

In Focus:

In September Council of Europe Commissioner for Human Rights Thomas Hammarberg visited Georgia and released two reports concerning the aftermath of South Ossetia Conflict

As a result of his earlier visits, in September CoE Commissioner for Human Rights Thomas Hammarberg released his special report on the human rights situation in the areas affected by the South Ossetia conflict. Calling the situation “a humanitarian disaster”, he concluded that there is a big risk that around 30,000 people will not be able to return home in the nearby future. The Commissioner invited state and international institutions to assist the victims, so that they could lead their lives “as normal as possible”.

Later that month Thomas Hammarberg carried out a follow-up mission to the areas affected by the South Ossetia conflict. He stated that he was satisfied that important progress had been made on the release and exchange of persons who had been deprived of their liberty on each side.

After the visit, in the end of September, Commissioner Hammarberg published another report related to the conflict of 2008,



concerning the treatment and fate of certain missing persons on all sides during and after the armed conflict.

“Regrettably, there have been serious shortcomings in the process of clarifying the fate of missing persons and ensuring accountability for the perpetrators of illegal acts”

CoE Commissioner Report ‘Monitoring of Investigations into cases of missing persons during and after the August 2008 armed conflict in Georgia’

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Human rights defenders concerned about the amendment to the law on police



ISSUE1: REPORTS BY INTERNATIONAL BODIES

Council of Europe Commissioner on Human Rights releases his special report

On September 8, the [Council of Europe Commissioner for Human Rights Thomas Hammarberg](#) released his special report on the human rights situation in the areas affected by the South Ossetia conflict.



"This is a humanitarian disaster" he said. "The conflict has had a devastating effect on the human rights of the

population. Thousands of people are still displaced waiting for security and help to rebuild damaged houses. This requires that the principle of the right to voluntary return is upheld, fully recognized by all decision-makers and all the victims informed of their options."

Unfortunately, there is a need to prepare for the grave risk that several thousand, perhaps as many as **30,000**, **will not be able to return home** within the foreseeable future. They must be cared for and assisted to lead a life as normal as possible. It is therefore needed that material resources are allocated and that the assistance is well organised by the national and international agencies and that the displaced persons themselves are invited to participate in the decision-making.

Based on the **visit to Vladikavkaz, Tskhinvali, Gori, Tbilisi** and **Moscow** that Commissioner Hammarberg carried out from 22 to 29 August, the report is available at:

[http://www.coe.int/t/commissioner/Source/CommDH\(2008\)22_E.doc](http://www.coe.int/t/commissioner/Source/CommDH(2008)22_E.doc)

Hammarberg Criticizes Georgia and de facto South Ossetian Authorities

"Regrettably, there have been serious shortcomings in the process of clarifying the fate of missing persons and ensuring accountability for the perpetrators of illegal acts".



With these words, on September 29th the [Council of Europe Commissioner for Human Rights, Thomas Hammarberg](#), published a report prepared by two international experts, whom he recruited to monitor investigations concerning the treatment and fate of certain missing persons on all sides during and after the armed conflict.

The report with the findings of the experts, **Bruce Pegg** and **Nicolas Sébire**, under the title **'Monitoring of Investigations into cases of missing persons during and after the August 2008 armed conflict in Georgia'**.

The report shows that although there have been serious allegations implicating the **involvement of law enforcement officials in certain cases of disappearances** which occurred after the August 2008 conflict, the operational conduct of the investigation was not kept separate from the service to which the officials implicated belonged. *"The supervision of the investigation should be transferred away from regional prosecutorial authorities and the operational conduct of the work should be moved away from the police in the areas concerned"*, stresses Commissioner Hammarberg.

“My experts encountered a situation where a variety of obstacles surged on the path to the truth. It is essential to overcome these obstacles and reveal the truth about these cases. This is of particular importance for the families who have already suffered a great deal from not knowing the fate of their loved ones,” says the Commissioner.

The full version of Commissioner Hammarberg’s report can be found at: humanrights.ge

The Observatory for the Protection of Human Rights Defenders launches its Annual Report 2010



The [Observatory for the Protection of Human Rights Defenders](#), a joint programme of the [World Organisation Against Torture](#) (OMCT) and the [International Federation for Human Rights](#) (FIDH), which supports, monitors and protects human rights defenders throughout the year, published its 2010 Annual Report. The report focuses on the year-round fight for human rights throughout the world.

“In the South Caucasus, [civil society operated in a generally hostile climate](#). The [pressure on certain defenders](#) was accentuated in Georgia. <...> Throughout the region, it has also become extremely [difficult to organize and hold peaceful meetings](#) calling for respect for human rights, even in self-styled democratic countries (Georgia, Serbia). In Georgia, Belarus and in the Russian Federation, [defenders were victims of violence perpetrated by police](#) forces that dispersed and arrested demonstrators. In these countries <...> defenders were frequently arrested for taking part in meetings to promote human rights and, in some cases, sentenced to fines or imprisonment,” – states the report.

The press release, the annual report and the media kit are available at:

http://omct.org/pdf/Observatory/2010/annual_report/PR_Launch2010_obsAnnualReport_eng.pdf

http://www.omct.org/pdf/Observatory/2010/annual_report/OBS_a_report2010_eng.pdf

<http://www.fidh.org/IMG/pdf/2010/OBS2009UK-full.pdf>

Council of Europe Anti-torture Committee criticizes state of human rights in Georgia

The report of the [Council of Europe’s Committee for the Prevention of Torture](#) on its 4th periodic visit to Georgia, carried out on February 5-15, 2010 has been made public by Georgian ombudsman [Giorgi Tughushi](#). According to Tughushi, [the report puts emphasis on problems in the penitentiary system](#); specifically, the problem of overcrowding and inhuman treatment of prisoners. The abolishment of long-term appointments in prisons has been criticized. The committee considers the existing [conditions in Khsani #7 department an inhuman treatment](#).

According to [public defender](#), the health system problem in the penitentiary system gave rise to a serious criticism. According to the report, the only progress of penitentiary system is the restoration of infrastructure and medical inventory. The situation in the Asatiani Psychiatrist department is also criticized.

The committee talks about the positive sides too. The improvement of the infrastructure of police departments is evaluated positively. Also, the creation of legal assistance services, the reforms implemented in the juvenile justice system and lack of prevention mechanisms of torture. The report has already been sent to Georgian government along with its recommendations.

Source: interpressnews.ge



UN Expert on IDPs Visited Georgia

Walter Kaelin, the *U.N. Secretary-General's representative on the human rights of internally displaced persons*, called on the Georgian authorities to avoid eviction of IDPs the way it had been done in previous months, which he described as **“second time” displacement**.

Kaelin visited Georgia on September 13-16 for fifth time since 2005 and also traveled to breakaway Abkhazia. Living conditions of IDPs and implementation of the Georgian government's strategy and action plan to provide durable housing solution for IDPs was the focus of his discussions in Tbilisi and during the meetings with displaced persons.

Kaelin, however, said that although it was a positive development that IDPs were receiving “a very good housing” in frames of the government's strategy and action plan, “but their livelihoods are not improved.”



The process of eviction from several state-owned buildings came under fire from local



and international human rights groups, as well as from *UN refugee agency* and the *Parliamentary Assembly of Council of Europe's Committee on Migration, Refugees and Population*.

Earlier this month *Public Defender, Giorgi Tugushi*, met with minister in charge of issues of internally displaced persons, *Koba Subeliani*, to discuss “violations that took place during the evictions”. He was concerned that IDPs should be informed in advance about where and under what conditions they will have to move and there should be their consent on resettlement. The minister promised to “spare no effort to improve process of informing the IDPs”.

Source: Civil.ge

Issue 2: FREEDOM OF EXPRESSION

Georgian PEN-Club Appeals to the International Congress of the World Writers and Media Workers

The board of the *Georgian PEN-Club* signed the appeal to the International Congress of the World Writers and Media Workers, expressing their concern about the freedom of expression in Georgia. They explained the difficulties that obstruct their work and limit the critical thought. The writers named the authoritarian nature of the present government; marginalization of artists, scientists and other citizens who oppose to the government; lack of “healthy literary criticism” and other obscurities.



“Non-conformist writers of Georgia really need the support of the international organizations in order not to allow the freedom of expression to finally die in this country which will further support the disappearance the chance of the democratic development,” – concluded Georgian PEN-Club members.

The board of the PEN-Club comprises of: *Davit Kartvelishvili (president), Shorena Shaverdashvili (vice-president), Rati Amaghlobeli (vice-president), Keti Kighuradze (international secretary), Naira Gelashvili, Irakli Kakabadze, Giorgi Kekelidze, Dato Turashvili and Nino Zhvania*.

Source: humanrights.ge

World Famous Writers Requested Saakashvili to Protect Their Georgian Colleagues

The president of Georgia Mikheil Saakashvili received two protest letters from the world union of writers – *International PEN* and its *American center*. The world famous writers, among whom are laureates of the Nobel Reward, were concerned by detention and fining of the three members of the Georgian center of the International PEN – *Irakli Kakabadze*, *Shota Gagarin* and *Aleksii Chighvinadze*. *Mario Vargas Llosa*, *Tony Morison*, *Rachel Benz* and other famous writers request the president of Georgia, chief prosecutor and public defender to protect the rights of Kakabadze, Gagarin and Chighvinadze. The International PEN clarifies to the high-ranking governmental officials of Georgia that their appeals express the position of almost 144 working centers in 101 member states.



It should be reminded that on August 14, publicist Irakli Kakabadze and poets Shota Gagarin and Aleksii Chighvinadze held protest demonstration in George Bush Street in Tbilisi. They protested the name of the street and requested to rename it into Walt Whitman Street. The protest rally –“No Bush! Whitman for Ever!” – ended with the detention of the poets (the full information on the following link: <http://www.humanrights.ge/index.php?a=article&id=5345&lang=en>).

Both appeals are very strict. The writers cannot hide their astonishment about arbitrary detention of their Georgian colleagues and various violations which followed the detention. In parallel to it, the both appeals express deep concern for the dismissal of the Poet Shota Gagarin (penname for Shota Dighmelashvili) from the magazine “Tabula”.

American PEN sent the copies of the appeal to Saakashvili to the *Ambassador of Georgia in the USA Batu Kutelia* and *US State Secretary Hillary Clinton*.

Source: [humanrights.ge](http://www.humanrights.ge)

The texts of the appeals could be found: [International PEN](#) and [PEN American Center](#)

Issue 3: POLITICAL PRISONERS

Human Rights Center (HRIDC) Presented the Documentary Film of Giorgi Janelidze on Vakhtang Maisaia Case

On September 22, the *Human Rights Center (HRIDC)* presented the documentary by *Giorgi Janelidze* – “*The Volunteer Spy*” – in the Cinema House. The film about the military expert *Vakhtang Maisaia*, who was convicted for espionage, was prepared in the TV-studio (hrdc.tv) of the Human Rights Center. The film caused great interest in the society. The hall of the cinema house was full. The representatives of the foreign embassies accredited in Georgia and international organizations, as well as colleagues of Vakhtang Maisaia - experts, human rights defenders, journalists and other interested people - attended the presentation.



The film by Giorgi Janelidze exposes the facts from Maisaia’s case which were not known to the most part of the society yet.

You can see the film of Giorgi Janelidze “the Volunteer Spy” on the video-portal of the Human Rights Centre www.hridc.tv.

Source: [Human Rights Center](#)

OMCT Releases a Statement on Vakhtang Maisaia's Case

The International Secretariat of the **World Organisation Against Torture (OMCT)** sent special appeal to the high-ranking officials of the government of Georgia regarding **the physical abuse of Vakhtang Maisaia** in the prison # 8 in Gldani, Tbilisi.

“OMCT reiterates its concerns for the safety of Mr. Vakhtang Maisaia and urges the authorities of Georgia to guarantee his physical and psychological integrity at all times in accordance with regional and international human rights law, in particular the provisions of the European Convention on Human Rights, the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Covenant on Civil and Political Rights (ICCPR).

OMCT is further concerned that the authorities did not respect the rights of Mr. Vakhtang Maisaia guaranteed by the law of Georgia and international human rights standards.”

The OMCT was informed by the **Human Rights Centre (HRDC)**, a member of OMCT SOS Network, about the physical abuse of Mr. Vakhtang Maisaia.

Military expert Vakhtang Maisaia was detained in May, 2009. Tbilisi Municipal Court sentenced him to 29 years of imprisonment on January 29, this year. Convicted of spying, he does not acknowledge his crime. Earlier HRDC reported serious violations in Maisaia's case.

The full text of the appeal could be found: caucasusnetwork.org



Issue 4: CONCERNS ABOUT AMENDMENTS TO THE LAW

Young Lawyers' Association Publishes its Inference Concerning the Amendment to the Law on Police

South Caucasus Network of Human Rights Defenders is protesting against the term “halt and surface examination” envisaged by the amendment to the Law on Police. According to human rights activists, the corresponding form creates irrelevantly high risk for the self-will and misuse of authority.

The amendment will authorize an ordinary policeman to stop any person at any time in the street and conduct an “examination on the surface of one's cloths” based solely on the policeman's “reasonable doubt” that a citizen might have committed a crime. Moreover, the amendment further eliminates the need for obtaining a prior authorization to conduct a comprehensive search upon an individual and lowers a legal threshold triggering the right for such a search. – reads the statement of human rights organizations.

Georgian Young Lawyers' Association (GYLA) also declared a strong concern over the pending amendment to the Law on Police. Lawyers stated that the halted individual, though practically restricted from the freedom of movement and under the “informal” interrogation by the police, can't hold the adequate procedural rights and guarantees because he/she doesn't have certain status.



The draft law “Changes and Additions to Certain Legislative Acts” which covers the draft law “Changes and Additions to the Georgian Law on Police” has been presented to Parliament on September 3, 2010 in a legislative initiative rule by MPs Lasha Tordia, Kakha Anjaparidze and Zviad Kukava.

The statement of SCNHRD (in English) is available at:

<http://www.caucasusnetwork.org/index.php?a=main&pid=230&lang=eng>

The inference of GYLA (in Georgian) is available at: [http://gyla.ge/attachments/800 File.PDF](http://gyla.ge/attachments/800_File.PDF)



www.caucasusnetwork.org



The Newsletter has been prepared by the **Human Rights Center** (Network Coordinator in Georgia) with the assistance of the **Armenian Helsinki Association** (Network Coordinator in Armenia), **Legal Education Center** (Network Coordinator in Azerbaijan) and **Human Rights House Foundation** (International Partner of the Network, Norway).

We thank our member organizations who contributed to this newsletter with their valuable information.

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