Parliamentary Assembly
Assemblée parlementaire
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 11789
12 January 2009

The humanitarian consequences of the war between Georgia and Russia

Report[1]
Committee on Migration, Refugees and Population
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Summary

The Committee on Migration, Refugees and Population remains greatly concerned by the humanitarian situation following the war between Georgia and Russia.

Although many of the 192 000 people displaced by the war have been able to return to their homes, there still remain many people with humanitarian needs as returnees, as displaced persons or as persons who have remained in the former conflict zones.

The committee is particularly concerned about the security situation of ethnic Georgians living in the Gali region of Abkhazia and the Kodori Valley. It is also greatly concerned about the security situation of ethnic Georgians remaining in South Ossetia, those living close to the de facto "border" with South Ossetia and those remaining in the Akhalgori district.

The committee welcomes the US$4.5 billion of aid pledged to Georgia and urges the Government of Georgia to account for this aid in a transparent manner. It also urges the government to implement an action plan for displaced persons from both the old conflicts and the recent conflicts.

The committee calls for full support for the preparation of a replacement mandate for the United Nations Observer Mission in Georgia (UNOMIG) and a strengthening of the mandate and capacity of the European Union Monitoring Mission (EUMM) which needs to be given access to South Ossetia and Abkhazia.

The Committee of Ministers should examine how to contribute to human rights protection in South Ossetia and Abkhazia, considering a possible contribution to any UN or other international presence. The committee calls on the Committee of Ministers to continue to support human rights training for monitors.

1. Reference to committee: Bureau's decision, Reference No. 3495 of 24 November 2008.

A. Draft resolution

1. The Parliamentary Assembly, referring to its Resolution 1633 (2008) on the consequences of the war between Georgia and Russia, considers that one of the immediate priorities is to deal with the humanitarian consequences of the war.

2. Following the breakout of war in August 2008, it has been estimated that 133 000 persons were displaced in Georgia from South Ossetia and the so-called "buffer zone" and Abkhazia. According to estimates from the Russian authorities, over 36 000 South Ossetians sought refuge in North Ossetia.

3. Since August 2008, about 100 000 internally displaced persons in Georgia have returned to their homes, mostly in the former so-called "buffer zone" with South Ossetia. There remain approximately 23 000 persons with little prospect of early return. Of those who fled to Russia, all but around 2 000 persons have returned to South Ossetia.

4. Notwithstanding the large scale return of persons after the conflict, considerable concerns remain about the humanitarian situation and human rights of those who have returned, those who cannot return and those who have remained, in spite of the serious security problems.

5. Hand in hand with the plight of these recent internally displaced persons and refugees, there exist continuing concerns for 222 000 internally displaced persons from the earlier conflicts and also refugees whose long-term plight remains in urgent need of solution.

6. There are still concerns about all acts which could contribute to ethnic cleansing of Georgians from the conflict areas and areas of occupation.

7. The number of missing from the recent conflict remains unclear.

8. The situation in South Ossetia remains extremely complicated for the civilian population. They are cut off from the rest of Georgia, with little or no access to international humanitarian aid and human rights monitoring. They are facing great hardship during the winter months, due in particular to shortages of food and non-food items, electricity and gas. For those with damaged or destroyed houses the situation is even more difficult. For the few ethnic Georgians remaining, the security situation remains delicate and they are reportedly increasingly under pressure to renounce their Georgian passports.

9. The situation in the former so-called "buffer zone" remains tense, with persons continuing to be killed by sniper fire, mines, unexploded ordnance and booby traps. While the rapid deployment of the European Union Monitoring Mission (EUMM) has allowed many persons to return to their homes in the former so-called "buffer zone" before the onset of winter, the mission would need a stronger mandate and greater manpower to cover the security needs of all those close to the de facto border with South Ossetia.

10. Grave concerns remain for the persons continuing to reside in the Akhalgori district. Approximately 5 100 persons have already fled this region and there are fears that even more people will leave the region due to the lack of security combined with the harsh winter conditions and the lack of food and non-food items, gas, heating and financial assistance and income.

11. Large numbers of internally displaced persons (IDPs) have returned to the former so-called "buffer zone". The Assembly notes with concern that some of these returns have been made at very short notice with little information and choice being given to IDPs as to their return, compromising the right to voluntary return in safety and in dignity. Reportedly 100 returnees have left their homes a second time in view of the unsatisfactory security situation in some areas of the former so-called "buffer zone".

12. The situation of those Georgians who returned to the Gali region remains precarious. The closing of the de facto border with the rest of Georgia has had a great impact on the population in the Gali region. It has become increasingly difficult for this population to maintain family contacts, sell their produce, have access to health or pick up financial entitlements on the other side of the de facto border.

13. The security situation in the Gali region also remains tense, with persons reluctant to leave their homes after dark. There continue to be reports of intimidation. Furthermore, steps continue to be taken to stop teaching in the Georgian language in schools in the lower Gali region. The cumulative effect of these measures, the lack of security and the fear that international organisations may pull out from the region will contribute to more and more persons leaving the Gali region and crossing the de facto border into Georgia. If the border remains closed, a major movement of the Georgian ethnic population can be anticipated.

14. The United Nations Observer Mission in Georgia (UNOMIG) is in the process of renegotiating a mandate for its presence in Abkhazia following the nulling and voiding of the Moscow agreement on which its mandate was based. UNOMIG plays an extremely important role in Abkhazia and in particular in the Gali region and the Kodori Valley where its regular patrols in the countryside provide some welcome security for the local residents.

15. There are also great concerns over the future of the 1 500 persons who fled the Kodori Valley when this was occupied by the Abkhaz forces in August 2008. Approximately 100 persons have remained in the Kodori valley and although the International Committee of the Red Cross (ICRC) and the United Nations High Commissioner for Refugees (UNHCR) have had access to them, they are likely to face an extremely difficult winter.

16. The Assembly welcomes the role played by the Council of Europe Commissioner for Human Rights and his six principles for urgent protection of human rights and humanitarian security drawn up after his August 2008 visit.

17. The Assembly welcomes the overwhelming international response to the humanitarian and protection needs of the internally displaced persons in Georgia. US$4.5 billion have been pledged as a result of the Georgian Crisis Flash Appeal and the Joint Needs Assessment put together in the aftermath of the war. It commends the many international organisations and non-governmental organisations that have moved swiftly to support the Georgian population and Government.

18. The Georgian Government has shown a strong commitment to tackling the humanitarian issues its population is facing, learning from mistakes made following the previous conflicts.

19. The government has moved quickly to provide durable solutions for those internally displaced persons who have little or no prospect of return in the near future. The building of over 6 000 small, two bedroom family houses can be welcomed, notwithstanding that there are criticisms over the location of these houses, away from basic amenities and in areas with few economic prospects. There are also concerns about the lack of clarity on the criteria for the allocation of such housing. The government has also taken urgent steps to winterise 137 collective centres for IDPs with assistance from many international actors.

20. Other important steps taken include assistance for the most vulnerable and those with psychological problems arising from the conflict. Schools in Georgia, including in the former so-called “buffer zone” have been re-opened and are functioning and school supplies have been distributed to the children. Free primary medical aid has been provided but needs to be extended over the winter.

21. The Assembly also recognises the generous response of Russia to the needs of the refugees from South Ossetia and the assistance provided to them on their return to South Ossetia. It however deplores the restrictions placed on the delivery of international humanitarian aid for the region and the insistence that all aid for South Ossetia be brought through Russia rather than through Georgia.

22. The Assembly deplores the fact that humanitarian access has fallen victim to political considerations by the parties to the conflict and is also concerned at provisions of the new Georgian Law on the Occupied Territories, which may restrict access and the delivery of humanitarian aid to all areas by humanitarian actors and may not be in line with, and may violate, relevant international obligations.

23. The Assembly also deplores that because of the restrictions imposed by the de facto authorities in South Ossetia on the entry into South Ossetia from the Georgian side, it was not possible for the Assembly to gather first-hand information on the situation of the population in this region.

24. In view of the above-mentioned considerations, the Assembly calls on Georgia, Russia and the de facto authorities in South Ossetia and Abkhazia to:

24.1. abide unconditionally by the international humanitarian and human rights law; and in particular, respect their obligations and commitments under the 1907 Hague Convention (IV), the 1949 Geneva Conventions and its Protocols, and the European Convention on Human Rights;

24.2. investigate and where appropriate prosecute all human rights violations and violations of humanitarian law promptly, independently and impartially, and allow the relevant human rights ombudspersons to carry out their own independent enquiries;

24.3. ensure that reparations for violations of international human rights and humanitarian law are provided, including restitution of property and payment of compensation;

24.4. provide immediate and unimpeded access at all times, to all conflict areas for all humanitarian actors from either Georgia or Russia so that they may reach IDPs and other civilians at risk without further delay. They should refrain from any steps that may impede such access;

24.5. guarantee the voluntary right to return of all persons displaced by the recent conflict and the earlier conflicts, ensuring that the return is in safety and in dignity. This right to return is the starting point of any sustainable solution to internal displacement and international humanitarian law obliges all parties concerned, once military action is over, to do their best to remedy the harm inflicted on civilians and ensure that refugees and displaced persons are safely returned to their places of residence;

24.6. ensure respect for the right of IDPs, whether displaced recently or by earlier conflicts, to freely choose whether they want to return, integrate locally or resettle in another part of the country, and take measures to allow the displaced to participate fully in the planning and management of their return, resettlement and reintegration;

24.7. release and exchange immediately all prisoners of war and persons detained as a result of the conflict and exchange all mortal remains;

24.8. ensure that all hostages are released and exchanged without delay and that the practice of hostage taking is criminally prosecuted and eradicated;

24.9. solve the issue of missing persons both from the recent conflict and the earlier conflict, reconsituting, as necessary, the working commissions on all sides and co-operating closely with the ICRC;

24.10. exchange information on mines and unexploded ordnance and remove, together with the assistance of the Halo Trust and other experts in the area, all remaining explosive remnants of war. Ensure that all areas of danger are mapped, fenced and identified for the local population and that awareness-raising programmes of the dangers of these explosive remnants continue to be run for those at risk, whether they are civilians, police officers, members of the authorities or others;

24.11. take measures to effectively protect the property left behind both by old and new internally displaced persons with a view to securing restitution of such property in the future;

24.12. respect responsibilities under the European Convention on Human Rights and also under the 1907 Hague Convention (IV) on the Laws and Customs of War on Land. Under these standards, the parties concerned remain responsible for violations of human rights and humanitarian law in all areas under their de facto control;

24.13. agree on the strengthening of the European Union Monitoring Mission (EUMM) to allow it to have a stronger presence and to have access to both sides of the de facto border zone and former conflict zones since occupied;

24.14. agree to the extension of the mandate of the European Union Monitoring Mission (EUMM) to cover protection and possibly peace-keeping covering both sides of the de facto borders of South Ossetia and Abkhazia and other parts of the former conflict zones since occupied;

24.15. allow the OSCE monitors access to both sides of the de facto South Ossetian border and to agree on an increase in the number of these monitors including in other parts of the former conflict zones since occupied;

24.16. take fully into account and implement the Council of Europe Commissioner for Human Rights' six principles for urgent protection of human rights and humanitarian security drawn up after his August 2008 visit to the region, and his follow-up recommendations.

25. The Assembly calls on Russia and the de facto authorities in South Ossetia and Abkhazia to:

25.1. guarantee the safety and security of all persons under their de facto control, not only in South Ossetia and Abkhazia but also in the occupied territories of the Akhalgori district and Perevi, and in the Kodori Valley;

25.2. ensure that no further measures are taken which have the effect of forcing persons to leave their homes and homelands, contributing to ethnic cleansing;

25.3. stop, prevent and protect against onward going lawlessness, including physical assaults, robberies, intimidation, harassment, looting, kidnapping, torching and destruction of property, and prosecute all those involved in such acts;

25.4. support a new, enhanced, replacement mandate for UNOMIG in Georgia, including in Abkhazia and possibly also in South Ossetia, and allow EUMM and the OSCE to carry out their respective mandates.

26. The Assembly calls on Georgia to:

26.1. improve the security of all those living in the de facto border and former conflict zones, including by increasing police patrolling at night in the most sensitive areas and not just at de facto border posts;

26.2. improve the provisions of primary humanitarian aid including food and non food items and firewood to villages in the former so-called “buffer zone” adjacent to South Ossetia;

26.3. adopt a revised strategy and action plan for new and old internally displaced persons and ensure that assistance to both old and new displaced persons is provided on the basis of simple, rational, clear and transparent criteria of real need and vulnerability rather than status;

26.4. ensure that internally displaced persons are systematically informed and consulted to allow them to make a free and informed choice as to whether to locally integrate, return or resettle on a temporary or permanent basis. Furthermore, mandated international organisations such as UNHCR, should be involved in the resettlement and return process;

26.5. guarantee that those who have not been displaced but who are experiencing problems as a result of the conflict receive appropriate aid;

26.6. continue to provide primary medical aid and psychological assistance to internally displaced persons and returnees, and in particular take into account the needs of children;

26.7. take measures to ensure that internally displaced women and children do not become victims of trafficking or violence;

26.8. find solutions to alleviate the debt of internally displaced persons who have lost their homes and their incomes and who have no means to repay their banking loans;

26.9. improve the flow of information to internally displaced persons about their rights and entitlements and allow them to participate in decisions affecting their future.

27. The Assembly calls on all member states and states with observer status with the Organisation to:

27.1. continue to provide support and commit resources in order to:

27.1.1. urgently address the acute humanitarian needs of the newly displaced, including but not limited to shelter;

27.1.2. support the most vulnerable, including children, the elderly, the sick, the disabled, single mothers, the infirm and the traumatised;

27.1.3. reach durable solutions for both the old and the newly displaced populations, with a clear protection component;

27.1.4. implement all the components of the Georgian Government’s Action Plan for Internally Displaced Persons – with amendments, agreed with key international actors, to account for the newly displaced population;

27.1.5. ensure a smooth transition from emergency aid to early recovery and development aid for Georgia;

27.2. ensure accountability and transparency by the beneficiaries of the aid, whether this be the government, local authorities, international organisations, non-governmental organisations or others;

27.3. support the United Nations in negotiating a new mandate for the United Nations Observer Mission in Georgia (UNOMIG).

28. The Assembly calls on the European Union to ensure that the European Monitoring Mission (EUMM) receives the necessary resources to carry out its mission and that:

28.1. the staff of the EUMM are fully trained in human rights standards;

28.2. patrols are provided with Georgian interpreters;

28.3. further offices along the de facto border are opened in order to allow patrols to reach all parts of the former so-called “buffer zone” within a reasonably short period of time.

29. The Assembly invites the Council of Europe's Development Bank to consider action with a view to assisting those affected by the conflict, including displaced persons and those displaced by the earlier conflicts, as well as contributing to reconstruction in the areas affected, including in South Ossetia and Abkhazia.

B. Draft recommendation

1. The Parliamentary Assembly refers to its Resolution … (2009) on the humanitarian consequences of the war between Georgia and Russia.

2. It believes that there is an important role for the international community to play in South Ossetia and in Abkhazia in order to ensure the promotion and protection of human rights and humanitarian law. It believes that the Council of Europe should have a role on human rights in this area, without any prejudice to the territorial integrity of Georgia.

3. Therefore the Assembly recommends that the Committee of Ministers:

3.1. continue to liaise with the EU, OSCE and other international actors;

3.2. provide support for the human rights training of European Union Monitoring Mission (EUMM) members;

3.3. examine with the United Nations, as a matter of urgency, how it could contribute to the work of a new United Nations mission covering Abkhazia to replace the current United Nations Observer Mission in Georgia (UNOMIG), including a possible Council of Europe presence;

3.4. provide support and funding to the Council of Europe Commissioner for a human rights programme in South Ossetia and Abkhazia.

4. The Assembly also recommends that the Committee of Ministers invites the relevant sectors of the Council of Europe to:

4.1. provide training to local authorities and law enforcement agents on the awareness of human rights as well as the specific economic, social, cultural and psychological needs of internally displaced persons in line with the Committee of Ministers' Recommendation Rec(2006)6 and the UN Guiding Principles on internally displaced persons;

4.2. examine the possibility of providing training in Georgia for government officials, at national and local level, on spending and accounting for international aid and assistance in a transparent manner;

4.3. provide training to non-governmental organisations on the monitoring of aid and assistance run by the government and local authorities;

4.4. organise a multilateral meeting for government officials dealing with internally displaced persons issues to allow them the opportunity of learning how these issues are dealt with in other countries;

4.5. organise a multilateral meeting for non-governmental organisations specialising in IDP issues, to allow them the benefit of learning from each others' different experiences.

C. Explanatory memorandum,[2] by Mrs Jonker

1. Introduction

1. In October 2008, the Parliamentary Assembly adopted Resolution 1633 (2008) on the consequences of the war between Georgia and Russia. This resolution recognises the need for priority to be given to the humanitarian consequences of the war and called for further work to be carried out on this subject.

2. In the light of this call, the Committee on Migration, Refugees and Population was invited to prepare a report and Mrs Jonker was appointed to carry out this work. In order to gather information for the report she travelled to the region between 16 and 22 November 2008, first visiting Abkhazia, starting in Sukhumi before heading down through the Gali district and back to Tbilisi. She then had contacts with all relevant actors – governmental, international and non-governmental – in Tbilisi, before visiting the former so-called "buffer zone" and having contacts with the different organisations active in Gori and the surrounding region.

3. The rapporteur had hoped to visit South Ossetia and Tskhinvali, but was informed on the day before her departure, through the Russian delegation to the Parliamentary Assembly, that the South Ossetian de facto authorities would not permit her to enter South Ossetia from Georgia and that she should enter instead through Russia. This was not possible to organise.

4. This report is based on the findings of the rapporteur during the course of her visit and on the opinion she prepared and presented to the Assembly in October on the consequences of the war between Georgia and Russia (see Doc.11730).

5. The rapporteur would like to pay tribute to the different people she met in the course of her visit who were working to tackle the many humanitarian needs of those affected by the conflict. She would like to thank them for the time they took to brief her and for their professionalism and commitment. She would particularly like to thank the United Nations Observer Mission in Georgia (UNOMIG) for setting up her programme in Abkhazia, and the Georgian Parliamentary Assembly delegation and the Special Representative of the Secretary General of the Council of Europe in Georgia for organising the remaining parts of the programme.

6. The focus of this report is humanitarian issues. The rapporteur has not chosen to examine political issues arising from the conflict. Neither has she sought to adjudicate on human rights violations or humanitarian law violations committed by both sides in the context of the war, such as the intentional or avoidable killing or wounding of civilians and the destruction of property. These are matters which are the subject of a large number of individual applications to the European Court of Human Rights against both sides. They are also matters dealt with by inter-state cases brought by Georgia against Russia before the European Court of Human Rights and the International Court of Justice.[3] The rapporteur supports all calls, including by the Commissioner for Human Rights of the Council of Europe, for an independent and impartial investigation of violations of humanitarian law and human rights during the conflict.

2. Statistics on displacement

7. Since August 2008, about 100 000 internally displaced persons (IDPs) in Georgia have returned to their homes, mostly in the former so-called "buffer zone" with South Ossetia. There remain approximately 23 000 IDPs with little prospect of early return and according to UNHCR approximately 37 500 people will remain displaced over the winter. Of those who fled to Russia, all but around 2 000 people have returned to South Ossetia.

8. Hand in hand with the plight of these IDPs and refugees, there exists continuing concerns for 222 000 IDPs from the earlier conflicts and also refugees whose long-term plight remains in urgent need of solution.

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2. In this document, the term "Abkhazia" and "South Ossetia" are used for readers' convenience, without prejudice to the Assembly's position on the territorial integrity of Georgia.

3. Many of these issues are also raised in the recent Amnesty International report entitled "Civilians in the line of fire. The Georgia-Russia conflict". This report was published on 18 November 2008 and is available on the website of Amnesty International (www.amnesty.org) and also documented in the recent report of the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) entitled "Human rights in the war-affected areas following the conflict in Georgia" This report was published on 27 November 2008 and is available on the OSCE/ODIHR (www.osce.org).

3. Persons killed or wounded

9. The total number of deaths and persons wounded continues to be a controversy. According to the Georgian side they suffered 326 people killed. On the Russian and South Ossetian side, 133 people have been reported killed.

4. People missing as a result of the conflict

10. The number of the missing as a result of the recent conflict remains uncertain.

11. The rapporteur considers that accurate information on the names of the civilian and military personnel missing on all sides needs to be made available. It is also essential that the issue of the missing from the previous conflicts is also taken into account and that the relevant commissions for missing persons on all sides function. In this respect the rapporteur considers it important that the commission on missing persons in South Ossetia is re-established. In Abkhazia the draft law on missing persons still needs to be adopted and the commission previously established must be re-invigorated. In Georgia the work of the commission on missing persons needs to be bolstered and a new head and deputy head of the commission need to be appointed. The precise work that these commissions should carry out is highlighted in Parliamentary Resolution 1553 (2007) on missing persons in Armenia, Azerbaijan and Georgia form the conflicts over the Nagorno-Karabakh, Abkhazia and South Ossetia regions. The rapporteur urges all parties to the recent and past conflicts to work closely with the International Committee of the Red Cross (ICRC) on this issue.

5. Prisoners of war and hostages

12. The rapporteur notes the important work carried out by the ICRC and also by the Council of Europe Commissioner for Human Rights in arranging for the release and exchange of prisoners of war and other persons detained as a result of the conflict. The rapporteur fully supports all calls for the release and exchange of these persons and calls for action to be taken by the relevant authorities to eliminate the practice of hostage taking.

13. It is important that cases of hostage taking are not carried out with impunity and that they are prosecuted by the relevant authorities.

6. The situation in Abkhazia

14. Abkhazia itself was not directly touched by the war between Georgia and Russia, although the Kodori valley was occupied by Abkhaz forces in August 2008. Approximately 1 500 persons from this region fled from the area. Approximately 100 people remained in their homes and they face a harsh winter, largely cut off from the outside world. The ICRC and UNHCR have had access to these persons to ensure that they receive sufficient assistance to tide them through the winter. The issue of return for those who fled remains, however, uncertain for the moment.

15. The situation in the Gali region, which is the southernmost region of Abkhazia populated almost entirely by Georgians remains precarious. Even before the conflict erupted Georgians in Gali were suffering from the closure of the de facto “border” with Georgia, albeit that the de facto “border” remained porous. Since the conflict, Georgians in the Gali region have felt even less secure and even more cut off. It has become increasingly difficult and dangerous to cross the de facto “border” for family contacts, medical treatment and commercial purposes or to claim subsidies, pensions or other sums paid by the Georgian authorities. Furthermore the security situation remains tense with people reluctant to leave their homes after dark and with fast moving Russian and Abkhaz armoured vehicles moving along the roads. There is a fear of military conscription and discrimination, even if many people pay bribes to avoid this. There continue to be reports of harassment, with persons being forced to work without pay or being forced to pay unofficial “taxes” on their produce. The rapporteur enquired about the issue of “passportisation” and was led to understand that while many ethnic Georgians feared not receiving public services, including health care if they did not take up Abkhaz “passports”, there was no great pressure being put on persons in the Gali region in this respect. Indeed, amongst those who had applied for the Abkhaz “passports”, very few had received them.

16. The rapporteur, when visiting the Gali region as part of a UNOMIG patrol, was struck by the number of deserted and destroyed or damaged properties left over from the earlier conflict. From her contacts in one of the villages it was clear that persons were once again gradually leaving the region, as evidenced by the falling number of children in schools. All was not, however, bleak and the rapporteur also had the benefit of seeing a

number of aid projects being carried out. For example she witnessed the “Shelter Project” being carried out by the Norwegian Refugee Council which was helping to repair roofs for damaged houses and a further project to provide running water to homes in various villages.

17. The rapporteur was, however, concerned to hear that in the lower Gali region, schools and teachers were coming under increasing pressure to stop teaching in Georgian and to cease using Georgian textbooks. In the upper Gali region such teaching had already apparently been stopped.

18. The rapporteur had the opportunity to meet with school teachers, civil society representatives, human rights activists and medical workers, all of whom attested to the different problems outlined above. There was real concern that the international community might pull out from Abkhazia and there was a plea for this not to happen.

19. The rapporteur is aware that ethnic Georgians (Mingrelians) in the Gali region are effectively in a minority situation in Abkhazia. They are in need of minority protection and minority rights. The rapporteur considers that the de facto authorities should take full account of international minority rights including those under the Framework Convention for the Protection of National Minorities.

20. It is difficult to ascertain how many ethnic Georgians remain in the Gali region, with UN estimates of about 45 000 people who had fled but had returned and a total population of between 60 000 and 70 000. The Abkhaz figures are, however, much higher and Georgian figures much lower. What is clear, however, is that the numbers are now falling and if this situation is to be stopped, much greater attention needs to be paid to the plight of those living in this region by the international community. As already noted, people in the region are becoming increasingly fearful that the international organisations, governmental and non-governmental, will gradually withdraw. Of most concern at the moment is UNOMIG and the question of its continued presence in Abkhazia. It is currently operating without a mandate since the Moscow agreement was made null and void.

21. In the view of the rapporteur, it is essential that a new mandate is worked out for a UN presence in Abkhazia and in particular for the Gali region where the mere presence of UN observers and patrols provides some welcome security for the local people.

22. The rapporteur considers it extremely important that the Council of Europe be further involved in Abkhazia and provide support for the United Nations in any future mission it undertakes in this region as a follow up to UNOMIG. Furthermore, the rapporteur considers that there is an urgent need for the Council of Europe Commissioner for Human Rights to visit the region again to raise awareness of the problems still being faced by people living in this region and to establish ways in which to tackle the human rights problems of these people.

7. The Kodori Valley

23. Abkhaz troops attacked the Kodori Valley on 9 August 2008 and took over the area after the local population and Georgian servicemen fled the area. Approximately 5 100 ethnic Georgians (Svans) fled the occupied area and it is thought that about 100 people remained.

24. It is not clear whether those who fled the area will be able and allowed to return after the winter. For those persons who did not leave the area, the winter will be long and harsh. The rapporteur understands that the ICRC and UNHCR have had access to these people and that they have been able to provide some assistance to them.

25. The rapporteur considers that return of the people who fled should be a priority for the spring and that pressure should be put on the de facto Abkhaz authorities and the Russian authorities to ensure that this return takes place in safety and in dignity.

8. The situation in South Ossetia

26. The rapporteur was unable to visit South Ossetia notwithstanding her request passed on by the Russian delegation of the Parliamentary Assembly to the de facto authorities in South Ossetia. She was informed that there were no cross-over points at the de facto “border” with Georgia and that foreign delegations had to enter South Ossetia from Russia. The rapporteur was invited to find a possibility to enter South Ossetia from the territory of Russia.

27. The rapporteur received this information the day before she was due to fly to Georgia on her visit and it was not possible for her to change her programme in the way suggested by the de facto South Ossetian authorities.

28. As a result of this, the rapporteur is not able to comment in any detail on the current situation in South Ossetia, either in terms of the humanitarian situation of the few Georgians still remaining in South Ossetia or in terms of the situation of the population at large and the refugees who have returned from Russia after the end of the conflict.

29. The rapporteur did, however, visit the region briefly with the ad hoc committee of the Parliamentary Assembly's Bureau on 26 September 2008. It is clear to the rapporteur that the situation in South Ossetia remains extremely complicated for the remaining Georgian population. They are cut off from the rest of Georgia with little access to international humanitarian aid and with little international human rights monitoring of their situation. Many are reportedly being pressurised into taking South Ossetian passports. One of the few human rights actors able to have regular access to the region has been the Council of Europe's Commissioner for Human Rights and the rapporteur commends him for his work and public statements on the situation in the region.

30. The UN Office for the Coordination of Humanitarian Affairs (OCHA) led an inter-agency mission to South Ossetia from 16 to 20 September 2008 to obtain an overall picture of the humanitarian needs and this included representatives from the Office of the High Commissioner for Human Rights (OHCHR), the United Nations Development Programme (UNDP), the Office of the UN High Commissioner for Refugees (UNHCR), the United Nations Children's Fund (UNICEF), the World Food Programme (WFP) and the World Health Organization (WHO). The ICRC is the only international organisation to be present on the ground in Tskhinvali and has been providing humanitarian aid from the first days of the conflict through to the present.

31. The population as a whole in South Ossetia is facing great hardship during the winter months with food and non-food items, electricity and gas being in short supply. Those with damaged or destroyed housing are in a particularly difficult situation. The rapporteur is greatly concerned by this situation and encourages the de facto South Ossetian authorities to allow humanitarian aid also from Georgia, and for the Georgian authorities to ensure that the recent Law on the Occupied Territories is not applied in such a way as to prevent humanitarian aid reaching people in need in South Ossetia.

9. The situation in the former so-called "buffer zone" with South Ossetia

32. The rapporteur visited the former so-called "buffer zone" and spoke with international organisations and non-governmental organisations (NGOs) and a number of locals in the area. She saw many destroyed properties, in particular as she approached the de facto "border" close to Tskhinvali.

33. The withdrawal of the Russian troops, the deployment of the EUMM, the monitoring by the OSCE and the deployment of Georgian police in the former so-called "buffer zone" have all contributed to improving the security in this region. The security, however, close to the de facto "border" remains problematic, to such an extent that many people are unable to return and those that have returned continue to feel extremely insecure. There are continuing incidents of sniper fire, kidnappings and roaming militia from South Ossetia intimidating locals and demanding food and drink. There were complaints that the local Georgian police were not sufficiently present and not patrolling at night and limiting their presence to the de facto "border" points.

34. The local population continue to express fears about unexploded ordnance and mines, the difficulties of accessing firewood or fields close to the de facto "border". They also express insecurity and fear at the sound of Russian helicopters flying overhead. The rapporteur during her visit was informed about a number of shooting incidents where Georgian police or officials and others were targeted by sniper fire. The rapporteur was also informed about booby traps, such as the incident in the Dvani area on 10 November when a booby trapped South Ossetian flag was taken down by Georgian police, killing two people and injuring three others.

35. The rapporteur is greatly concerned by the ongoing lack of security in the zones closest to the de facto "border". There clearly needs to be monitoring of the situation on both sides of the de facto "border" by both the EUMM and by the OSCE monitors (see point XI). The authorities in South Ossetia need to clamp down on the activities of militias operating from South Ossetia and the Georgian police need to provide a stronger presence, in particular at night, not just at the de facto "border" points, but throughout the villages in the most sensitive areas.

36. The rapporteur noted during her visit the very real danger and ease with which confrontations at the de facto “border” could quickly get out of hand. Many of the de facto “border” points have armed Georgian police and South Ossetian forces facing each other at short distances. There is a clear need for another solution, such as a demilitarised zone or international peace keepers on the de facto “border”.

10. The situation in the Akhalgori region and in Perevi

37. These are both areas which have been occupied by the Russian and South Ossetian forces outside of the pre-conflict de facto “border” of South Ossetia. Russian and South Ossetian forces have refused to pull back from their positions, notwithstanding international pressure on them to do so. Approximately 5 100 persons have already fled the region of Akhalgori and there are fears that even more people will leave due to the lack of security, combined with the harsh winter conditions and the lack of food, gas, heating and financial assistance and income.

11. The role of the European Union Monitoring Mission (EUMM)

38. The rapid deployment of the EUMM on 1 October 2008 has allowed the Russian forces to withdraw from most of the former so-called “buffer zone”. This has allowed many displaced persons to return to their homes before the onset of winter.

39. The mission has over 200 monitors working in the field. Monitors are unarmed and have the mandate of monitoring rather than protection. They currently cover the Georgian side of the de facto “border” with South Ossetia and Abkhazia as they have not been granted access to the other sides.

40. The rapporteur welcomes the prompt deployment of the mission and the news that they have received and continue to receive human rights training from the Council of Europe. Their mere presence in the former so-called “buffer zone” allows many in the zone to feel more secure and also provides a calming influence at the de facto “border” points where armed South Ossetian irregular forces and Georgian police face each other, sometimes no more than 50 metres apart.

41. The rapporteur greatly regrets that the monitors have no possibility for crossing the de facto “border” into South Ossetia. She also regrets that the monitors only have a monitoring mandate and not a protection mandate. She considers it imperative that the monitors have access to South Ossetia and Abkhazia and that either they be given a protection mandate or that consideration be given to developing their mandate into a peace-keeping mandate both sides of the de facto “border”. Should this not be appropriate, consideration should be given to providing such a mandate to another body such as the United Nations.

42. The rapporteur, while understanding the speed with which the EUMM has had to establish itself, has noted from her meetings with the EUMM and other persons in Georgia, a number of problems which need to be ironed out in the operation of the mission. The monitors are either Russian speakers or have access to Russian interpreters. While this would be important if they were able to work on the South Ossetian side of the de facto “border”, what they currently require is Georgian speakers and Georgian interpreters. The mission suffers from a lack of institutional memory from past European Union monitoring missions, the vehicles are from a variety of different countries creating problems of servicing and spares and the patrols are often based too widely apart, making it virtually impossible to reach certain areas during the hours of their patrols. Some commentators complained that the monitors were never seen beyond their vehicles and the rapporteur was led to understand that monitors were under instruction to remain on the roads. The rapporteur noted a certain frustration from different organisations that the reports of the EUMM were not made available. The rapporteur shares this frustration as she does not have access to these reports either. She considers that the EUMM should be providing at least some of its report to all concerned actors in the region or providing them with alternative reports if certain information is considered sensitive.

43. The rapporteur welcomes that the monitors have started to undertake night patrols alongside day patrols and from her conversations with a number of monitors she was impressed by the level of their individual commitment. The rapporteur encourages the European Union to provide full support to the monitoring operation and encourages the relevant authorities to facilitate the EUMM in carrying out its mandate and to revise the mandate as necessary.

12. The monitoring role of the OSCE

44. The OSCE is carrying out valuable monitoring work in the former so-called “buffer zone” with South Ossetia. The information available from the reports they prepare provides a good insight into the ongoing security concerns in this zone. This is particularly important as the reports of the EUMM are not generally available.

45. The rapporteur considers it important that the OSCE monitors be given access to South Ossetia to carry out their monitoring and that their numbers be increased.

13. IDPs and humanitarian aid in areas under the control of Georgia

46. The Georgian Government has shown a strong commitment to tackle the humanitarian issues its population is facing, learning from mistakes made following the earlier conflicts over Abkhazia and South Ossetia.

47. The government has moved quickly to provide durable solutions for those IDPs who have little or no prospect of return in the near future. The building of over 6 000 small family houses can be welcomed. These houses have a surface area of 65 square metres, gardens of approximately 400 square metres and some have inside bathrooms. They are equipped with basic furniture, crockery and the new residents have each been given a settling in allowance of 200 lari per head.

48. The rapporteur visited some of these houses during her visit to Georgia and they appear well built. There are, nonetheless, some criticisms which can be raised, namely the lack of bathrooms in certain houses and the location of these houses away from basic amenities and in areas with few economic prospects. There are also concerns about the lack of clarity as to the criteria for allocation of such housing. Furthermore, the fact that all the houses are the same size gives the impression that “one size fits all” when clearly this is not the case, not only in terms of size of the houses and families, but also the appropriateness of the houses for certain people with specific needs, such as the elderly.

49. As many of the people housed in these new homes are unlikely to return to their homes in the near future, it is important that the government now works on ensuring amenities and infrastructure in the vicinity (such as schools, shops and health-care clinics), that adequate arable land in the vicinity is provided to those with agrarian backgrounds and that employment opportunities are facilitated in the areas where the houses are built.

50. Along with the new houses built, the government has been working on the winterisation of 137 collective centres for IDPs. This is being done with assistance from many international actors. The rapporteur visited a collective centre in Tbilisi which housed both old and new IDPs. The building was a former hotel (Hotel Abkhazeti) where families were housed in single rooms, some with bathroom and some without. Cooking was being carried out on balconies and in the corridors. The collective centre was extremely dilapidated and dangerous and the rapporteur was informed that a number of persons had been killed in a fire in the building a few years earlier and that another person had tragically fallen to his death down the unprotected stairwell. The rapporteur considers that it is urgent to speed up rehabilitation work on the collective centres and provide more suitable accommodation to the many remaining IDPs in these centres whether they are recently displaced or those displaced from the earlier conflict.

51. For those persons who have damaged property from the recent conflict and who remained or returned, the rapporteur has concerns about their living conditions. While much work has been carried out to “winterise” these properties, providing at least one warm room, replacing broken windows, making available plastic sheeting, materials for building, for example, much of this work was carried out late in the year. This work needs to continue as a priority through the winter months.

52. The authorities have taken important steps to provide assistance to the most vulnerable, including those with psychological problems arising from the conflict. Schools in Georgia, including in the former so-called “buffer zone” have been re-opened and are functioning and school supplies have been distributed to the children. Free primary medical aid has been provided but needs to be extended over the winter.

53. The rapporteur welcomes the overwhelming international response to the humanitarian and protection needs of the IDPs in Georgia. US$4.5 billion has been pledged as a result of the Crisis Flash Appeal and the Joint Needs Assessment put together in the aftermath of the war. In terms of implementation, the government is assisted by an interagency co-ordination mechanism involving international organisations and NGOs, based on a cluster approach. Under this approach there is one lead agency which works with other agencies on individual issues such as education, food distribution, health, legal, information and other services, livelihoods,

mine action, non-food items, child protection, shelter, cash assistance to host families, returnees and others, and water and sanitation. The UNHCR, for example, has the lead on protection issues, while WHO has the lead on health issues.

54. Notwithstanding the good work that has been carried out to date, the rapporteur considers that certain action has to be undertaken as a matter of priority by the Georgian authorities.

55. It is important to improve the provisions of primary humanitarian aid including food and firewood to villages in the former so-called “buffer zone” adjacent to South Ossetia. It is also important to ensure that those who were not displaced by the conflict, but who are nonetheless affected by the conflict, receive appropriate aid. Furthermore there are still serious security concerns in the former so-called “buffer zone” and it is imperative that the police increase their patrols in these areas, in particular during the night.

56. One of the priorities for the Georgian Government is to adopt a revised strategy and action plan for new and old IDPs and ensure that assistance to these persons is provided on the basis of simple, rational, clear and transparent criteria of real need and vulnerability rather than status.

57. One of the complaints that the rapporteur heard on numerous occasions was that IDPs were not being systematically informed and consulted about their situation, their future and their entitlements. The rapporteur considers that it is important that information and communication channels are improved and that initiatives such as the creation of an information centre for IDPs in Gori are repeated elsewhere in Georgia. IDPs must be in possession of all relevant information in order to allow them to make a free and informed choice as to whether to integrate locally, return or resettle on a temporary or permanent basis.

58. The rapporteur also heard during her visit of the dangers of trafficking of newly displaced persons and that problems of violence against women existed, notwithstanding that few individuals were prepared to speak out on the subject. The rapporteur considers that the authorities must tackle these two issues.

59. The rapporteur also heard from a number of sources, including from the Public Defender of Georgia, that many persons affected by the conflict are unable to pay their banking loans. The problem is particularly acute for those who have lost their homes and their incomes. Solutions need to be found to help people in this situation.

60. The rapporteur is also greatly concerned by the new Law on the Occupied Territories which seeks to limit economic and other transactions with Abkhazia and South Ossetia. The rapporteur considers that it is important that this law is not applied in such a way as to worsen the humanitarian and human rights situation of those living on the other side of the de facto “borders” or in any way to impede the access of humanitarian aid.

61. The rapporteur encourages the Georgian authorities to seek expertise on the law and any implementing legislation from the European Commission for Democracy through Law (Venice Commission) to make sure it does not infringe any human rights or humanitarian standards.

14. Conclusions

62. The rapporteur regrets that at the time of preparing this report she had not had the opportunity to carry out a full visit to South Ossetia. She remains ready to travel to South Ossetia in order to supplement the information in this report, or to prepare a separate report on South Ossetia, should this be the wish of the Assembly.

63. The humanitarian consequences of the war between Georgia and Russia are far from solved and the position is changing rapidly on the ground from week to week, season to season. The rapporteur remains greatly concerned about the security situation of the ethnic Georgians remaining in South Ossetia and Abkhazia and in the occupied zones. She is also acutely aware of the hardships faced by all those affected by the conflict, whether because of loss of loved ones, loss of property or livelihood, or because of the extremely difficult living conditions in collective centres, new homes or destroyed or damaged homes, where heating and availability of food may continue to be a problem during the winter months.

64. The rapporteur was, however, heartened by the effort being made by many to tackle the humanitarian challenges arising from the conflict and considers that the Parliamentary Assembly of the Council of Europe should keep the issue as a priority on its agenda.

Reporting committee: Committee on Migration, Refugees and Population.

Reference to committee: Bureau's decision, Reference No. 3495 of 24 November 2008.

Draft recommendation and draft resolution unanimously adopted by the committee on 11 December 2008.

Members of the committee: Mrs Corien W.A. **Jonker** (Chairperson), Mr Doug **Henderson** (1st Vice-Chairperson), Mr Pedro **Agramunt** (2nd Vice-Chairperson), Mr Alessandro Rossi (3rd Vice-Chairperson), Mrs Tina **Acketoft**, Mr Francis **Agius**, Mr Ioannis Banias, Ms Donka Banović, Mr Márton Braun, Mr André Bugnon, Mr Mevlüt **Çavuşoğlu**, Mr Sergej Chelemendik, Mr Vannino Chiti, Mr Christopher Chope (alternate: Mr Bill **Etherington**), Mr Boriss Cilevičs, Mrs Minodora Cliveti, Mr Telmo Correia, Mrs Claire **Curtis-Thomas**, Mr Ivica Dačić, Mr Taulant Dedja, Mr Nikolaos Dendias, Mr Arcadio **DíazTejera**, Mr Mitko **Dimitrov**, Mr Karl Donabauer, Mr Tuur Elzinga, Mr Valeriy Fedorov, Mr Oleksandr Feldman, Mrs Doris Fiala, Mr Bernard Fournier, Mr Paul Giacobbi, Mrs Gunn Karin Gjul, Mrs Angelika Graf, Mr John Greenway (alternate: Mr Humfrey **Malins**), Mr Tony Gregory, Mr Andrzej Grzyb, Mr Michael **Hagberg**, Mrs Gultakin Hajiyeva, Mr Davit Harutyunyan (alternate: Mrs Hermine **Naghdalyan**), Mr Jürgen Herrmann, Mr Bernd Heynemann, Mr Jean Huss, Mr Ilie Ilaşcu, Mr Tadeusz **Iwiński**, Mr Mustafa **Jemiliev**, Mr Tomáš Jirsa, Mr Reijo Kallio, Mr Hakki Keskin, Mr Guiorgui Kandelaki (alternate: Mr David **Darchiashvili**), Mr Egidijus Klumbys, Mr Ruslan Kondratov, Mr Dimitrij Kovačič, Mr Andros Kyprianou, Mr Geert **Lambert**, Mr Younal Loutfi (alternate: Mrs Aneliya **Atanasova**), Mr Andrija Mandić, Mr Jean-Pierre Masseret (alternate: Mr Denis **Jacquat**), Mr Slavko Matić, Mrs Ana Catarina Mendonça, Mr Gebhard Negele, Mr Hryhoriy **Omelchenko**, Mr Morten Østergaard, Mr Alexey Ostrovsky, Mr Grigore Petrenco, Mr Cezar Florin Preda, Mr Milorad Pupovac, Mr Frédéric Reiss, Mrs Mailis **Reps**, Mr Gonzalo Robles Orozco (alternate: Mr Gabino **Puche**), Mr Giacomo Santini, Mrs Michaela Sburny, Mr Samad Seyidov, Mr Steingrímur J. Sigfússon, Mrs Miet Smet, Mr Giacomo Stucchi, Mr Vilmos **Szabó**, Mr Tuğrul **Türkeş**, Mrs Özlem Türköne, Mr Michał Wojtczak, Mr Marco Zacchera, Mr Yury Zelenskiy, Mr Andrej Zernovski, Mr Jiří Zlatuška.

NB: The names of the members who took part in the meeting are printed in **bold**.

Secretariat of the committee: Mr Lervik, Mr Neville, Mrs Odrats, Mr Ekström.