

HUMAN RIGHTS SITUATION
IN OCCUPIED REGIONS OF GEORGIA - ABKHAZIA AND SOUTH
OSSETIA/TSKHINVALI REGION AND DIVIDING LINES



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Non-governmental organization the **HUMAN RIGHTS CENTER**, formerly the Human Rights Information and Documentation Center (HRIDC) was founded on December 10, 1996 in Tbilisi, Georgia. The HRIDC aims to increase respect for human rights, fundamental freedoms and facilitate the peace-building process in Georgia. To achieve this goal, it is essential to ensure that authorities respect the rule of law and principles of transparency and separation of powers, to eliminate discrimination at all levels, and increase awareness and respect for human rights among the people in Georgia.

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INTRODUCTION

The following report reviews and analyzes human rights situation in the regions of Georgia, Abkhazia and South Ossetia/Tskhinvali Region, occupied by the Russian Federation. The report also covers human rights violations committed near the dividing lines¹ between the occupied territories and the territory controlled by Georgia (hereinafter: “dividing lines”).

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The report reflects main human rights challenges in the occupied regions during 2020 (since January till August 2020): challenges brought by COVID 19 pandemic and inaction of the Russian Federation when it comes to ensuring human rights protection in the occupied territories, neglecting vital needs of the occupied regions in relation to the fight against pandemic, not taking measures necessary for the prevention of the spread of coronavirus and not fulfilling its human rights obligations stemming from the fact of effective control. The report also covers grave human rights violations by the occupying forces in Akhagori District in South Ossetia/Tskhinvali region, including, restricting freedom of movement and not allowing people in critical health state to pass to the territory controlled by Georgia to receive medical help that puts their life and health in serious danger. During 2020, due to the restriction of freedom of movement and lack of adequate and timely access to health care, allegedly, numerous patients have died in Akhagori District.

The report also examines various facts of grave human rights violations near the dividing lines by the occupying forces: illegal borderization, restricting access of the local population to natural resources, violations of right to property, as well as cases of illegal detentions and abductions that continued during the global coronavirus outbreak.

Due to continuous oppression by the occupying forces, the physical inviolability and livelihood sources of the local population are under constant danger near the dividing lines. Moreover, they are experiencing alarming socio-economic problems, such as, restricted access to water and unclean drinking water. The relevant bodies of the central and local government of Georgia must immediately solve these problems and provide sufficient domestic and drinking water to the local population living near the dividing lines. The right to water is essential prerequisite for realizing

¹ The dividing line between the occupied territories and territory controlled by Georgia is also referred as “occupation line”.

any fundamental human right and its minimal requirements must be immediately realized by the government of Georgia.

During 2020, the representatives of Human Rights Center made monitoring visits to nine villages adjacent to the dividing line between South Ossetia/Tskhinvali Region and rest of Georgia where the above mentioned human rights violations are being committed by the occupying forces. The representatives of Human Rights Center got acquainted with the problems, interviewed the local population and documented the issues on the spot. The present report provides the analysis of human rights violations revealed as a result of these monitoring visits. The report also includes public information received from various state bodies, such as State Security Service and Office of the General Prosecutor of Georgia. page | 5

Above described human rights violations are analyzed according to the method of comparative-legal analysis. Specifically, the information received as a result of monitoring visits regarding specific human rights violations and practice of human rights violations along the dividing lines are analyzed in the light of the European Convention of Human Rights, case law of the European Court of Human Rights and its relevant decisions, International Covenant on Economic, Social and Cultural Rights and relevant opinions of UN Committee on Economic, Social and Cultural Rights.

Besides information obtained by Human Rights Center, the report also includes information regarding various human rights violations in the occupied regions of Abkhazia and South Ossetia/Tskhinvali Region and dividing lines coming from reports of other local NGOs and international organizations which are referenced in the report.

MAIN FINDINGS

Human Rights Situation in the Occupied Regions of Abkhazia and South Ossetia/Tskhinvali Region

COVID-19 pandemic brought new human rights challenges in the regions of Georgia – Abkhazia and South Ossetia/Tskhinvali region – occupied by the Russian Federation. The Russian Federation exercises effective control over both regions² and therefore it is responsible for ensuring the human rights protection in these territories. The Russian Federation does not acknowledge the fact of exercising effective control over Abkhazia and South Ossetia/Tskhinvali region and it does not fulfill its human rights obligations in these territories. The state exercising effective control over the territory bears both negative and positive obligations to ensure human rights protection in this territory³. Negative obligation implies that the state must refrain from the acts which violate human rights. Positive obligation means that the state must secure protection of human rights with active measures. The Russian Federation bears positive obligation to secure right to life and healthcare of the population living in the occupied regions which are substantially threatened by COVID-19 pandemic. It must equip the de facto administrations of the occupied regions with relevant resources, including personal protective equipment and medical means necessary for the prevention of the spread of the coronavirus. The Russian Federation disregards these obligations and fails to assist the occupied territories in the fight against the pandemic.

The de facto administrations of Abkhazia and South Ossetia/Tskhinvali Region exist with the financial, political and military support of the Russian Federation. The system of governance, economy and healthcare in the de facto territories are not sound enough in order to independently address the crisis caused by the pandemic. In the initial period of the spread of the pandemic, the de facto territories especially lacked the personal protective equipment and medical means for the prevention of the spread of the coronavirus. The representatives of the de facto bodies acknowledged that they were not prepared to fight the coronavirus⁴⁻⁵. The Russian

² Pages 37-40, “Zone of Barbed Wires – Mass Human Rights Violations along the Dividing Lines of Abkhazia and South Ossetia”, Human Rights Center, 2018:

<http://hridc.org/admin/editor/uploads/files/pdf/hrcprep2018/Zone%20of%20Barbed%20Wires-Report%20-eng%202019.pdf>

³ See following chapter of this report: “Responsibility for the Human Rights Situation in the Occupied Regions and Dividing Lines”

⁴ <https://netgazeti.ge/news/437489/> (available only in Georgian)

Federation did not equip the de facto territories with critically important medical equipment and other medical means necessary for the prevention of the spread of the coronavirus. These supplies were mainly provided by the international organizations, including United Nations Development Programme (UNDP)⁶, World Health Organization (WHO)⁷ and United Nations Children's Fund (UNICEF)⁸ to Abkhazia. As for South Ossetia/Tskhinvali Region, the de facto government of which refused the help from international governmental organizations⁹ because they would enter the region from the territory controlled by Georgia, there is still deficit of medical equipment and other medical means necessary for the prevention of the spread of coronavirus¹⁰.

The Russian Federation stopped export of certain medical means in the beginning of March, including personal protective equipment¹¹. It justified its decision by the deficit of such medical supplies in the Russian Federation¹² and need of protection of interests of citizens of the Russian Federation¹³⁻¹⁴. In the beginning of April 2020, the Russian Federation provided 500 COVID-19 test kits and sent soldiers to support disinfection of public places in Abkhazia¹⁵. The medical supplies provided by the Russian Federation to South Ossetia/Tskhinvali Region were also inadequate during the critical period of the spread of coronavirus in the region¹⁶.

⁵ <https://bit.ly/2Dc4pNq> (available only in Georgian)

⁶ According to existing information, the help provided by UNDP to Abkhazia for combating coronavirus exceeded 100 thousand US dollars:

<https://netgazeti.ge/news/456271/> (available only in Georgian)

⁷ <https://unpo.org/article/21820>

⁸ <https://civil.ge/ka/archives/342458> (available only in Georgian)

⁹ pages 13-14, International Crisis Group, Crisis Group Europe Briefing N°89:

[https://d2071andvip0wj.cloudfront.net/b089-covid-and-statelets%20\(1\).pdf](https://d2071andvip0wj.cloudfront.net/b089-covid-and-statelets%20(1).pdf)

¹⁰ <https://www.radiotavisupleba.ge/a/30796836.html> (available only in Georgian)

¹¹ With following exceptions – humanitarian help to foreign countries and personal purchases by physical persons:

<http://static.government.ru/media/files/odPVbEJwgG6QH0ryelXGwqAIBTnzjfMm.pdf> (available only in Russian)

¹² <https://ru.euronews.com/2020/03/04/ru-coronavirus-masks-export> (available only in Russian)

¹³ <http://static.government.ru/media/files/odPVbEJwgG6QH0ryelXGwqAIBTnzjfMm.pdf> (available only in Russian)

¹⁴ This ban on exports was uplifted on May 4, 2020:

<https://russiabusinesstoday.com/economy/government-lifts-ban-on-medical-masks-equipment-export-form-russia/>

¹⁵ Page 14, International Crisis Group, Crisis Group Europe Briefing N°89:

[https://d2071andvip0wj.cloudfront.net/b089-covid-and-statelets%20\(1\).pdf](https://d2071andvip0wj.cloudfront.net/b089-covid-and-statelets%20(1).pdf)

¹⁶ Page 13, International Crisis Group, Crisis Group Europe Briefing N°89:

[https://d2071andvip0wj.cloudfront.net/b089-covid-and-statelets%20\(1\).pdf](https://d2071andvip0wj.cloudfront.net/b089-covid-and-statelets%20(1).pdf)

In order to prevent the spread of the coronavirus in the occupied territories, the Russian Federation did not ensure taking relevant measures and setting restrictions timely on the movement between the occupied regions and the Russian Federation, at the Russia-Georgia state border at river Psou and Roki Tunnel which connect these regions and the Russian Federation. The citizens of the Russian Federation could cross the border at the river Psou and enter the occupied region of Abkhazia till March 25, 2020 without any restrictions¹⁷⁻¹⁸. At this time, the coronavirus was intensively spreading in different regions of the Russian Federation. Therefore, unrestricted movement from the Russian Federation posed significant threats for the spread of the coronavirus in the occupied territories where it was not identified yet. The restrictions were first introduced on March 25, only in relation to the touristic visits and excursions¹⁹. Stricter restrictions were introduced on March 28²⁰. The citizens of the Russian Federation could enter South Ossetia/Tskhinvali Region without restrictions until the beginning of April 2020. The de facto administration of South Ossetia/Tskhinvali Region made decision to close the de facto border with the Russian Federation on April 2²¹⁻²².

According to information of the de facto organs, the first cases of coronavirus were the residents of the occupied regions who came back to the regions from the Russian Federation. According to information of the de facto government of Abkhazia, the first case of the coronavirus was revealed on April 7²³. As for South Ossetia/Tskhinvali region, the de facto government confirmed the first case of coronavirus on May 6²⁴.

The de facto government of Abkhazia opened the de facto border with the Russian Federation on August 1. It should be noted that in August the cases of coronavirus significantly increased in Abkhazia²⁵. Since May till July, there were 81 cases of

¹⁷ <https://netgazeti.ge/news/437489/> (available only in Georgian)

¹⁸ <https://www.ekhokavkaza.com/a/30508447.html> (available only in Russian)

¹⁹ *ibid*

²⁰ According to these restrictions, the citizens of the Russian Federation could no longer enter Abkhazia, except for the diplomats from the Russian Federation, employees of Federal Security Service of the Russian Federation and the drivers of the vehicles carrying cargo:

<https://netgazeti.ge/news/438606/> (available only in Georgian)

²¹ <https://civil.ge/ka/archives/350339> (available only in Georgian)

²² <https://bit.ly/2QMctby> (available only in Georgian)

²³ <https://civil.ge/ka/archives/346043> (available only in Georgian)

²⁴ <https://netgazeti.ge/news/451428/> (available only in Georgian)

²⁵ <https://bit.ly/3IHMUX6> (available only in Georgian)

coronavirus in Abkhazia, since July 31 till 29 August – 234²⁶. The de facto government of South Ossetia/Tskhinvali Region plans to open the de facto border with the Russian Federation on September 15²⁷.

It should be noted that the de facto administrations of Abkhazia and South Ossetia stopped movement with the territory controlled by the central government of Georgia since the end of February 2020 and closed all checkpoints connecting de facto territories to the rest of Georgia²⁸. page | 9

In the light of the COVID 19 pandemic and challenges brought by it, existing human rights issues became more visible and intensified in both occupied regions. The access to adequate healthcare became especially problematic In Akhalgori District of South Ossetia/Tskhinvali Region where the healthcare service are inadequate and they fail to provide urgent and appropriate medical assistance to the patients in critical health conditions. The occupying forces are not only passive when it comes to ensuring adequate healthcare services for the population living in Akhalgori District, but they restrict their access to the relevant healthcare services with active measures as well. In the beginning of September 2019, the occupying forces fully closed Mosabruni-Odzisi crossing point which connected Akhalgori District with the rest of Georgia and it had vital meaning for the local population of Akhalgori District²⁹. Mosabruni-Odzisi crossing point was used by 400 people daily on average. They regularly came to the territory controlled by the central government of Georgia for receiving medical and social services, for educational purposes as well as private reasons, such as seeing family members and relatives³⁰. Since January 2020, the de facto government started to allow crossing in exceptional cases. However, after the spread of coronavirus, the occupying forces once again introduced full ban on the use of Mosabruni-Odzisi crossing point and denied crossing for the patients in critical health conditions³¹. According to information of official bodies of Georgia, as a result of closing crossing points and restricting freedom of movement by the

²⁶ *ibid*

²⁷ *ibid*

²⁸ See the following chapter of this report: “Similarities and Differences in terms of Fighting Coronavirus in occupied Abkhazia and South Ossetia/Tskhinvali Region”

²⁹ <https://gyla.ge/en/post/arasamtavrobo-organizaciebis-mimartva-saertashoriso-organizaciebs-akhalgorshi-arsebuli-humanitaruli-krizisis-shesakheb#sthash.mUP8EerS.dpbs>

³⁰ *ibid*

³¹ See chapter “Right to Life and Healthcare under Threat in Akhalgori District”

occupying forces of South Ossetia/Tskhinvali Region, allegedly, 13 people have died since September 4, 2019 till April 15, 2020³².

The access to adequate healthcare and social services is restricted for the population of occupied Gali District, Abkhazia as well. The residents of Gali District regularly came to the territory controlled by Georgia for receiving healthcare services, pension and allowance for Internally Displaced Persons (IDPs) and for other private reasons. It should be noted that the occupying forces periodically open the main crossing point at the river Enguri which connects the occupied Gali District to the rest of Georgia for humanitarian reasons, enabling the residents of the Gali District to come to the territory controlled by Georgia as well as return to the District. However, according to the existing regulations, the individuals who come to the territory controlled by Georgia from the occupied regions have to go through quarantine or self-isolation³³. These regulations are especially problematic for those patients who came to the territory controlled by Georgia from Gali District for receiving urgent medical help, also, for the patients with severe illnesses who went through regular treatment in the territory controlled by Georgia. The rules of quarantine and self-isolation hinder and delay their crossing and scheduled medical treatment in Georgian central government-controlled territory³⁴. The restrictions related to the quarantine and self-isolation also hinder the crossing of pensioners and IDPs from Gali District to the territory controlled by Georgia. These individuals regularly came to the territory controlled by Georgia for receiving pension and IDP allowance that was often their main source of income³⁵.

Human Rights Situation along the Dividing Lines of Occupied Regions

Illegal Detentions and Borderization

The representatives of the occupying forces continued setting up barbed wires in the territory controlled by Georgia and taking away agricultural land and other natural resources of the local population. As a result, the local residents lose their main source of income and daily food that they received from the local natural resources.

³² <https://netgazeti.ge/news/443679/> (available only in Georgian)

³³ Resolution №344 of the Georgian government “Regarding Making Amendments to Resolution №322 of May 23, 2020 of the Georgian Government in relation to Adoption of Rules of Isolation and Quarantine”:

<https://matsne.gov.ge/ka/document/view/4886309?publication=0>

³⁴ <http://www.democracyresearch.org/eng/379>

³⁵ *ibid*

In April 2020, the representatives of the occupying forces erected barbed wires in the villages of Kareli municipality – Takhtisdziri and Dirbi. As a result, more than hectare of agricultural land of the local population which they cultivated for tens of years and harvested various agricultural crops, was entirely taken away by the barbed wires³⁶. As the representatives of Human Rights Center ascertained from the meetings with these families, the harvest received from the cultivation of this land was their main food and it was also their main source of income as well as they sold the harvest and received revenue as a result. The barbed wires took their land and they are uncertain how to ensure the main needs of their family³⁷. As the families said, they addressed the Public Registry of Georgia in the past in order to officially register this land under their ownership. However, as the families stated, the Registry refused to decide on the issue of registration due to the land being situated near the occupation line. The Georgian government has not offered alternative land to the families in exchange of the land that they lost or compensation for the lost land³⁸.

The above described deprivation of access to the natural resources by the occupying forces violates right to adequate food. According to the UN Committee on Economic, Social and Cultural Rights, the core content of the right to adequate food implies availability of food³⁹. Availability refers to the possibilities either for feeding oneself directly from productive land or other natural resources⁴⁰. If the people who lost access to resources for direct food production, are able to earn income and purchase food in this way, the right to food is not violated⁴¹. If they lost opportunity to earn income as well, besides losing access to resources for direct food production, the right to food is violated. In the village Takhtisdziri and in number of other villages situated along the occupation line, the land taken as a result of the borderization was the main resource of direct food production for the local population – they were feeding their families directly from this productive land, with the harvest that this

³⁶ Statement of Human Rights Center:

<http://humanrights.ge/index.php?a=main&pid=20180&lang=eng&fbclid=IwAR32kvB2OsMBBjyGbOqSoIVVQAFkQwFuKNNP3aIm3POADwiVkllyzKYdfqc>

³⁷ *ibid*

³⁸ *ibid*

³⁹ Paragraph 8, CESCR General Comment No. 12: The Right to Adequate Food (Art. 11):

<https://www.refworld.org/pdfile/4538838c11.pdf>

⁴⁰ Paragraph 12, CESCR General Comment No. 12: The Right to Adequate Food (Art. 11):

<https://www.refworld.org/pdfile/4538838c11.pdf>

⁴¹ Right to Food and Access to Natural Resources, Food and Agriculture Organization of the United Nations:

<http://www.fao.org/3/a-a1605e.pdf>

land produced. This land was also their main source of income – they sold the harvest and received income as a result. Thus, the local people lost access to the main resource of direct food production, as well as lost their main source of income. Therefore, through illegal borderization and capturing land of the local population along the dividing line of South Ossetia/Tskhinvali Region, the Russian Federation violates the right to adequate food. page | 12

The barbed wires and other physical barriers erected by the occupying forces of the Russian Federation in Georgia in recent years captured the land and pastures of the locals in many villages and deprived them possibility to use these natural resources⁴². The representatives of the border service of the Russian Federation illegally detain and abduct the locals in the process of obtaining local natural resources as well, for instance, when they pick mushrooms in the forest, take wood from the forest and cultivate the land⁴³.

According to the information provided by the State Security Service of Georgia to Human Rights Center on August 3, 2020, the total length of the occupation line towards the direction of the occupied Tskhinvali Region amounts to more than 350 km. The occupying forces of the Russian Federation have erected barbed wires and fences, amounting to more than 53 km in length along the villages of the following municipalities – Dusheti, Gori, Kareli, Kaspi, Khashuri, Oni and Sachkhere.

According to information of State Security Service of Georgia, towards the direction of occupied Abkhazia, the total length of the occupation line is approximately 145 km. The occupying forces of the Russian Federation have erected fences, barbed wires, made trenches, ditches and so-called tillages against fire which amount to more than 49 km in length. The illegal process of the borderization takes place along following villages of Gali District – Pichora, Otobaia, Nabakevi, Tagiloni, Dikhazurga, Saberio and Lekukhona.

This data demonstrates high scale of the illegal borderization exercised by the Russian Federation on the territory of Georgia: in case of occupied Abkhazia, the

⁴² The representatives of Human Rights Center got acquainted with the situation on the spot and provided legal assistance to the citizens in following villages situated along the dividing line of South Ossetia/Tskhinvali Region: Zardiaantkari, Takhtisdziri, Khurvaleti, Atotsi, Akhrisi, Ditsi, Gugutiantkari, Bershueti.

⁴³ The representatives of Human Rights Center revealed such facts in following villages situated along the dividing line of South Ossetia/Tskhinvali Region: Kirbali, Kvemochala and Bershueti.

artificial barriers take up approximately 1/3 of the occupation line, in case of the occupied South Ossetia/Tskhinvali region – approximately 1/7.

When it comes to the protection of the right to property of the local people living near the occupation line, the approach of Georgian government is problematic. Takhtisdziri case is similar to the case of I.B. who lives in the village Ditsi near the occupation line of South Ossetia/Tskhinvali Region. Human Rights Center provided legal assistance to I.B. in previous years. The land of I.B. which he has been cultivating for years, is situated near the occupation line. The Public Registry of Georgia refused to register the land of I.B. The reason of refusal of the registration was the fact of location of the land in the occupied territory, according to the Public Registry. However, this information is factually incorrect. This land is not occupied. It should be noted that the common courts of Georgia made decision in favor of I.B. and obliged the Public Registry to register the agricultural land of I.B. to his ownership⁴⁴. In case of Takhtisdziri, the Public Registry allegedly refused the local residents to register the land to their ownership due to it being situated near the occupation line. As for I.B., The Public Registry claimed that the land is occupied – however, in fact, it is not.

Similar to the case of Takhtisdziri, the state does not offer compensation or alternative land to G.Kh, the local resident in the village Akhrisi whose agricultural land was taken away by the barbed wires which were erected by the occupying forces in the village in 2012. This land was registered under his ownership. The problem here was the fact that despite losing the access to the land and possibility to receive income from it, the Revenue Service of Georgia imposed property tax on this citizen for this land. As a result of the legal assistance of Human Rights Center to the relevant state organs of Georgia, the property tax was uplifted. However, the state has not provided him alternative land or the compensation for the lost land. Human Rights Center continues advocacy on this case⁴⁵.

During 2020, the representatives of the occupying forces continued illegal detention of the locals near the dividing lines of occupied Abkhazia and South Ossetia/Tskhinvali Region, including in the territory controlled by Georgia. The illegal detention of 33-year-old Z.G. who lives in the village Kvemochala of Kaspi Municipality and was illegally detained near the Skhvilo Fortress on July 11, 2020,

⁴⁴ <http://humanrights.ge/index.php?a=main&pid=20180&lang=eng>

⁴⁵ <http://humanrights.ge/index.php?a=main&pid=20180&lang=eng>

represented similar fact⁴⁶. The representatives of Human Rights Center visited the village Kvemochala and studied the territory surrounding the Skhvilos Fortress where allegedly the illegal detention of Z.G. took place. As it was revealed from the interviews with the local residents, this territory was controlled by the central government of Georgia before the 2008 Russia-Georgia August War and after the war. However, in recent years, the representatives of the occupying forces arbitrarily come on this territory and they illegally detain individuals. There is no warning sign on this territory or video monitoring which could be one of the ways for the monitoring and possibly prevent illegal detention of local residents.

On July 3, 2020, the representatives of the occupying forces detained Kh.M. near the village Adzvistavi along the dividing line of South Ossetia/Tskhinvali Region⁴⁷. In the beginning, the de facto Security Council of South Ossetia/Tskhinvali Region disseminated information according to which Kh.M. went to the occupied territory in order to catch bat embryos and later sell them with the purpose to pass them to Richard Lugar Public Health Research Center⁴⁸. The de facto Security Council of South Ossetia/Tskhinvali Region constantly disseminated disinformation regarding the Richard Lugar Public Health Research Center. It called on the local population to be attentive and warned them regarding the danger coming from the territory controlled by Georgia, in relation to the “passing of dangerous infection”⁴⁹. The de facto organs later retracted the accusation against Kh. M. regarding catching of bat embryos. However, he was charged with the so-called “illegal crossing of border” and was imposed three-month preliminary imprisonment⁵⁰.

The representatives of Human Rights Center visited the village Adzvi in September 2020 and studied the territory where the occupying forces illegally detain people in recent years. The representatives of the occupying forces put up a banner denoting “border” between the occupied village Adzvistavi and Adzvi, village controlled by Georgia, after the 2008 Russia-Georgia August War. Since then, the representatives of the occupying forces come to the territory controlled by Georgia, in the Holy Oak

⁴⁶ <https://bit.ly/2QkEJSr> (available only in Georgian)

⁴⁷ <https://www.radiotavisupleba.ge/a/30726298.html> (available only in Georgian)

⁴⁸ <https://www.radiotavisupleba.ge/a/30726298.html> (available only in Georgian)

⁴⁹ <https://bit.ly/2QFbBp3> (available only in Georgian)

⁵⁰ <https://netgazeti.ge/news/476867/> (available only in Georgian)

Forest which falls in the territory of the unrecognized “border” and illegally detain the citizens in this way. The illegal detentions especially increased in recent years⁵¹.

According to information of the State Security Service of Georgia, since January 1, 2020 till July 1, 2020, towards the direction of the occupied Tskhinvali Region, 24 cases of illegal detentions of the individuals living in occupied region or in the territory controlled by the central government of Georgia, were identified. As for the direction of Abkhazia – 6 cases. page | 15

According to information of State Security Service of Georgia provided to Human Rights Center on August 8, 2020, the fines set for the release of the illegally detained individuals vary from 2000 Russian Ruble [approximately 82 GEL] up to 20 000 Russian Ruble [approximately 821 GEL]. As for occupied Abkhazia - from 30 000 Russian Ruble [approximately 1231 GEL] up to 60 000 Russian Ruble [approximately 2464 GEL].

According to information that Human Rights Center received from the individuals illegally detained along the dividing lines of Abkhazia and South Ossetia/Tskhinvali Region in recent years, high fines represent additional burden to their severe socio-economic state. As they stated, sometimes they have to take debt in order to pay the fine and obtain release.

According to information provided by the Office of General Prosecutor of Georgia to Human Rights Center on August 21, 2020, “the criminal proceedings are ongoing by the law enforcement bodies of Georgia in relation to the facts of illegal detentions in the occupied territory. Within the frameworks of the ongoing proceedings, relevant procedural and investigative activities have taken place”. According to information provided by the Office of General Prosecutor of Georgia, since January 1, 2020 till July 1, 2020, nobody has been charged in relation to the illegal detentions.

During the preparation of the present report, On September 1, 2020, the new fact of illegal borderization has been observed – the representatives of the border service of the Russian Federation made tillages in the soil in the village Karapila in the Kaspi

⁵¹ <https://www.qartli.ge/ge/akhali-ambebi/article/7987-adzvistsmindagiorgissalocavitsmindamukhistyeshi> (available only in Georgian)

Municipality⁵². The representatives of Human Rights Center will follow the developments surrounding this incident.

Restricted Water Supply along the Dividing Line of South Ossetia/Tskhinvali Region

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The monitoring visits to various villages situated along the dividing line of South Ossetia/Tskhinvali Region have demonstrated that in some villages the socio-economic situation of the local population is critical. In various villages adjacent to the dividing line of South Ossetia/Tskhinvali Region, the local population is supplied with insufficient water and/or with unclean drinking water⁵³. Non-existence of the irrigation channels and damaged irrigation channels are also problematic. Due to these problems, the local population experiences problems when it comes to the cultivation of their agricultural land which is their main source of income.

The representatives of Human Rights Center saw alarming fact in the village Dirbi which is located near the occupation line of South Ossetia/Tskhinvali Region in June 2020 – approximately 10 people were standing in the line of water supply facility along the village road. According to information received from these people, they regularly stand in line at this facility in order to receive water, sometimes, for hours. They use this water both for domestic, as well as drinking purposes. They are not provided with sufficient water supply in homes⁵⁴.

Right to water is necessary prerequisite for the realization of right to life, healthcare, adequate standard of living and any other fundamental human right⁵⁵. In order to realize this right, the state parties to the International Covenant on Economic, Social and Cultural Rights bear certain core obligations which must be realized immediately⁵⁶. Such core obligation is ensuring physical access to water facilities or services that have a sufficient number of water outlets to avoid prohibitive waiting

⁵² <https://www.radiotavisupleba.ge/a/30815479.html> (available only in Georgian)

⁵³ The representatives of Human Rights Center visited the village Dirbi of Kareli Municipality where the population is supplied with unclean drinking water, with restricted schedule. The local population gets water from the wells in the villages Zadiantkari and Saribari in Kaspi Municipality for years as well.

⁵⁴ See photo:

<http://humanrights.ge/index.php?a=main&pid=20180&lang=eng>

⁵⁵ Paragraph 37, UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15: The Right to Water:

<https://www.refworld.org/docid/4538838d11.html>

⁵⁶ *ibid*

times⁵⁷. This principle was clearly violated in the village Dirbi. The lack of state resources cannot justify non-fulfillment of this obligation unless the state applied all measures within its existing resources for its implementation⁵⁸.

According to information provided by Kareli Municipality City Hall to Human Rights Center on August 31, 2020, according to the 2020 local budget of Kareli municipality, the work is planned for arranging the system of drinking water in the village Dirbi. According to the City Hall, the project was going through expertise in Levan Samkharauli National Forensics Bureau. After the project is corrected, the tender will be announced for implementing the work. page | 17

Another core obligation of the state in relation to right to water is ensuring reasonable distance between the water facilities and household⁵⁹. In June 2020, the representatives of Human Rights Center visited the village Zadiantkari situated near the occupation line in Kareli Municipality where the residents of three villages come to take water from one facility for drinking and domestic purposes, according to information provided by the local population (Zadiantkari, Saribari and Kodistskaro).

The Georgian government must immediately solve the problems related to access to water existing in the village Dirbi and in other villages near the dividing lines and ensure the local population with sufficient water for drinking and domestic purposes.

⁵⁷ Paragraph 37, UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15: The Right to Water:

<https://www.refworld.org/docid/4538838d11.html>

⁵⁸ Paragraph 10, UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15: The Right to Water:

<https://www.refworld.org/docid/4538838d11.html>

⁵⁹ *ibid*

Responsibility for Human Rights Situation Existing in the Occupied Regions and Dividing Lines

The Russian Federation is obliged to ensure human rights protection in Abkhazia and South Ossetia/Tskhinvali Region considering that it exercises effective control over these regions – the de facto administrations of these territories are existing on the basis of financial, political and military support of the Russian Federation⁶⁰. The effective control of the Russian Federation over the territories of Abkhazia and South Ossetia/Tskhinvali Region is confirmed by following facts: the de facto organs and local administrations exist on the basis of support of the Russian Federation; the Russian Federation finances most part of the budgets of Abkhazia and South Ossetia/Tskhinvali Region; the Russian Federation gives Russian passports to the residents of both regions and provides social benefits for them; it has put its military bases in both territories and subjected the de facto armed groups of Abkhazia and South Ossetia/Tskhinvali region to its armed forces⁶¹; it has put the representatives of its border service along the occupation line which belong to the Federal Security Service of the Russian Federation and consequently to its military service.

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The state exercising effective control over the territory is obliged to ensure the protection of civil and political rights⁶², as well as social and economic rights on this territory. According to the UN Committee on Economic, Social and Cultural Rights (CESCR), the state party's obligations under the Covenant apply to all territories and populations under its effective control⁶³. In its concluding observations regarding the second periodic report of Israel on the implementation of the International Covenant on Economic, Social and Cultural Rights, the UN CESCR formulates recommendations which reflect both negative as well as positive obligations. (For example, following recommendations reflect the positive obligations: “ensure equitable access to and distribution of water to all populations living in the occupied

⁶⁰ Pages 37-40, “Zone of Barbed Wires – Mass Human Rights Violations along the Dividing Lines of Abkhazia and South Ossetia”:

<http://hridc.org/admin/editor/uploads/files/pdf/hrcprep2018/Zone%20of%20Barbed%20Wires-Report%20-eng%202019.pdf>

⁶¹ *ibid*

⁶² *ibid*

⁶³ Paragraph 31, Concluding Observations of UN Committee on Economic, Social and Cultural Rights, 5-23 May, 2003. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT:

<https://www.refworld.org/publisher,CESCR,,ISR,3f242abc7,0.html>

territories”⁶⁴⁻⁶⁵ and “ensure safe passage at checkpoints for Palestinian medical staff and people seeking treatment.”⁶⁶).

Therefore, the Russian Federation which is a state party to the International Covenant on Economic, Social and Cultural Rights, is obliged to fulfill the obligations stemming from the Covenant in the territories under its effective control – Abkhazia and South Ossetia/Tskhinvali Region. The Russian Federation is obliged not only to refrain from the acts which violate the rights enshrined in the Covenant (negative obligation), but, also promote their realization with active measures (positive obligation). page | 19

The right to highest attainable standard of health is guaranteed by the International Covenant on Economic, Social and Cultural Rights. According to the Covenant, the steps to be taken by the State Parties to achieve the full realization of the right to highest attainable standard of health include: the prevention, treatment and control of epidemic diseases⁶⁷. According to CESCR General Comment N14, this obligation is of comparable priority to minimum core obligation⁶⁸. The core obligations must be realized immediately⁶⁹, unlike some other obligations in relation to economic, social and cultural rights which may be subject to progressive realization within the existing state resources.

The Russian Federation is obliged to immediately take steps for the prevention of the spread of the pandemic in the territories under its effective control – Abkhazia and

⁶⁴ Paragraph 41, Concluding Observations of UN Committee on Economic, Social and Cultural Rights, 5-23 May, 2003. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT:

<https://www.refworld.org/publisher,CESCR,,ISR,3f242abc7,0.html>

⁶⁵ Page 15, The Extraterritorial Scope of the International Covenant on Economic, Social and Cultural Rights in the Work of the United Nations Committee on Economic, Social and Cultural Rights. Fons Coomans.

<http://www.corteidh.or.cr/tablas/r26506.pdf>

⁶⁶ Paragraph 35, Concluding Observations of UN Committee on Economic, Social and Cultural Rights, 5-23 May, 2003. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT:

<https://www.refworld.org/publisher,CESCR,,ISR,3f242abc7,0.html>

⁶⁷ Article 12, part 2 (paragraph C), International Covenant on Economic, Social and Cultural Rights:

<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

⁶⁸ Paragraph 44, CESCR General Comment N14: The Right to the Highest Attainable Standard of Health:

<https://www.refworld.org/pdfid/4538838d0.pdf>

⁶⁹ <https://www.ohchr.org/en/issues/escr/pages/whataretheobligationsofstatesonescr.aspx>

South Ossetia/Tskhinvali Region and equip the de facto territories with essential resources in order to fight the pandemic. The Russian Federation was obliged to take such steps at the initial stage of the spread of the coronavirus in the occupied regions as well. The Russian Federation was obliged to equip the de facto territories with the personal protective equipment and other medical means necessary for the prevention of the spread of coronavirus when both regions critically lacked these medical supplies. The Russian Federation was also obliged to timely set restrictions on the movement between the occupied regions and the Russian Federation considering that this movement created significant risks for the spread of the coronavirus in the occupied regions. The Russian Federation failed to fulfill these obligations in the occupied regions.

Even though the state of Georgia has lost effective control over the de facto territories, it still bears positive obligations to promote human rights protection in these territories⁷⁰. Georgia must take diplomatic, economic, judicial or other measures that are in its power to promote human rights protection in these territories⁷¹. The grave human rights violations at the occupation line and accompanying impunity require more active and targeted actions by the government of Georgia in order to raise the issue of state and individual responsibility at every possible international level.

In March 2018, the Georgian Parliament adopted resolution “regarding grave human rights violations by the Russian Federation in the occupied Abkhazia and Tskhinvali Region and Otkhozoria-Tatunashvili list”⁷². According to this resolution, the Georgian government adopted “Otkhozoria-Tatunashvili” list regarding the individuals charged and convicted of the murders, abductions, torture and inhuman treatment, grave damage to health of citizens in the occupied territories and covering up of these crimes⁷³. The list was adopted by the resolution of the Georgian

⁷⁰ Paragraph 331, ILAȘCU AND OTHERS v. MOLDOVA AND RUSSIA:

<https://hudoc.echr.coe.int/fre#%7B%22itemid%22%3A%22001-61886%22%7D>

⁷¹ *ibid*

⁷²

<http://www.parliament.ge/ge/ajax/downloadFile/88867/%E1%83%9D%E1%83%97%E1%83%AE%E1%83%9D%E1%83%96%E1%83%9D%E1%83%A0%E1%83%98%E1%83%90-%E1%83%A2%E1%83%90%E1%83%A2%E1%83%A3%E1%83%9C%E1%83%90%E1%83%A8%E1%83%95%E1%83%98%E1%83%9A%E1%83%98%E1%83%A1-%E1%83%A1%E1%83%98%E1%83%90-%E1%83%A0%E1%83%94%E1%83%96%E1%83%9D%E1%83%9A%E1%83%A3%E1%83%AA%E1%83%98%E1%83%90>

⁷³ <https://matsne.gov.ge/ka/document/view/4234552?publication=0>

government. According to the resolution, different state bodies were commissioned to take measures so that the international organizations and partner countries set restrictions against the individuals included in “Otkhozoria-Tatunashvili list”, including restrictions related to visa, property and financial transactions. This list was supported by the European Parliament⁷⁴, Council of Europe⁷⁵ and US Congress⁷⁶. The European Parliament called on the member states to set sanctions towards the individuals included in the list⁷⁷. However, as of now, only Lithuania has set restrictions against the individuals included in Otkhozoria-Tatunashvili list⁷⁸. The Georgian government must be more active and conduct communication with the partner countries by relevant diplomatic means so other countries also set sanctions against the individuals charged and convicted for the crimes committed in the occupied regions and dividing lines as it represents significant mechanism for fighting impunity.

It should be underlined that Otkhozoria-Tatunashvili list refers to individual responsibility and envisages setting restrictions against concrete individuals charged and convicted for the crimes committed in the occupied regions. As for the Russian Federation which is a responsible state for mass human rights violations committed in the occupied regions and dividing lines, the Georgian government must become more active and raise responsibility of the Russian Federation at every possible legal and quasi-legal format on international level.

⁷⁴ <http://www.tabula.ge/ge/story/133750-evroparlamenti-tsevr-qveknebs-sanqciebi-daadet-otxozoria-tatunashvilis-siashi-shesul>

⁷⁵ <http://liberali.ge/news/view/42636/evropuli-saqartvelos-tsardgenil-otkhozoriatatunashvilis-sias-evrosabchom-mkhari-dauchira>

⁷⁶ <https://www.tabula.ge/ge/story/149324-saqartvelos-mxardacheris-aqti-ra-daxmarebas-hpirdeba-ashsh-saqartvelos>

⁷⁷ <http://www.tabula.ge/ge/story/133750-evroparlamenti-tsevr-qveknebs-sanqciebi-daadet-otxozoria-tatunashvilis-siashi-shesul>

⁷⁸ <http://www.parliament.ge/ge/saparlamento-saqmianoba/komitetebi/sagareo-urtiertobata-komiteti-147/sagareo-komitetis-axali-ambebi/sofio-qacarava-lietuva-ertaderti-qveyanaa-romelmac-otxozoria-tatunashvilis-siashi-shemaval-pirebze-sanqciebi-daawesa.page>

SIMILARITIES AND DIFFERENCES IN TERMS OF FIGHTING CORONAVIRUS IN OCCUPIED ABKHAZIA AND SOUTH OSSETIA/TSKHINVALI REGION

On February 27, 2020, the de facto government of Abkhazia announced quarantine in the occupied region for the prevention of the coronavirus. During the quarantine, the main crossing point which connects Abkhazia to the rest of Georgia – the checkpoint at the Enguri Bridge – was closed⁷⁹. On March 14, the de facto government of Abkhazia prolonged the ban on the movement on the Enguri Bridge for indefinite time⁸⁰. On March 27, the state of emergency was announced in the whole territory of Abkhazia – the assemblies and demonstrations, sport and cultural events were prohibited as well as the cafes, restaurants and shops were closed, the public transportation was restricted⁸¹.

On February 27, 2020, de facto administration of South Ossetia/Tskhinvali Region closed all crossing points connecting the region to the rest of Georgia. The Perevi-Karzmani crossing point, which was the only open checkpoint connecting the region to the territory controlled by Georgia, got closed⁸². The Mosabruni-Odzisi crossing point where the movement was allowed since January 2020 in exceptional cases, got closed as well⁸³. Since March 28, 2020, the de facto government of South Ossetia/Tskhinvali Region adopted new restrictions for the prevention of the spread of coronavirus in the region. The cafes, restaurants, fitness centers, beauty parlors, swimming pools, sport complexes and trade centers got closed. The public transportation was restricted⁸⁴.

Unlike the de facto government of South Ossetia which closed all crossing points connecting the region to the rest of Georgia and restricted the movement even for humanitarian reasons, the de facto government of Abkhazia periodically opened the main crossing point connecting the region to the rest of Georgia at Enguri Bridge for the individuals holding “Abkhazian passport”. The Enguri checkpoint was first opened on May 26 for the individuals holding “Abkhazian passport” who visited the territory controlled by Georgia for medical purposes⁸⁵. The de facto government

⁷⁹ <https://civil.ge/ka/archives/342075> (available only in Georgian)

⁸⁰ <https://civil.ge/ka/archives/353749> (available only in Georgian)

⁸¹ <https://netgazeti.ge/news/438364/> (available only in Georgian)

⁸² <https://bit.ly/2YFehlB> (available only in Georgian)

⁸³ <https://bit.ly/2NDwlfa> (available only in Georgian)

⁸⁴ <https://bit.ly/2NCzgVu> (available only in Georgian)

⁸⁵ <https://civil.ge/ka/archives/353749> (available only in Georgian)

of Abkhazia opened Enguri Bridge also on June 22 in order to allow the residents of Abkhazia to return to the region⁸⁶. The Enguri Bridge was opened third time on July 13, for 5 days. As a result of these instances of partial opening of the Enguri Bridge, allegedly 2085 people returned to the occupied Abkhazia⁸⁷. Enguri Bridge was also partially opened on August 5-9, 2020⁸⁸.

Unlike the de facto government of South Ossetia/Tskhinvali Region which fully banned the movement between the region and the rest of Georgia and even deprived the critically ill patients chance from Akhagori District to receive urgent medical treatment in the territory controlled by Georgia, the de facto government of Abkhazia allowed the residents of Gali District to come to the territory controlled by Georgia for medical reasons in certain cases through the crossing point at Enguri Bridge⁸⁹ as well as Saberio-Pakhulani crossing point⁹⁰.

The de facto government of both regions prohibited movement with the rest of Georgia at the early stages of the spread of the coronavirus, specifically, at the end of February 2020. They also prohibited the citizens of foreign countries to enter the regions. However, the citizens of the Russian Federation could enter both regions for considerable time since the spread of the pandemic. Strict restrictions on the movement with the Russian Federation were set on March 28, 2020 at the de facto border at River Psou⁹¹, and on April 2, 2020 at the Roki Tunnel⁹².

The first case of the coronavirus in Abkhazia was revealed on April 7. The individual diagnosed with the coronavirus came to Abkhazia from the Russian Federation⁹³. Before that, on March 30, the resident of Gali District of Abkhazia came to the

⁸⁶ <https://reginfo.ge/politics/item/18811-de-paqto-apxazetma-enguris-xidi-5-dgit-zalmxrivad-gaxsna> (available only in Georgian)

⁸⁷ *ibid*

⁸⁸ <https://www.radioatinati.ge/akhali-ambebi/article/73325-enguris-khidi-calmkhrivad-isev-gaikhsna.html>

⁸⁹ <https://www.radioatinati.ge/akhali-ambebi/article/73222-enguris-khidze-gadmosuli-mamakacis-stsrafi-testis-pasukhi-koronavirusze-dadebithia.html>

⁹⁰ The de facto government of Abkhazia opened Saberio-Pakhulani crossing point in April 2020 and allowed several individuals to come to the territory controlled by Georgia for medical purposes. One of the individuals who came through this crossing point was diagnosed with COVID-19 and she continued treatment in the territory controlled by Georgia:

http://humanrights.ge/index.php?a=main&pid=20120&lang=eng&fbclid=IwAR3gV_XTiDsvFw9ev4vE3EO4uF1uNVkUZRHVDuXYUO3v-2CLzAPMeh13bJQ

⁹¹ <https://netgazeti.ge/news/439232/> (available only in Georgian)

⁹² <https://netgazeti.ge/news/439232/> (available only in Georgian)

⁹³ <https://civil.ge/ka/archives/346043> (available only in Georgian)

territory controlled by Georgia who was diagnosed with the coronavirus in Zugdidi hospital. She had returned to Abkhazia also from Moscow. After the dissemination of this information, the de facto government of Abkhazia introduced police control between the Gali and Oчамchire regions on the movement of citizens and curfew⁹⁴.

The de facto government of South Ossetia/Tskhinvali Region confirmed the first case of the coronavirus on May 6, 2020. The individual diagnosed with the coronavirus came to the region from the Russian Federation. According to the de facto government, this took place on April 30, 2020⁹⁵.

From the early stage of pandemic, the de facto Security Committee of South Ossetia/Tskhinvali Region constantly spread disinformation regarding Richard Lugar Public Health Research Center and warned the local population regarding the “dangers” coming from Georgia. According to the de facto Security Committee, the representatives of the Lugar Laboratory and EU monitoring mission tried to take biological samples from the residents of South Ossetia⁹⁶. The de facto Security Committee called on the residents of South Ossetia to be attentive and warned about the “threat of passing dangerous infection from Georgia to the territory of the Republic”⁹⁷. This information was categorically denied and assessed to be disinformation by the EU Monitoring Mission in Georgia⁹⁸.

Unlike the de facto government of South Ossetia/Tskhinvali Region, the de facto government of Abkhazia accepted the help from the international organizations, such as UNDP, World Health Organization and UNICEF which included medical equipment and other medical means necessary for the prevention of the coronavirus⁹⁹. Unlike the de facto government of Abkhazia, the de facto government of South Ossetia rejected the help of international organizations as they would have entered the de facto territory from the territory controlled by Georgia¹⁰⁰.

⁹⁴ *ibid*

⁹⁵ <https://netgazeti.ge/news/451428/> (available only in Georgian)

⁹⁶ <https://bit.ly/2ZcibqS> (available only in Georgian)

⁹⁷ <https://bit.ly/2ZcibqS> (available only in Georgian)

⁹⁸ <https://bit.ly/2ZcibqS> (available only in Georgian)

⁹⁹ <https://netgazeti.ge/news/456271/> (available only in Georgian)

¹⁰⁰ [https://d2071andvip0wj.cloudfront.net/b089-covid-and-statelets%20\(1\).pdf](https://d2071andvip0wj.cloudfront.net/b089-covid-and-statelets%20(1).pdf)

As of September 1, 2020, 330 cases of coronavirus have been identified in the occupied Abkhazia. Among them 206 are active cases¹⁰¹. On August 11, 2020, the de facto government of South Ossetia disseminated information that every patient infected with the coronavirus is now healthy¹⁰². Since May 2020 till August 11, 89 cases of coronavirus have been identified in South Ossetia/Tskhinvali Region¹⁰³. On September 1, 2020, one new case of COVID-19 was revealed in South Ossetia/Tskhinvali Region¹⁰⁴.

RIGHT TO LIFE AND HEALTHCARE UNDER DANGER IN AKHALGORI DISTRICT

In February 2020, the de facto government of South Ossetia/Tskhinvali Region fully closed the crossing point Mosabruni-Odzisi connecting Akhagori District to the rest of Georgia. The population of Akhagori District has been restricted access to the relevant healthcare services and medical help since 2019. Since this period, the de facto government closed all crossing points connecting Akhagori District to the rest of Georgia that created humanitarian crisis in the District¹⁰⁵. Patients requiring urgent medical assistance and those with grave illnesses were banned to pass to the territory controlled by the Georgian central government. Since January 2020, the de facto government started to allow the pensioners to come to the Georgian central government-controlled territory once in every 2 months. Gravely ill patients were also allowed to pass in limited cases¹⁰⁶. In February 2020, due to the spread of pandemic, Tskhinvali de facto government once again introduced full ban on the movement with the Georgian central government-controlled territory.

Above described practice of banning access to the Georgian central government-controlled territory and health services amounts to the violation of freedom of movement, inviolability of personal life, right to life and healthcare. According to the information of official bodies of Georgia, closing checkpoints and restricting freedom

¹⁰¹ <https://civil.ge/ka/archives/342458>

¹⁰² <https://civil.ge/ka/archives/342458>

¹⁰³ *ibid*

¹⁰⁴ *ibid*

¹⁰⁵ <http://humanrights.ge/index.php?a=main&pid=20000&lang=eng>

¹⁰⁶ <https://reginfo.ge/people/item/17430-axalgorel-pensionerebs-%E2%80%99Erazdaxanis%E2%80%99C-sagushaos-gavla-2-tveshi-ertxel-sheewlebat>

of movement allegedly resulted in the deaths of 13 individuals since September 4, 2019 till April 15, 2020¹⁰⁷.

According to the information of local residents of Akhagori District, the District is not equipped with relevant services – infrastructure, technology or medical personnel – for treating patients requiring urgent medical help and gravely ill patients^{108,109}. Therefore, such patients came to the Georgian central government-controlled territory in order to receive relevant medical services. page | 26

In May 2020, 63-year-old J.M. allegedly died due to the isolation of Akhagori District by the occupying forces. According to the existing information, despite the signs of stroke, the de facto government of South Ossetia did not allow him to cross to the territory controlled by Georgia in order to receive relevant medical assistance¹¹⁰. When his condition extremely worsened, he was transferred to the hospital in Tskhinvali from Akhagori. Afterwards, the representatives of the de facto forces allowed the patient to cross to the Georgian central government-controlled territory for medical treatment. J.M. died in the ambulance car, on the road on May 20, 2020¹¹¹.

A woman from Akhagori, M.M. who also had signs of stroke, allegedly also died after she was refused to pass to the Georgian central government-controlled territory by the de facto government in September 2019. According to existing information, after she was refused to cross to the territory controlled by the Georgian government, she was taken to Tskhinvali by ambulance. M.M. died on the way¹¹².

¹⁰⁷ <https://netgazeti.ge/news/445036/> (available only in Georgian)

¹⁰⁸ <https://bit.ly/3kmd9Bh> (available only in Georgian)

¹⁰⁹ <https://netgazeti.ge/news/443679/> (available only in Georgian)

¹¹⁰

<https://www.radiotavisupleba.ge/a/%E1%83%99%E1%83%98%E1%83%93%E1%83%94%E1%83%95-%E1%83%94%E1%83%A0%E1%83%97%E1%83%98-%E1%83%93%E1%83%90%E1%83%A6%E1%83%A3%E1%83%9E%E1%83%A3%E1%83%9A%E1%83%98-%E1%83%90%E1%83%AE%E1%83%90%E1%83%9A%E1%83%92%E1%83%9D%E1%83%A0%E1%83%98%E1%83%93%E1%83%90%E1%83%9C-/30624144.html> (available only in Georgian)

¹¹¹ <https://www.interpressnews.ge/ka/article/600419-okupirebul-axalgorshi-mcxovrebi-63-clis-mamakaci-romlis-janmrtelobis-mdgomareoba-mzime-iqo-sakartvelos-centraluri-xelisuplebis-kontrolirebad-teritoriaze-gadmoqvanisas-gzashi-gardaicvala/> (available only in Georgian)

¹¹² <https://bit.ly/2WIRc5F> (available only in Georgian)

COVID 19 pandemic further aggravated the problems of healthcare system in Akhlagori District. The health services of Akhlagori/Tskhinvali Region do not meet the minimal requirements necessary for the adequate protection of health and prevention of coronavirus. According to the World Health Organization Guidelines which set minimum requirements regarding infection prevention and control, health care facilities should apply appropriate personal protective equipment for the prevention and control of coronavirus¹¹³. Some other minimal requirements include – transparent communication with the public, timely sharing of necessary information and using relevant means of communication.

The hospitals in Akhlagori District were not equipped with the personal protective equipment timely, including with the medical equipment and diagnostic means. Provision of such means was problematic in the whole region of South Ossetia/Tskhinvali Region. According to the video footage showing the visit of the President of the de facto Republic to Tskhinvali hospital in April 2020, it is obvious that the doctors are not wearing personal protective equipment. They are wearing only white gowns¹¹⁴. In April 2020, information was disseminated that the doctor in Tskhinvali hospital refused to work on his shift because the medical personnel did not have protective equipment – masks, gloves, glasses and coveralls¹¹⁵. The President of the de facto Republic, Anatoli Bibilov responded to this fact on facebook and threatened to dismiss the doctor from his job¹¹⁶.

According to the assessment of the World Health Organization, when the health systems are overwhelmed, mortality from vaccine-preventable and other treatable conditions can also increase dramatically¹¹⁷. This assessment refers to the health systems which are more or less sound in general. However, in case of inadequate health systems due to which the patients are allegedly already dying in Akhlagori District, the risk of overwhelming due to COVID 19 and consequently risk of increasing mortality from other illnesses would be obviously higher.

According to the case law of European Court of Human Rights, an issue may arise under Article 2 of the Convention where it is shown that the authorities of a

¹¹³ <https://www.who.int/publications/i/item/10665-331495>

¹¹⁴ <https://bit.ly/3bdc9KD> (available only in Georgian)

¹¹⁵ <https://netgazeti.ge/news/440553/> (available only in Georgian)

¹¹⁶ *ibid*

¹¹⁷ <https://www.who.int/news-room/detail/30-03-2020-who-releases-guidelines-to-help-countries-maintain-essential-health-services-during-the-covid-19-pandemic>

Contracting State put an individual's life at risk through the denial of health care which they have undertaken to make available to the population generally¹¹⁸. In case of *Cyprus v. Turkey*, the issue of restrictions imposed by the “Turkish Republic of Northern Cyprus” (“TRNC”) authorities on the movement of the Greek-Cypriot and Maronite population and hampering their medical visits to the South was assessed within the context of possible violation of Article 2 of the Convention. In this case, the Court observes that during the period under consideration medical visits were indeed hampered on account of restrictions imposed by the “TRNC” authorities on the movement of Greek-Cypriot and Maronite population and that in certain cases delays did occur¹¹⁹. However, the Court has not established that the lives of any patients were put in danger on account of delay in individual cases. The Court also observes that neither the Greek-Cypriot nor Maronite populations were prevented from availing themselves of medical services including hospitals in the north¹²⁰.

Unlike above mentioned case, in case of Akhalgori, the lives of patients are allegedly put in danger due to the restrictions and delays imposed by the de facto authorities of South Ossetia/Tskhinvali Region. The population of Akhalgori is also prevented to avail themselves of medical services elsewhere in South Ossetia. Outside of Akhalgori, the nearest possibility for the Akhalgori residents to receive medical assistance is the city of Tskhinvali which is approximately two hours distance by car¹²¹. As for inside Akhalgori District, according to various reports, the infrastructure, technology and medical staff are not adequate to treat the patients who require urgent medical help or are gravely ill. The fastest way for receiving adequate medical help for the residents of Akhalgori District is coming to South, to the City of Gori, the territory controlled by the central government of Georgia and availing themselves of medical services here. However, by fully closing the crossing point between Akhalgori and rest of Georgia, the de facto government deprived this possibility for the patients.

Due to the full closure of Mosabruni-Odzisi crossing point, since September 4, 2019 till April 15, 2020, allegedly 13 people died in Akhalgori District. Among the alleged facts of the deaths related to the closure of the crossing point are: 1) The death of a woman who had signs of stroke in Tskhinvali, after she travelled for two hours from

¹¹⁸ Paragraph 219, *Cyprus v Turkey*:

<https://hudoc.echr.coe.int/eng-press#%7B%22itemid%22:%7B%22001-59454%22%7D>

¹¹⁹ *ibid*

¹²⁰ *ibid*

¹²¹ <https://netgazeti.ge/south-caucasus/108596/> (available only in Georgian)

Akhalgori to Tskhinvali in the ambulance car¹²² and before that was refused to pass to the Georgian central government-controlled territory by the de facto government

2) The death of individuals in Akhalgori, allegedly, due to the non-existence of relevant medical services, under the conditions of full closure of Mosabruni-Odzisi crossing point which connects Akhalgori District to the territory controlled by Georgian central government¹²³

3) The death of individual with signs of stroke during passing to the territory controlled by the central government of Georgia, in the road, after the representatives of the de facto forces allegedly unsubstantially hampered his movement and delayed his entrance to the Georgian central government-controlled territory by several days¹²⁴.

It should be noted that the Georgian central government does not hamper passing of Akhalgori patients to the territory under its control.

In one of the above mentioned cases, the patient who had signs of stroke had to go through several days of procedural hurdle in order to gain possibility to pass to the Georgian central government-controlled territory¹²⁵. Meanwhile, the health state of the individual deteriorated¹²⁶. At the end, he died while passing to the territory controlled by Georgia, on the road. Therefore, allegedly, the direct link between the delays and putting the lives of the patients in danger is clearly present.

In other alleged cases of the deaths of patients, they were not given the possibility to come to the territory controlled by Georgia at all¹²⁷⁻¹²⁸. They allegedly died in Tskhinvali and Akhalgori due to not receiving adequate and prompt medical help.

According to the case law of the European Court of Human Rights, when the restrictions introduced by the de facto authorities impede movement of individuals and delay the receiving of medical assistance, the issue of violation of the right to life may arise, if the lives of patients were put in danger on account of delay in

¹²² <https://www.amerikishma.com/a/akhalgori-tskhinvali-civic-activist-mearakishvili-georgia/5146100.html> (available only in Georgian)

¹²³ <https://bit.ly/3juUkev> (available only in Georgian)

¹²⁴ <https://bit.ly/32KatG2> (available only in Georgian)

¹²⁵ <https://bit.ly/32KatG2> (available only in Georgian)

¹²⁶ *ibid*

¹²⁷ <https://bit.ly/3juUkev> (available only in Georgian)

¹²⁸ <https://www.amerikishma.com/a/akhalgori-tskhinvali-civic-activist-mearakishvili-georgia/5146100.html> (available only in Georgian)

individual cases¹²⁹. In case of Akhlagori, the individual cases demonstrate that different blanket prohibitions and restrictions enacted by the de facto government of South Ossetia/Tskhinvali Region at various periods put the lives of patients in danger who are deprived possibility to avail themselves of medical services elsewhere in the region. Therefore, in these instances, the right to life may be violated. The Russian Federation which exercises effective control over South Ossetia/Tskhinvali Region bears responsibility for these alleged violations. page | 30

RECOMMENDATIONS

The Russian Federation:

- Stop illegal borderization in the territory of Georgia;
- Remove the physical barriers erected along the dividing lines of Abkhazia and South Ossetia/Tskhinvali Region that impedes the free movement of individuals and takes away the natural resources and private property of the local population;
- Prevent grave human rights violations, including illegal detentions and abductions in the occupied regions and dividing lines;
- Investigate mass and grave human rights violations committed in the occupied regions and dividing lines in recent years, including, illegal detentions, abductions, violations of right to life and bring the perpetrators to justice;
- Equip the occupied regions with the protective medical equipment and other medical means necessary for the prevention of the coronavirus, as well as medical means for diagnostic and treatment purposes.
- Immediately open Mosabruni-Odzisi crossing point which connects Akhlagori Region to the rest of Georgia, immediately enable gravely ill patients and patients in critical conditions to use the crossing point and come to the territory controlled by the central government of Georgia;
- Allow the representatives of the international organizations to enter the occupied regions and monitor the existing human rights situation without restrictions;

Georgian Government:

¹²⁹ <https://hudoc.echr.coe.int/eng-press#%7B%22itemid%22:%5B%22001-59454%22%7D>

- Use every legal, quasi-legal and diplomatic mechanism in order to fight the human rights violations and accompanying impunity in the occupied regions of Abkhazia and South Ossetia/Tskhinvali region and along the dividing lines;
- Provide the local population living near the occupation line with sufficient drinking and domestic water, develop the water supply systems, develop the irrigation channels;
- Develop consistent and human rights compliant policy regarding the registration of the land situated near the occupation line;
- Register the land of the local population near the occupation line under their ownership;
- When the land of the local residents is taken by the illegal borderization, the victims must be given alternative land in another territory;
- Create the system of video monitoring which will continuously monitor the areas of the dividing lines where the illegal detentions often take place;
- Conduct police patrolling in the areas of dividing lines where the illegal detentions often take place;
- Activate efforts with the international organization so that they obtain physical access and conduct monitoring over the human rights situation existing in the occupied regions;
- In the places of high risk near the occupation line, inform the local population regarding security related issues;

International organizations:

- Activate efforts so that their representatives are given possibility to enter the occupied regions and conduct monitoring over the existing human rights situation or try to obtain information regarding the human rights situation existing in the occupied regions in other ways.