passports expired. In the Russian Federation, they had to be replaced by Russian passports by 31 December 2003. Many have continued to use these passports in Abkhazia to date, including for crossings of the conflict divide (again, with a stamp by Abkhaz authorities extending their validity even past their original expiry).

The issuance of Abkhaz internal ID documents/internal passports, which started in Abkhazia in 2006, was slow to take off for ethnic Georgian returnees, according to an Abkhaz expert with a human rights background. Three commissions – one for Gali, Ochamchira and Tkvarcheli districts each – were set up to facilitate the process of passport issuance to returnees or people of mixed backgrounds on the basis of individual applicants' prior registration and documents. Further to this process, over 22,000 Abkhaz internal passports were issued to ethnic Georgians in Gali, Ochamchira and Tkvarcheli between 2008 and 2013, according to an official. The passports were granted with the proviso that Georgian returnees had to state they did not have Georgian citizenship or had to unilaterally renounce it, a step for which procedures were vocally discussed in Abkhazia but which Tbilisi in any event saw as null and void.

The Gali Georgians saw the acquisition of Abkhaz passports as a step towards normalcy in their lives in Abkhazia, and an indication that their position there would stabilise. The issuance of these passports was discontinued in 2013 under Sergey Bagapsh's successor Alexander Ankvab, amidst strong opposition pressures, allegations of corruption in the passport commissions, and claims that a number of such passports have been handed out illegally. Documents handed out by these commissions have in effect been annulled, leaving their holders in an unclear limbo as to their status in Abkhazia. In a large number of cases, passport holders have been able to retain the now invalid documents as a proof of identity and a document recognised by the Abkhaz authorities for identification and crossings, though for basically no other purposes. In some cases, these invalid passports were confiscated, mainly at crossing points. Questions over the citizenship status on Abkhazia's Georgian returnees started emerging with the cancellation of their passports.

Since April 2016, the *Law on Foreign Citizens* has provided an additional framework. Yet little has happened in practice and Gali residents say they live with a lack of clarity, awaiting a decision in either direction.

### **Forms n.9**

In the Soviet Union, the so-called *Form n.9* was an administrative form widely used to replace lost or missing identity documents. In the wake of the conflict, when people were left without documents, and later as old Soviet passports expired, the *Form n.9* was used to provide a replacement identity document. But what was intended as a temporary fix acquired a long-term character while a genuine solution remained elusive. In the course of many years, the *Form n. 9* guaranteed all rights available to passport holders, but this changed quite significantly in the last two years: the forms have no longer been used for basic civil registry acts.

**In the absence of Abkhaz passports, the *Form n.9* has become the only way for many in Gali to retain the possibility to cross the conflict divide. The number of the forms issued had, however, been very limited between 2014 and summer 2016: the Gali administration told us in May 2016 that only 500 *Forms n.9* were available at that time for local residents in need, mainly for medical emergencies. The process for obtaining them was not clear and numerous local sources cited a lack of transparent process and corruption. Gali teachers and civil society contacts also said the process for extending these forms (valid for three months, with the possibility of extension) was difficult.**

In June 2016, authorities changed their approach and made *Form n.9* more widely available to those without documents. An open process of issuance of the forms for residents in Gali, Tkvarcheli and Ochamchira was then restarted, though stopped again during the summer, and was now intermittently resumed. Several hundred forms have been issued: a local source said some 3,000 applications were filed between June and September 2016 and some 1,500 were issued. Gali interlocutors cited this as a major positive development, given it addressed the most urgent crossing needs. The process for acquiring these forms however is still lengthy and locals say corruption is typically involved – both to speed up the acquisition and to ensure expiring forms are renewed – but they said this was a possibility to obtain crossing documents. In early 2017, further to amendments to the *Law on Foreign Citizens*, the issuance of *Forms n.9* was discontinued and the process of issuance of residency permits to Gali residents was off to a slow start, though only few are said to have applied.

**The rights of Gali residents in Abkhazia must be guaranteed and upheld without any form of discrimination. To start with, this should clarify and guarantee the Gali residents' status in Abkhazia, as well as property rights, freedom of movement, and the right to vote to and be elected**

to local structures.

### ***Key Issues Today***

**Gali residents say the last two decades have been dominated by a sense of vulnerability and a sense of being left to their own devices at best – even if the degrees of support or pressure by different actors in the conflict have fluctuated over time.**

In their everyday lives, a majority of those living in Gali have straddled the conflict divide, circumstances permitting. Many live in Gali permanently, but there are also those who spend a part of the year with family on the Tbilisi-controlled territory; young people tend to leave for education, which they mostly – though not all – pursue in Georgian universities, and only a small percentage comes back.

Many of those we spoke with in Gali town and villages said a large percentage of people living in Gali struggle to regularise themselves in Abkhazia though they had been born and raised there, came back shortly after displacement in 1992–1993 or 1998, and have since been committed to living in the district. This causes a plethora of problems and makes them feel unprotected and unwelcome. One lower Gali village elder said in October 2016 she was aggrieved by the situation; she explained she was born and raised in Gali, lived there during her entire life, even during the difficult war times, and now she was being offered no status or a temporary residency permit at best. She, and many others, felt this as offensive. They stressed they were committed to lives in Abkhazia and wanted a status there that would fully guarantee their freedoms, rights but also civic responsibilities. Though many say they have Georgian citizenship, they also wish to have a clear empowered status in Abkhazia to which they feel they have demonstrated commitment and loyalty.

**The frustration that Gali residents expressed was deep and widespread. Some said the lack of a clear status made it impossible for them to plan for their future lives and for those of their children, who typically cannot get the necessary documents to set up their independent lives in Gali, to marry or to acquire a home.** Others said they were not regarded “*as worthy of a paper*” that would legitimize them, but were still required to pay Abkhaz taxes.

Gali residents cite the following concerns, in addition to the difficulties they have to cross the conflict divide (as is discussed further below):

### ***Civil Registry: Births and Marriages***

**Registering births is not possible for ethnic Georgians living in Gali with no Abkhaz passports.** If a child is born in Abkhazia to a Georgian returnee without an Abkhaz passport, the local hospital issues a confirmation of birth document. This document will only allow the parents to register the birth in Abkhazia and receive an Abkhaz birth certificate if one of the parents has an Abkhaz passport. Otherwise the parents cannot receive Abkhaz documentation for the child. This in practice leads parents to register newborns in Zugdidi, even if this registration is based on a Gali hospital confirmation of a birth there. The Georgian birth certificate that proceeds thereby guarantees the child Georgian citizenship. The Georgian birth certificate can then be taken back to Gali where it is translated and notarised, but does not give the child in question a clear status within Abkhazia. The translated/notarised birth certificate can usually also be used for crossings, but some mothers have reported problems with crossing together with their children based on birth certificates which do not carry a stamp confirming the child would be a citizen of Abkhazia. Many Gali mothers chose to give birth in Zugdidi or Tbilisi, which in practice leads to similar issues. There are reportedly also cases when mothers are unable to cross the divide since they do not have documents necessary for crossing.

**Similarly, those in Gali without Abkhaz passports cannot perform basic civil acts in Abkhazia. Registering marriage, for instance, is not possible for those who live there and do not have Abkhaz passports.** Many therefore register their marriages on the Georgian side of the divide, but this then has implications for their civil status in Abkhazia, and in case the spouse is not from Gali, this can also negatively impact on spouses' ability to reside in Gali.

### ***Access to Education***

**Several education professionals in Gali and Tkvarcheli schools attended by ethnic Georgian children have said that there are children who enroll in their schools with no documents other than an Abkhaz hospital certification of birth. These children are *de facto* allowed to enroll in the school, and hence get access to education. But education officials complain about the children's ill-defined status, which causes problems as the children proceed towards graduation.** It is very difficult to assess the number of such cases.

**Graduates of Gali high schools who do not have Abkhaz documentation have also struggled to enroll in Sukhumi universities. Exceptions have apparently been made for some, but they then face problems with their final diplomas.** This prompts children and parents not to consider Sukhumi universities as an option, though some would in principle see it as a possibility to continue living in Abkhazia and Abkhaz officials say they are keen on more Gali children enrolling. In recent past, Abkhaz authorities have been more lenient about requiring documents by high school graduates

from Gali – 89 Gali students now study at the Abkhaz State University.

### ***Property Rights***

**The lack of Abkhaz documents has had impact on the Gali inhabitants' property rights. Those without Abkhaz passports have no possibility to make real estate transactions, even in Gali.** A number of interlocutors said they were unhappy they could not purchase a home for their children who may wish to stay in Gali when they start their own families, and that their grown children are therefore leaving to live on the Georgian side of the divide. One woman in a Gali village complained her children who were born and lived in Gali all their lives were “*guests at her house*”, as their status had not been regulated.

The issue of inheritance after the death of a family member did not constitute a major issue: Gali residents could inherit from their kin even without Abkhaz papers; further transactions with that property were, however, limited.

**A number of Gali residents also complained they could not purchase a vehicle – registering it, or acquiring a driver's license – was not possible without Abkhaz documents.**

**Some told us that with money, many of these issues can be resolved informally, and often are. Corruption seems to be a significant factor** in the ways people practically navigate their lives around the existing lack of clarity and limitations. This is a direct violation of good governance and human rights standards. This practice also puts an additional strain on the population, many of whom clearly struggle to make ends meet.

### **Crossing the Conflict Divide**

**Freedom of movement across the divide mainly concerns residents of the Gali district or ethnic Georgians with roots there who commute for family reasons or seasonal agriculture. The ability to cross the conflict divide without restrictions is an issue that Gali residents cite as one of their strongest needs<sup>15</sup>.**

Abkhaz also cross into the Tbilisi-controlled territory, but fairly rarely: people sometimes go for trade, and more frequently for medical treatment, which the Georgian government provides for free

---

<sup>15</sup> Relatively few other Georgians travel to Abkhazia, though especially those with family links or mixed families have been able to go. Strict restrictions exist especially for people who fought in the 1992–1993 war on the Georgian side. Some sources also indicate that in recent years the number of ethnic Georgians working for instance in construction business in Abkhazia has included not only workers from Gali but also some from the Georgian side of the divide; business opportunities exist and informal crossings would have been facilitated via informal arrangements on the conflict divide.

to those residing in Abkhazia<sup>16</sup>. The movement is centrally regulated with special permits issued by Abkhaz security services, and it is perceived as sensitive by many in the society.

Crossings in Gali have become a contentious issue. Here, too, political narratives diverge: Tbilisi stresses the need for freedom of movement across the divide which it considers an administrative boundary; the international community also agrees there is a strong humanitarian consideration for Gali residents. Sukhumi says crossings, while possible, need to be regulated in a way that respects what Abkhaz see as Abkhazia's state border. Moscow supports that; what Moscow and Sukhumi call a joint border protection arrangement has been in place since 2009<sup>17</sup>. The Russian Federal Security Service is thus involved in the control of the conflict divide. Russian checkpoints have been established in parallel to Abkhaz control points, and the Russian Border Guards have also installed various fortifications and surveillance equipment along a part of the divide, in an effort denounced by Tbilisi and its international partners as *borderisation*.

### ***Crossing Points***

**The Abkhaz authorities have traditionally said they have facilitated freedom of movement by formalising the process and establishing six crossing points by 2013:** a central point at the Inguri bridge, the only crossing point open to persons who are not from Gali; and smaller crossings points in villages along the conflict divide: Tagiloni, Nabakevi, Otobaia, Saberio, and Lekukhona. <sup>18</sup>The latter has been mainly used for the purposes of the Inguri Hydro Power Plant (HPP). **But this changed dramatically in 2016 and 2017, when three of the crossing points in lower Gali were closed.**

Until the 2017 closures, there had been a steady stream of commuters at all crossing points (other than Lekukhona) on a daily basis – on average, some 2,800 people would cross daily, according to international observers. The greatest volume of crossings has traditionally been at the Inguri bridge, followed by Nabakevi and Otobaia. Men and women crossed in roughly equal numbers. The age group that tended to be most represented is between 31 and 55 years of age, according to international organisations in late 2016.

The actual crossings at the crossing points were generally described by locals as uneventful in 2016, though queues would form at the main Inguri bridge, especially in the summer months, and there are no facilities for those waiting in the lines. Checks are performed by Russian border guards and Abkhaz border guards on the Inguri central bridge; along the lower Gali villages, checks on the crossing points were carried out by both services as well.

---

<sup>16</sup> See above, footnote 10.

<sup>17</sup> As per their *Agreement on joint efforts in the field of protection of the state border of the Republic of Abkhazia* (April 30, 2009, Moscow).

<sup>18</sup> Details on the early 2017 closures of the crossing points is discussed below.



**The Tagiloni crossing point was closed in April 2016.** The closure reportedly affected some 80–100 people who crossed daily. There were also security concerns over the state of the hanging bridge across the river, connected to the crossing point. **The Lekukhona point is not open on a continuous basis** but is still used for agreed crossings for the Inguri HPP purposes.

**In 2016, concerns abounded as to possible closures of some of the other points, based on public statements by various Abkhaz officials, which would leave lower Gali residents in a difficult situation.** We have heard concerns about the closures during all our visits to lower Gali. Abkhaz authorities had not confirmed this during our meetings but said an approach was under discussion; during our November visit a Gali representative said the plan was to close these crossings by the beginning of 2017. They also argued a road along the conflict divide has recently been repaired, with funds provided by the Russian Federation.<sup>19</sup> **The repaired road translates into a much shorter commuting time between Gali town and the lower Gali villages, and a bus line has started operating.** This also raised fears among locals that the relative accessibility of these villages will be used as an argument for additional crossing point closures.

Concerns increased as the Abkhaz Cabinet of Ministers adopted on 28 December 2016 amendments to the Decree of July 2012 *“On the establishment of checkpoints along the State border of the Republic of Abkhazia with Georgia”* according to which the crossing points in Nabakevi and Otobaia would be closed down by 28 January 2017. January 2017 saw a demonstration in Gali to protest the announced closure.

**The two points were closed on 6 March 2017, severely restricting the ability of Gali dwellers to cross the conflict divide.** The closure of the crossing points was met with strong protest in Gali and grave concerns from the international community. No exceptions have been made for specific humanitarian cases such as school children crossings or medical evacuations. According to international observers, the closures has severely impacted the population of lower Gali villages. The central crossing point on Inguri has seen an increase in numbers and works are ongoing to upgrade the Inguri crossing point so it can accommodate up to 5,000 crossings daily but commuter patterns have changed and not all those who were crossing in Nabakevi and Otobaia are willing or able to use the central crossing point. **The consequences of these restrictions need to be addressed as a matter of priority**

**A significant problem, as discussed above, is that of documents.** In order to cross the conflict divide,

---

<sup>19</sup> Statements by Abkhaz authorities stressed that they were systematically reducing the numbers of crossing points and that about 150 million RUB (approximately \$2.5 million) were spent in 2016 to build the new road and open a bus line.

Abkhaz authorities specify the following types of necessary documents: internal Abkhaz passport; international Abkhaz passport; Soviet Union passport with place of registration in the Gali district before 1992, with a stamp of the Abkhaz authorities certifying its continued validity; *Form n.9*; birth certificate for minors below 14 years of age (issued in Abkhazia or by another state); residency permit (as provided by the *Law on Foreign Citizens* which is yet to be fully implemented). According to international organisations and interviews with commuters, most apparently use Abkhaz internal passports, though the former Soviet passports are still in use, and so is the *Form n. 9*.

**But a number of Gali residents have limited access to documents, including those that would allow them to cross. Many told us this created a sense of being trapped – and was an especially acute problem in case of medical emergencies which are hard to organise without documentation, and in case of children who are less likely to have documents in order.** Parents and teachers from lower Gali said these restrictions were among the most difficult issues for them.

### ***School children Crossings***

**A number of school children have been crossing the conflict divide on a daily basis, though the numbers have steadily decreased** from some 128 in 2009–2010, to around 50 in 2014–2016 and to 38 in 2016–2017. **Since the 2017 closure of crossing points, the trend has further worsened.**

In past years and as of December 2016, children have been crossing in both directions: Gali children cross to the Tbilisi-controlled territory to get education in schools in Tskhoushi and Pakhulani (crossing in Saberio) and in Ganmukhuri and Darcheli (a number of these children cross in uncontrolled crossings points). In Nabakevi, children from the Tbilisi-controlled villages cross into Abkhazia because the school is much closer to where they live than alternatives on the Georgia side. Some Gali children also attended kindergartens on Tbilisi-controlled territory.

**Children who cross at the controlled crossing points have mostly been allowed to cross based on special permits/lists that have been agreed with the Abkhaz authorities and the Russian border service.** This has generally granted the children in question a relative ease of crossings<sup>20</sup>, though there have been cases when children have been held up at the crossing points, or even turned back. Problems also occur when documents expire or there are changes of shifts in border personnel.

**Of specific concern have been repeated cases of children who cross at uncontrolled crossings points – be it through a neighbour’s hazelnut plantation or a garden that stretches along the divide. These children have had regular problems with crossings and there are regular cases of them being held up or even detained by Russian border guards,** given Russian and Abkhaz objection to so-called uncontrolled crossings, as discussed below. A recent case was reported on 1 November

---

<sup>20</sup> The Geneva International Discussions have addressed this topic on a regular basis, and UNHCR helped facilitate the crossings of these children via regularised lists.

2016 of a detention of four pupils who tried to use an uncontrolled crossing to go to school in Ganmukhuri. They were reportedly detained and taken to one of the facilities of the Russian military base. Their parents were later advised that children could cross if they used regular crossings. For some children though, the detour to a controlled crossing is up to ten kilometers one way.

**These cases illustrate how strongly the core conflict divergences impact on the lives of people in Gali, including children. It is essential to pay particular attention to humanitarian considerations and to the needs of affected children. Children should not be detained, and their crossings should be facilitated. The situation has significantly deteriorated further to the Nabakevi and Otabaia crossing point closures, which have severely impacted on the school children's ability to cross the divide. Pragmatic and functional solutions must be found to accommodate the needs of school children so as to avoid security risks, stress and unpredictability – and give the children's parents the possibility to choose school as per the desired language of instruction or ease of commute.**

### ***Uncontrolled Crossings***

**Uncontrolled crossings have been a frequent occurrence, with people taking backdoor paths across the conflict divide to bypass the controlled crossing points.** There are different reasons for this, each linked to its own issues and possible solutions. The numbers have seen a decreasing trend over the past several years given an apparently stricter detentions policy on the part of the Russian border service.

**Many of those who cross outside controlled crossing points have no crossing documents. Others cross via uncontrolled paths because travel to the crossing points is too inconvenient and a drain on time and resources:** some villages are literally divided in two by the Inguri river; stepping across the river to see relatives or help with seasonal work in the extended family circle has always been a part of life in Gali – but traveling to appointed crossing points puts a strain on lives of these families.

Uncontrolled crossing routes are also said to be used for trade, for instance for hazelnuts. Some also mentioned larger-scale food deliveries or criminal trade, though these were also possible via controlled crossings when facilitated by corruption, according to a number of our interlocutors in Gali, Sukhumi and Tbilisi.

Uncontrolled crossings are sometimes the only option for people, despite the risks they involve. Over the years there have been several fatal cases which highlight the need to find a sustainable pragmatic solution which would prioritise the needs of those affected by the conflict.

**Gali returnees should be provided adequate documents that will allow them to cross the conflict divide in a predictable, transparent and practical way. Relevant procedures ought to be communicated to those living in Gali clearly and comprehensively. It is highly regrettable that two**

crossing points were closed in March 2017, which increased pressure on local population. Measures need to be taken to reverse this and address the humanitarian needs of the affected population through finding pragmatic solutions.

In cases of medical emergencies for people who lack documentation, a special effort must be made to facilitate and allow emergency evacuation, as needed. While evacuations are reported to proceed smoothly for those who have documents, patients with no documents have only been able to cross in exceptional cases; but locals say that for people “who do not have the right connections” this can be an unattainable solution. It is therefore important to ensure that in emergency situations pragmatic solutions are available to all.

## **Detentions**

**The policy of detentions of commuters at uncontrolled crossing points by Russian border guards has sought to prevent the uncontrolled crossings.** These detentions have seen a slight decrease since 2011–2012, when some 597 and 615 detentions were observed, respectively, according to international organisations. In 2014–2016, the numbers of detentions per year were between 320 and 360. The Gali administration cited higher figures, up to 2,000 cases of detentions over the past year. The period of 2015–2016 saw an increase in group detentions; the area around Nabakevi has been most affected, according to international organisations.

Gali residents explained that Russian border guards would detain those who try to cross without documents or outside of the formal crossing points, establish their identity and keep them at the Russian border guard facility in the local area until there are enough people to be transferred to Gali town (typically for several hours and up to 24 hours), and hand them over to Abkhaz forces there. According to a local lawyer, detainees pay a fine of RUB 600–60,000 (or approximately \$10–\$1,000); the sum is higher within that range if the detention is not a first time occurrence; Georgians without links to Gali pay the highest fines, according to our source, and in some cases have been jailed.

Spring 2017, however, saw several instances of prolonged detention over several weeks and very significant fines; a violent incident in Spring 2017 between two detainees and the border personnel, and their dog, was of particular concern. Most observers say the prolonged detentions and harsh fines are to serve as deterrence against unauthorized crossings.

## **Criminality**

**Locals confirmed the criminal situation has seen a dramatic improvement over the past years, especially when compared with the chaotic situation in the 1990s and early 2000s.** In those years, many killings occurred, among others of Abkhaz law enforcement or customs structures. These were also years, a local resident said, when all living in Gali had a gun under their pillow to protect

themselves from various informal armed actors. Law and order has been much more steadily established since then, something locals strongly welcome.

**But there continues to be a problem most importantly with economic criminality in the Gali district, especially during the hazelnut harvest times. Cases of robbery have been reported, sometimes armed. There have also been cases of kidnappings for ransom.** 18 cases of kidnappings in Gali were registered in 2014 by international organisations, though the frequency of such incidents decreased in 2015. That year only three kidnappings were registered, though more violent than incidents recorded previously; two victims died as a result. The head of Gali administration confirmed very few such cases occurred in the past two years. In 2016, only one kidnapping case was registered, not linked to the typical past pattern of hazelnut harvest extortion.

## **VII. TREATIES WITH THE RUSSIAN FEDERATION AND THEIR IMPACT**

**Moscow provides decisive economic, political and military support to Sukhumi.** Tbilisi sees this relationship as occupation, and Russia being the force in effective control – which Sukhumi refutes, saying that Moscow provides a strategic partnership and security guarantees. Tbilisi adopted a *Law on Occupied Territories* in October 2008.

Links between Moscow and Sukhumi have significantly deepened since Moscow's recognition of Abkhazia in 2008. The framework of cooperation between Moscow and Sukhumi is anchored by a number of agreements the two have reached. **The key milestones are the *Treaty of Friendship, Cooperation and Mutual Assistance* of September 2008, and the *Treaty on Alliance and Strategic Partnership* of November 2014, which foresees cooperation on foreign policy, defence, customs and border control, law enforcement, but also education and social welfare. Tbilisi considers them as part of Russia's occupation and to be in violation of international law. The international community, except the few countries that have recognised Abkhazia, also considers them null and void.** As these treaties have an impact on people in Abkhazia they are briefly referred to below.

The 2014 *Treaty* provides for the adoption of numerous specific and sectoral agreements that would detail planned closer cooperation. Provisions dealing with trade foresee the introduction of Russian/Eurasian Economic Union (EEU) standards and regulations. Customs provisions align Abkhazia with these customs standards. Provisions in the area of defence foresee the creation of a "*common security and defense space*", and among others set out the establishment of a "*Joint Group of Forces*" for the purpose of "*repelling aggression*"; should there be military threat, Russia can appoint a commander-in-chief. On border control, a two-year time line is foreseen for securing the Abkhaz-Georgian conflict divide, and ensuring "*full freedom*" to cross between Abkhazia and Russia. A process for the delineation or demarcation of either of those boundaries is unclear. In the law

enforcement sphere, the *Treaty* envisages the creation of a “*Joint Information and Coordination Centre*” for law enforcement institutions, with the aim to “*coordinate the fight against organised crime and other grave crimes and threats*”.

Russia has also provided large-scale financial assistance to Abkhazia, most recently, under the *Investment Programme for Assistance to the Socioeconomic Development of the Republic of Abkhazia for 2015–2017* (also referenced as *Russian Federation’s Investment Programme* in this report).

**According to interlocutors in Sukhumi, the overall framework of lawmaking and implementation does not at this point appear to be significantly impacted by the 2014 Russian-Abkhaz Treaty** (which contains provisions for prospective harmonisation of legislation in a number of areas with the legislation in place in the Russian Federation). Official and unofficial interlocutors alike said work on the various sectorial agreements is ongoing or planned.

In this context, November 2015 saw the signing of an agreement on the creation of the “*Joint Group of Forces*” by 2018. In peace time, a joint operational grouping will lead the group, headed up by the commander of the 7<sup>th</sup> Russian military base in Abkhazia; in wartime, the commander will be appointed by the Russian Ministry of Defence. Various interlocutors in Abkhazia stressed concerns about the implications of this arrangement for the Abkhaz Parliament’s and President’s decisions in wartime. Some expressed a concern that the definition of “threat” was not defined sufficiently clearly to protect the integrity of Abkhaz institutions.

Discussions on agreements on security and defence have been complex, according to interlocutors. The Russian side apparently initially tabled a far-reaching proposal for the “*Joint Information and Coordination Centre of Law Enforcement Agencies*” with wide competencies and immunities. Many in Sukhumi viewed this differently, our interlocutors stressed. A smaller format was in the end agreed with up to 20 officers, and headed up in turns by Abkhaz and Russian representatives.

**Many said the issue of Abkhaz sovereignty was essential for the society.** The final version of the 2014 *Treaty* differed from its initial Moscow-proposed drafts, which would have had much more far-reaching consequences for Abkhaz institutions. But concerns about sovereignty remained: especially since the 2014 *Treaty* foresees essentially supranational structures (unlike the 2008 *Treaty*). According to many interlocutors, these concerns were among the reasons why discussions on the implementation were slow. Some interlocutors said the Russian side was, in negotiations, conditioning socio-economic support to Abkhazia by timely progress in the negotiations of various agreements.

**Provisions of the 2014 Treaty concerning the conflict divide have had and are likely to have further implications for crossings of the conflict divide, as discussed in Chapter VI.**

## VIII. HUMAN COSTS OF THE UNRESOLVED CONFLICT

**The unresolved conflict has continued to directly impact the lives of several hundred thousand people on both sides of the conflict divide. Those who experienced the war, its losses, destruction and atrocities, live – together with their families – with a legacy that is difficult to come to terms with. Many more have been impacted indirectly.**

The continuation of the conflict is a human tragedy. It would have been even worse had it not been for exceptional individuals on both sides of the divide who have sought to assist victims and also start a process of reckoning, and dialogue.

### **Displaced Persons**

On the Georgian side of the divide, children and grandchildren have already been born to the Georgians originally displaced from Abkhazia in 1992–1993.

**It has to be recognised that the fate of these victims of the conflict reflects a serious aspect of denied human rights. Some of their families have integrated into Georgian society better than others: some live in private homes, some in compact settlement centre. But a majority stresses the wish to see their right of return upheld, whether they choose to exercise it or not.**

The situation of these displaced persons was not the focus of this report: it was not our mandate to explore it. But it requires careful study and should be explored in the necessary detail, with a focus on full respect for their rights. Their fate must not be forgotten.

### **Missing Persons**

**Today 2,365 persons remain unaccounted for as a result of the 1992–1993 conflict, as per ICRC data. They are documented as mainly ethnic Georgians, Abkhaz and, most likely, a limited number of North Caucasians. Their families' have the right to know about their whereabouts; if those unaccounted for are found to be dead, the families have the right to all relevant information, to receive possible remains and to organise a dignified burial.**

The “Coordination Mechanism on Persons Unaccounted for in Connection with the Events of the 1992–1993 Armed Conflict and After”, facilitated and chaired by the ICRC with Georgian and Abkhaz participants, has led to an effort to account for the missing persons; collect information on their fate and whereabouts, and, if dead, recover and identify the human remains and hand them over to the concerned families<sup>21</sup>.

**Between 2013 and 2015, 255 sets of human remains were recovered from 28 gravesites located throughout the region; 100 sets of human remains were identified and handed over so far, according to ICRC.**

**This process, and the fact that humanitarian considerations have in these efforts sidelined politics and propaganda on all sides, is deeply commendable.**

### **Travel, Contacts and Exposure to the Outside World**

**In today’s Abkhazia, the unresolved conflict continues to impact most spheres of life of society, including socio-economic development, business and trade opportunities, environment, education and health sectors.**

The below section explores in some detail the consequences of the unresolved conflict for the society in Abkhazia today.

#### ***A Sense of Isolation***

**The sense of being cut off from the wider world is strong in Abkhaz society. A vast majority of people we spoke to in Abkhazia spontaneously brought up what they termed as “*isolation*” as being one of the biggest obstacles their society is facing, as a factor preventing development and socio-economic opportunities, and as a grievance against both Tbilisi as well as its international partners who are seen as siding with Tbilisi in preventing their access to the wider world. It was also raised by interlocutors from high-level officials to journalists, teachers and other professionals, and across the whole of Abkhazia.**

**The chief concern was access to the wider world – its knowledge, culture, education and business opportunities, even health care options and practice. One interlocutor said a child born in Abkhazia**

---

<sup>21</sup> “Coordination Mechanism on Persons Unaccounted for in connection with the Events of the 1992–1993 Armed Conflict and After (Coordination Mechanism), Questions & Answers”, ICRC, October 2016.



around the war will now be a young adult with a very inward looking and limited worldview, given he or she has never had the chance to be in contact with the world beyond Russia, and even Russia is not accessible to everyone.

**A generation that has grown up shaped by the post-conflict reality and discourse is now coming of age. Many parents said youth lack self-confidence, high-quality education and an imagination of possibilities. These include imagined possibilities for future conflict settlement, or for a just accountable and equal society.**

**Similarly, a generation of professionals working in the public sphere has had no opportunities for professional enhancement of their skills or methodological training. It would be important to ensure this is available to teachers, doctors, even police so as to raise their awareness about human rights.**

### ***Travelling***

A majority of those residing in Abkhazia today, except most Georgian returnees to Gali, are simultaneously citizens of the Russian Federation. This entitles them to Russian passports (internal and foreign). Foreign passports in theory facilitate their travel beyond Russia. The practice is more complex.

Russian passports issued to Abkhaz residents after 2008 indicate as the issuing authority the Russian Federation's Embassy in Abkhazia, an institution Tbilisi sees as illegal<sup>22</sup>. Tbilisi also views passports issued by that authority as illegal. Some of Tbilisi's international partners – though not all – do not consider them for visas. In principle, Abkhaz residents with an ordinary Russian passport without an indication that it was issued in Abkhazia (via the Russian Consulate) or for Abkhazia (indicated through the serial number) usually do not face problems traveling to countries outside of Russia.

**The resulting picture is mixed: many requests for visas for travel to European countries for holders of passports issued in Abkhazia are turned down. Abkhaz officials and regular residents alike say that for most visa requests the passports are refused with an explanation that these are not acceptable passports.** Another response has been that the passport and the supporting documentation are not even accepted for processing, pointing to the respective embassy in Tbilisi as being responsible. The situation differed somewhat in cases when travel requests were submitted through visa agencies in Russia – apparently visas were easier to obtain in this way. However, Abkhaz

---

<sup>22</sup> Passports issued until the 2008 recognition of Abkhazia by Russia had a serial number that indicated they were held by persons registered in Abkhazia; some Abkhaz though had registered in the North Caucasus or Moscow and some big Russian cities to avoid being singled out.

civil society actors say this has also changed.

In specific cases, such as civil society meetings and conferences, or in case of students, inviting institutions and political actors with a mandate to support conflict transformation have been able to facilitate visa issuance for European travel. This is typically done on a case-by-case basis.

The restrictions on travel are widely seen as discrimination against Abkhazia residents. Abkhaz officials claim this is a discriminatory practice and that there seems to be a joint policy position among EU Member States to uphold it. **There is a widespread narrative in Abkhazia that western actors are violating the right to freedom of movement of those living in Abkhazia.**

### **Economic and Social Issues**

Economic social and cultural rights belong to key human rights protected by international human rights standards. The stalled socio-economic development of the post-conflict reality has a strong impact on the conditions for the fulfillment of these rights.

**Abkhaz interlocutors cite economic development as one of the greatest challenges their society is facing. The war itself had a major impact, both due to the damage caused by fighting, and the loss of contacts with the outside world which followed.**

Abkhazia has become more dependent on social and economic support from the Russian Federation. This assistance reaches Abkhazia in two ways: socio-economic assistance and the *Investment Programme*. Investment mainly concerns public and social infrastructure, though some investment has also been made in agriculture development.

Employment opportunities are generally limited and there is a very high percentage of unemployment. Most steady jobs are in the administration or public service. Some small businesses have developed, especially linked with trade, tourism and related services, and agriculture. Many people rely on subsistence farming, especially in rural areas.

Abkhaz interlocutors say that investment would be needed to restart local agricultural production. Mandarins, tea and tobacco were the Soviet era's flagship products, in addition to the hazelnuts which grow mainly in Gali. A former high-level official said only a small share of the pre-war mandarin production was saved. Tourism, another major economic feature of the region, also suffered in the aftermath of the conflict but has steadily been on the rise.

There has been some Russian and Turkish investment (especially the Abkhaz diaspora in Turkey has been quite active). There has been some investment into tourism facilities and into greenhouses (Ochamchira) and orchards/vineyards (Pitsunda). But the scales are limited and the economy has not been developed in a more systematic way.

**As a whole, trade with the outside and foreign investment has been limited. Among the reasons for this is low investor confidence but crucially also political and status-related hurdles.** The Georgian *Law on Occupied Territories* penalises business dealings with Abkhazia. Some foreign companies that have sought to open up links with local counterparts have run into problems with Tbilisi; most had to leave, given Tbilisi's concerns about not seeing its sovereignty undermined.

### ***Environment***

**In spite of resource limitations, some measures have been taken to protect the environment. Controls have been introduced over timber as well as mining.** A surface coal mine in Tkvarcheli, which caused serious pollution to the local river was discontinued. **However, several interlocutors from the Abkhaz leadership and civil society have cited strong concerns about the degradation of Abkhazia's unique environment.**

**Waste water treatment and waste management are an acute problem**, according to a former high-ranking official. Both systems are obsolete and based on outdated technologies, and their capacity is low given no or limited maintenance over the past twenty-five years. If unaddressed, this could create problems for local residents, but it could prospectively also impact on the quality of the sea, and hence also tourism. Bringing in new technologies and investment for an overhaul of the old waste water management and waste disposal systems would be needed so as to ensure environmental maintenance and protection. It would also be important to include Abkhaz interlocutors, in a status-neutral format, in Black Sea cooperation initiatives.

## CONCLUDING REMARKS

- Unresolved conflict issues have a severe impact on the human rights of people living in Abkhazia, as well as those of displaced persons. These human costs must be a serious consideration in future dialogue efforts.
- People on all sides in Abkhazia express frustration about the slow progress of the Geneva International Discussions – but are keen that they continue. They welcome the resumption of the meetings of the Incident Prevention and Response Mechanism in Gali in May 2016.
- The presence in Abkhazia of independent international bodies – primarily UNHCR, UNICEF and ICRC – is much appreciated and should be given continued high priority by decision-makers in their respective headquarters.
- Several existing human rights problems outlined in this report can be addressed, and even resolved, before a comprehensive political agreement has been reached across the present conflict divide. Slow progress in such negotiation efforts must not be an excuse for passivity on human rights. Improvement of the rights of affected people might in fact improve the climate for political solutions.
- In this perspective, all parties would benefit from further international visits to Abkhazia on human rights related issues. Serious dialogues with internationally recognised and independent human rights experts should be encouraged.
- Contacts between Abkhaz civil society groups and their counterparts in Europe and elsewhere are important and should be further encouraged.