

From Solidarity to Solutions: The Government Response to Internal Displacement in Georgia

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Overview of Internal Displacement in Georgia

Internal displacement in Georgia is predominantly the result of conflict. As of May 2011, there were some 256,100 conflict-induced internally displaced persons (IDPs) in Georgia, amounting to 5.5 percent of the country's population.¹ Displacement has resulted from two different conflicts, centered in and around the regions of South Ossetia (also known as Tskhinvali) and Abkhazia. In both cases, conflict and consequent large-scale displacement have occurred in two main phases: first, with the outbreak of conflict in both regions in the early 1990s; and second, with the renewal of hostilities in and around South Ossetia that also have affected Abkhazia, for five days in August 2008. Between the two peak phases of conflict have been extended periods of several years characterized by the absence of active hostilities but also by lack of peace, leading to their classification as so-called “frozen” conflicts. The IDPs resulting from these two distinct periods of displacement commonly are referred to as the “old” and “new” IDPs.

“Old” IDPs refers those affected by the internal displacement that occurred in the early 1990s. Following the disintegration of the Soviet Union and Georgia's resulting declaration of independence in 1991, conflicts broke out in South Ossetia and Abkhazia over their claims to self-determination. Combined, the two conflicts displaced some 300,000 people during the period of active hostilities, from 1991 to 1992 in South Ossetia and from 1992 to 1993 in Abkhazia. Most of the displacement

occurred within the internationally recognized borders of Georgia, and the patterns of displacement showed a strong ethnic dimension. The vast majority of the IDPs are ethnic Georgians displaced from Abkhazia. In addition, some 20,000 IDPs, ethnic Ossets as well as ethnic Georgians, resulted from the conflict in South Ossetia, of whom half remained within South Ossetia while the other half fled to Georgia proper.² Additional, smaller-scale displacement in connection with these conflicts took place several years later, following a resurgence of hostilities in May 1998 in Abkhazia and in July-August 2004 in South Ossetia. During the several years of so-called “frozen” conflict, a certain amount of return to these areas took place. An estimated 45,000 to 50,000 people spontaneously returned to the Gali region of Abkhazia—returns that officially are unrecognized by the Georgian government (see Benchmarks 3 and 10)—while the organized return to South Ossetia of several thousand IDPs as well as refugees—of whom 5,735 were assisted by the UN High Commissioner for Refugees (UNHCR)—occurred between 1997 and 2005.³

¹ Figures current as of end May 2011, provided to the author in July 2011 by the Government of Georgia, Ministry for Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees. For further discussion, see analysis under Benchmark 3, below.

² The conflict in Abkhazia displaced some 240,000 people, the vast majority of whom are ethnic Georgians who were displaced from Abkhazia into other parts of Georgia; smaller-scale short-term displacement also occurred within Abkhazia, though even approximate figures are unknown. The conflict in South Ossetia displaced an estimated 60,000 people, of whom approximately 20,000 became IDPs: some 10,000 ethnic Georgians fled the conflict region into areas of the country under the control of the government of Georgia while 5,000 ethnic Ossets were displaced within South Ossetia and were joined by a further 5,000 Ossets who fled into South Ossetia from other parts of Georgia. In addition, some 40,000 people, mostly ethnic Ossets fleeing the conflict in South Ossetia, crossed the border into the Russian Federation region of North Ossetia.

³ UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally*

The “new” IDPs refers to those affected by the displacement that occurred in August 2008 as a result of the five-day war between Georgia and Russia that was triggered in South Ossetia but also spread to Abkhazia. An estimated 158,700 people were forced to flee their homes in South Ossetia and adjacent areas as well as the Kodori Gorge of Abkhazia.⁴ Again, displacement was largely internal in nature: the vast majority of those displaced (some 128,000 people) became IDPs, of whom most were displaced in Georgia proper while some 30,000 IDPs were displaced within South Ossetia; meanwhile, 30,000 people from South Ossetia, mostly ethnic Ossets, fled across to the region of North Ossetia, located in the Russian Federation. By October 2008, with the withdrawal of Russian troops from regions of Georgia other than South Ossetia and Abkhazia, the majority of the “new” IDPs had returned home.

Of the 256,100 IDPs in Georgia in 2011, the vast majority (238,187 persons, or 93 percent) are IDPs who were displaced by conflict in the early 1990s and thus have been living as IDPs for nearly two decades. Of these IDPs, most are IDPs from Abkhazia, while a small but imprecise number of IDPs from the South Ossetia conflict of 1991–92 remain, both within South Ossetia

(some 3,500 in collective centers⁵) and in Georgia proper. The remaining IDPs (17,916 according to government IDP registration; 22,000 according to UNHCR and the Public Defender of Georgia—see Benchmarks 3 and 5) were uprooted more recently as a result of the conflict in August 2008, but they were not among the large numbers of IDPs who were able to return to their home areas in the weeks immediately following the end of active hostilities. It is noteworthy that 3,613 of the total number of IDPs in Georgia currently were displaced successively by both periods of conflict and mass displacement.⁶

In addition to IDPs resulting from conflict, Georgia also periodically experiences smaller-scale but still significant displacement due to natural disasters, especially floods, landslides and earthquakes.⁷

1. Prevent Displacement and Minimize Its Adverse Effects

Do national authorities take measures to prevent arbitrary displacement and to minimize adverse effects of any unavoidable displacement?

Neither the Law of Georgia on Forcibly Displaced–Persecuted Persons (1996)⁸ nor the State Strategy on

Displaced Persons, Mr. Francis Deng—Addendum: Profiles in Displacement: Georgia, E/CN.4/2001/5/Add.4, 25 January 2001, paras. 11–15, 20–21 (http://ap.ohchr.org/documents/dpage_e.aspx?m=71); UN Commission on Human Rights, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Mission to Georgia*, E/CN.4/2006/71/Add.7, 24 March 2006, paras. 7–9 ([/www.brookings.edu/projects/idp/rsg_info.aspx#Kalin](http://www.brookings.edu/projects/idp/rsg_info.aspx#Kalin)). See also Internal Displacement Monitoring Centre (IDMC), *IDPs in Georgia Still Need Attention: A Profile of the Internal Displacement Situation*, 9 July 2009, pp. 4, 8, 18, 20–21, 28, 32, 43–45 (www.internal-displacement.org).

⁴ According to UN agencies, these 158,703 IDPs included 75,852 persons displaced from and within South Ossetia, 65,800 from Gori and surrounding villages, 12,701 from Western Georgia, and 4,350 from Abkhazia. UN Office for the Coordination of Humanitarian Affairs (UN OCHA), *Consolidated Appeals Process: Georgia Crisis Flash Appeal 2008* (18 August 2008), p. 9 (<http://reliefweb.int/node/276845>).

⁵ UN Human Rights Commission, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum: Follow-Up to the Report on the Mission to Georgia*, A/HRC/13/21/Add.3, 14 January 2009, para. 5 (www.brookings.edu/projects/idp/rsg_info.aspx#Kalin).

⁶ Figures provided to the author in July 2011 by the Government of Georgia, Ministry for IDPs from Occupied Territories, Refugees and Accommodation.

⁷ For example, the government has reported that between 1987 and 1989, some 20,000 people became internally displaced as a result of natural disasters. UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng—Addendum: Profiles in Displacement: Georgia*, E/CN.4/2001/5/Add.4, 25 January 2001, para. 12.

⁸ Government of Georgia, Law of Georgia on Forcibly

Internally Displaced Persons (2007),⁹ which focuses on durable solutions to displacement, addresses the issue of protection from arbitrary displacement. However, other national legislation is relevant. The Criminal Code establishes criminal responsibility for any displacement that takes the form of genocide or crimes against humanity.¹⁰ Moreover, during a state of emergency or of martial law, while the applicable national legislation does allow the government to “temporarily resettle citizens from regions that pose a threat to life” and to “restrict, when necessary, the right of citizens and stateless persons to freedom of movement,” any such displacement must be justified on grounds of necessity and must meet numerous procedural guarantees in order for the displacement to be considered lawful.¹¹ It is noteworthy that the government of Georgia has been criticized by some local observers for having failed to meet its responsibility to evacuate civilians from the conflict zone during the August 2008 war.¹²

Displaced–Persecuted Persons, 28 June 1996, as amended 25 October 2010 (<http://mra.gov.ge>). The law with amendments of 2010 changing the title of the ministry currently is available only in Georgian; an unofficial English translation of the law, current to the penultimate amendment in 2006, is available at Brookings-LSE Project on Internal Displacement, “National and Regional Laws and Policies on Internal Displacement: Georgia” (www.brookings.edu/projects/idp/Laws-and-Policies/georgia.aspx). For further information, see Benchmark 5, below.

⁹ For further information on the State Strategy, see Benchmark 6, below.

¹⁰ Government of Georgia, Criminal Code of Georgia (1999).

¹¹ Giorgi Chkheidze and Konstantine Korkelia, “Report on the Guiding Principles and the Law of Georgia,” in Roberta Cohen, Walter Kälin and Erin Mooney, eds., *The Guiding Principles on Internal Displacement and the Law of the South Caucasus: Georgia, Armenia, and Azerbaijan*, pp. 21–24 (Brookings-SAIS Project on Internal Displacement and the American Society of International Law, 2003), citing the Law on State of Emergency, 17 October 1997 and the Law on State of Martial Law, 31 October 1997.

¹² Joint submission by Human Rights Priority, the International Center on Conflict and Negotiation and the Caucasus Women’s Network, para. 20, cited in United Nations, General Assembly, Human Rights Council, Working Group on the Universal Periodic Review,

As for mitigating the effects of displacement, the Law on Forcibly Displaced Persons–Persecuted Persons provides that persons who meet the definition and are recognized as having the status of a “forcibly displaced person–persecuted person” (a classification under national legislation that in effect corresponds to persons regarded by the international community as conflict-induced IDPs) are entitled to receive free transportation of person and transfer of luggage by public transportation to the place of temporary residence; to reside in a place of temporary residence and to use utilities free of charge; to receive food in an amount prescribed by relevant legislation; to access medical services free of charge in state medical institutions; and to receive financial aid or other assistance from the state.¹³ IDPs displaced by conflict and registered as having this status are entitled to receive a modest monthly stipend: in 2000, the stipend was 11 Georgian Lari for IDPs in collective centers and 14 Lari for IDPs in private accommodations; since 2005, the monthly stipend has been 22 Lari for IDPs living in collective centers and 28 Lari for IDPs living in private accommodation. Although the amount is minimal and certainly insufficient to cover basic needs,¹⁴ most IDPs rely heavily on the stipend, given their lack of meaningful livelihoods and reliable access to income-generating opportunities. Therefore it was especially problematic when in previous years disbursement of the monthly stipend frequently was delayed, sometimes for several months at a time, thereby depriving many IDPs of a critical source of support and leaving them in a very

Summary Prepared by the Office of the High Commissioner for Human Rights: Georgia, UN doc. A/HRC/WG.6/10/GEO/3 (15 November 2010) (www.unhcr.org/refworld/country,,UNHRC,,GEO,,4d53a9792,0.html).

¹³ Government of Georgia, Law of Georgia on Forcibly Displaced–Persecuted Persons, 1996, as amended 25 October 2010. For more comprehensive analysis of the law, see Benchmark 5.

¹⁴ Consider that in 1999, the World Bank had set the absolute poverty line at 52 Lari per adult per month. The “minimum survival” food basket alone cost 40 Lari a month per adult. World Bank, *Georgia: Poverty and Income Distribution*, vol. 1, Report No. 19348-GE (World Bank, 1999), para. 102.

precarious situation.¹⁵ In recent years, this problem appears to have been corrected.¹⁶

For causes of displacement besides conflict, the specified mitigating measures vary. In the case of persons displaced pursuant to a declared state of emergency or of martial law, the state is obliged to provide all affected persons with a place of temporary residence; compensation for material damage suffered; assistance in finding employment; and other types of assistance.¹⁷ In the case of displacement due to natural disasters, a presidential decree provides for the establishment of state and local commissions for the social-legal protection of persons affected by disasters and the avoidance of such possible disasters in the future.¹⁸ Georgia law does not contain any special provisions regulating the displacement of persons caused by large-scale development projects, although regulations regarding property expropriation would apply.¹⁹

Notwithstanding the various legal provisions for protection against arbitrary displacement and measures taken to mitigate the immediate effects of any displacement (arbitrary or otherwise) that does occur, the August 2008 displacement crisis exposed critical gaps in emergency preparedness. In the absence of a national plan for emergency response, operational procedures had

not been established, the necessary capacities were not in place, and the division of responsibilities among government agencies and coordination mechanisms with nongovernment partners were not clearly defined, leading to an ad hoc response. Acknowledging the gaps, the government has begun to develop its capacities in this area—for instance, by having staff attend training courses in emergency preparedness in 2009 and undertaking in 2010 an emergency preparedness simulation exercise involving the emergency services, the Ministry for Refugees and Accommodation, and the military.²⁰

With respect to improving the living conditions of IDPs in collective centers and other temporary accommodations, the State Strategy on IDPs states that “IDPs shall be protected against arbitrary/illegitimate eviction.”²¹ Moreover, national legislation affirms that IDPs shall not be expelled from their places of temporary residence unless written agreement has been reached with the IDPs; the living conditions of the accommodation that the IDP has been allocated have deteriorated; force majeure; other catastrophes in which case displacement “entails specific compensation and is [to be] regulated according to the general rules” prescribed by law; or the living space is occupied illegally in violation of national legislation.²²

In 2010, the government adopted standard procedures for vacating and reallocating IDP housing, which, among other things, addresses those cases in which removal of IDPs from a collective center is ordered by

¹⁵ For example, in May 2000, IDPs reported to RSG Francis Deng that they had not received the stipend since December 1999. The following month, IDPs staged mass protests demanding payment of the allowance, to which they are entitled by law. UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng—Addendum: Profiles in Displacement: Georgia*, 2001, para. 34.

¹⁶ The Norwegian Refugee Council (NRC), which provides information, counseling and legal aid services for IDPs, reports receiving from IDPs few complaints on this issue in recent years. E-mail correspondence with NRC Georgia, May 2011.

¹⁷ Chkeidze and Korkelia “Report on the Guiding Principles on Internal Displacement and the Law of Georgia,” p. 26.

¹⁸ *Ibid.*, pp. 31–33.

¹⁹ For a summary of the relevant legislation, see *ibid.*, pp. 31–32.

²⁰ Interviews with government officials and international aid agencies, undertaken by the author, together with Guy Hovey, as part of a USAID technical assistance project carried out through USAID-FORECAST [Focus on Results: Enhancing Capacity across Sectors in Transition], 2009–2010; and e-mail correspondence of the author with a senior adviser to the Ministry for IDPs from the Occupied Territories, Accommodation and Refugees, January–February 2011.

²¹ Government of Georgia, State Strategy for Internally Displaced Persons–Persecuted Persons, Chapter V, 2.2.

²² Government of Georgia, Law of Georgia on Forcibly Displaced–Persecuted Persons, 1996, as amended 25 October 2010, Article 4(4).

the government and may require an eviction.²³ Some observers have expressed concern that cases of eviction in which the only alternative accommodation offered to IDPs was located in a region far from the IDPs' current place of residence could amount to secondary displacement.²⁴ For further discussion on this issue see Benchmark 10, below.

2. Raise National Awareness of the Problem

Does the government (at the highest executive level, for example, the president/prime minister) acknowledge the existence of internal displacement and its responsibility to address it as a national priority?

The government of Georgia not only acknowledges the internal displacement resulting from the conflicts concerning Abkhazia and South Ossetia, it actively promotes national and international attention to the issue. Indeed, during his mission to Georgia in 2000, Francis Deng, the Representative of the United Nations Secretary-General on Internally Displaced Persons (RSG), was struck by the degree to which the authorities exhibited “solidarity” with IDPs uprooted by the conflicts and that “[y]ears on, the government continues to give emphasis to the plight of the internally displaced.”²⁵ More than a decade later, and now nearly two decades

since displacement first occurred, the government continues to do so. In addition, the government, at the highest levels, also has acknowledged and drawn attention to the occurrence in Georgia of internal displacement due to natural disasters.²⁶

The government consistently and actively has endeavored to mobilize attention especially to the plight of conflict-induced IDPs and has done so in the domestic arena as well as in major international forums including the United Nations and the Organization for Security and Cooperation in Europe (OSCE). Beyond the compelling humanitarian reasons for calling attention to the IDP issue, doing so has always had important strategic and political value for the government insofar as it serves as a visible reminder of the otherwise largely forgotten armed conflicts of nearly two decades ago and the consequent loss by the central government of effective control over the territories of Abkhazia and South Ossetia. Consequently, internal displacement, in particular the right of IDPs to return, is a highly politicized issue in Georgia, on both the domestic and the international level. Within the national arena, rhetoric on the issue of IDP return has been especially strong in the run-up to elections, with promises made, including by the president, to restore the territorial integrity of Georgia and thereby enable IDPs to exercise their right to return. Typically such electoral promises have spoken of realizing those goals within a very short timeframe—that is, within a matter of months.²⁷ However, particularly

²³ *The Standard Operating Procedures for Vacation and Re-allocation of IDPs for Durable Housing Solutions* (2010) (www.mra.gov.ge).

²⁴ Amnesty International, “Index,” *Uprooted Again: Forced Eviction of the Displaced People in Georgia* (August 2011) EUR 56/005/2011 (www.amnesty.org); compare “Reply by the Government of Georgia, Ministry of Internally Displaced Persons, Accommodation and Refugees to the Report by Amnesty International,” 5 August 2011 (<http://mra.gov.ge/main/ENG#readmore/635>).

²⁵ UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng—Addendum: Profiles in Displacement: Georgia*, 2001, paras. 1–2.

²⁶ President Eduard Shevardnadze and, separately, the Minister for Refugees and Accommodation, emphasized the plight of disaster-induced IDPs in Georgia to the RSG during his mission in May 2000. UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng—Addendum: Profiles in Displacement: Georgia*, 2001, para. 12. More recently, the incidence in Georgia of internal displacement due to natural disasters was flagged by senior officials in the ministry responsible for IDPs in the course of a USAID-FORECAST assessment undertaken in February-March 2009 by the author and Guy Hovey of the ministry’s capacity and concerns regarding internal displacement.

²⁷ See, for example, “Georgia: Saakashvili Vows to Secure

in the aftermath of the conflict in August 2008, which was followed by the Russian Federation's recognition of Abkhazia and South Ossetia as independent states, statements by Georgian politicians of the possibility of large-scale IDP return in the immediate future have diminished significantly. Even so, the IDP issue remains prominent in the national consciousness and is an issue of significant political import for the government.

As just one indication, the IDP issue features regularly and with increasing prominence in the president's annual State of the Nation address.²⁸ It is noteworthy that the president's most recent address, in 2011, was framed around the theme of national "responsibility" to address the situation of IDPs. The president noted that the government's "main priority is to care for our internally displaced population," emphasizing that "the State has an obligation to do everything to give our IDP compatriots the possibility of a better life." Continuing with the theme of national responsibility, the president emphasized that the government's "main obligation" is to improve IDPs' living conditions and specified that "part of this obligation" is "the resettlement of displaced persons in private dwellings of their own, instead of shelters," where currently "many" IDPs "still live in difficult conditions . . . in temporary shelters with poor conditions for living." The president summarized current government programs for providing decent shelter to IDPs during their displacement, while acknowledging that these efforts were "just a drop in the ocean; much more needs to be done." At the same time, the president underscored that IDPs' situation will not be completely resolved until "every displaced person gets back their own property" in their area of origin.²⁹

More concretely, the government has taken a number of high-profile national initiatives regarding IDPs. In 2000, the Presidential Commission on IDPs was established, comprising twenty senior representatives from different ministries; though it appears that the commission's work was limited in time and impact (see Benchmark 7). In 2006, a state commission was established to develop a state strategy on IDPs, resulting in the adoption by the Council of Ministers of such a strategy, conveyed by a decree of the prime minister in February 2007 (see Benchmark 6).

Perhaps most notable, at least in terms of national awareness-raising initiatives on IDP issues, was the multimillion dollar "My House" program launched by President Saakashvili in 2006 and funded from the discretionary funds at his disposal.³⁰ This program, which allowed IDPs to register abandoned property in Abkhazia through state-of-the-art satellite technology, was promoted in an extensive mass media campaign. Notwithstanding the national prominence given to the program and the hype surrounding it, its utility and impact were limited (see Benchmark 10 below). Moreover, when rumors and resulting panic spread among IDPs concerning the "My House" program—specifically, rumors suggesting that IDPs who did not participate would lose their IDP status and the assistance afforded under national legislation—the government did little, if anything, to correct the misinformation. The general view among observers of IDP issues in Georgia at the time was that the program was more a political and public relations exercise than a serious effort by the government to strengthen the legal evidence for IDPs' claims for property restitution.³¹

IDPs' Return to Abkhazia in Months," 28 November 2007(<http://reliefweb.int/node/250451>).

²⁸ See, for instance, President of Georgia, "Annual Address to Parliament," 2006, 2007, 2008, 2009 (www.president.gov.ge/index.php?lang_id=ENG&sec_id=231&info_id=2483).

²⁹ President of Georgia, Mikheil Saakashvili, "Annual Address to Parliament," 11 February 2011 (www.president.gov.ge/index.php?lang_id=ENG&sec_id=231&info_id=6143). For an analysis, see Lasha Gogidze and Caitlin Ryan, "Fact-Checking the State of the Nation Address: IDPs,"

Indeed, the aspect of internal displacement on which the government has focused most national

28 February 2011 (<http://transparency.ge/en/blog/pfact-checking-state-nation-address-idpsp>).

³⁰ A description of the government program is available on the government website (www.chemisakhli.gov.ge/index.php?lang_id=ENG&sec_id=1).

³¹ Author's notes, while working in Georgia on IDP issues, 2006–07.

awareness-raising efforts is the issue of IDPs' "right to return." Advocacy of the right to return is a common refrain in virtually every government statement, domestic or international, on IDP issues. While the government's approach to durable solutions to displacement has broadened significantly in recent years to include alternative solutions (see Benchmarks 5 and 10), the focus of government advocacy efforts remains on return. Indeed, every year since 2008 the government of Georgia has sponsored in the UN General Assembly a controversial, but increasingly supported, resolution on the "right to return" of IDPs from Abkhazia and South Ossetia.³² Moreover, President Saakashvili personally remains a vocal advocate of IDPs' right to return.³³

The government's acknowledgement of internal displacement and its responsibility for addressing it is reflected in the national legal and policy framework. Most notably, in 1996 the government adopted the Law of Georgia on Forcibly Displaced Persons–Persecuted Persons; indeed, Georgia counts among the first countries in the world in adopting national legislation

specifically addressing internal displacement (see Benchmark 5 below). Moreover, as mentioned above, in 2007, the government adopted the State Strategy on Internally Displaced Persons (see Benchmark 6, below). Especially noteworthy for this study, the current government minister responsible for IDPs (see Benchmark 7), along with senior officials in the ministry, has made a point of publicizing that all senior officials in the ministry have been provided with copies of the Guiding Principles on Internal Displacement and of the guidance document on national responsibility, *Addressing Internal Displacement: A Framework for National Responsibility*, noting that "this has helped ensure that the humanitarian response has met internationally recognized standards."³⁴ It is noteworthy that Amnesty International also refers to the Framework for National Responsibility and specifically has reiterated the Framework's twelve benchmarks as "valuable criteria for assessing the realization of human rights of internally displaced persons" and for measuring government accountability.³⁵

The government of Georgia attaches significant national priority to the issue of conflict-induced internal displacement and indeed demonstrates strong solidarity with IDPs. In so doing, government rhetoric and response historically has focused almost exclusively on pressing for IDPs' right to return. While advocacy of that right is important and is in line with the responsibility

³² For example, UN General Assembly (UNGA) Resolution 65/287 of 29 June 2011 on the status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia; UNGA Resolution 64/296 of 7 September 2010; UNGA Resolution 63/307 of 9 September 2009; UNGA Resolution 62/249 of 15 May 2008. That these resolutions have been adopted only with numerous abstentions illustrates the highly politicized nature of the issue, in particular regarding Georgia's relations with Russia, which has had significant external influence on the conflicts and efforts to resolve them.

³³ See, for example, President Saakashvili's statement to the OSCE Summit in Astana, 1 December 2010 (http://www.president.gov.ge/index.php?lang_id=ENG&sec_id=228&info_id=5921); and *Daily News Online*, "Saakashvili: UN Vote Russia's Shame and Diplomatic Failure," 10 September 2009 (www.civil.ge/eng/article.php?id=21448), referring to a televised statement by President Saakashvili in which he welcomed UN General Assembly Resolution 63/307 recognizing the right of displaced persons to return to Abkhazia and South Ossetia, by describing this as a major diplomatic victory for Georgia and diplomatic defeat for the Russian Federation.

³⁴ Iulia Kharashvili, Ilya Kharashvili, and Koba Subeliani, "Experience of the Guiding Principles in Georgia," *Forced Migration Review, Special Issue on 10 Years of the Guiding Principles on Internal Displacement*, December 2008, pp.16–17. Koba Subeliani has been the Minister for Refugees and Accommodation since late 2008 to the present and previously served in this same capacity from 2007 to early 2008. In the period between his two ministerial appointments, he was a member of parliament and coordinator of the Georgian Parliament's IDP group; Iulia [who also goes by, and has published under, the name "Julia"] Kharashvili was an adviser on IDP issues in the ministry from 2006 to February 2011.

³⁵ Amnesty International, "Government Accountability," *In the Waiting Room: Internally Displaced People in Georgia* (August 2010), p. 44 (www.amnesty.org).

of a government to create conditions enabling return, in other respects the focus on return has been counterproductive, having worked against IDPs' and their right to access decent living conditions in the interim and even to access alternative solutions to displacement. Only in recent years has the government taken a more comprehensive approach to supporting IDPs in protracted displacement (see Benchmark 10), a shift now reflected in statements by the government at the highest level. Even so, especially in international forums, the priority of the government's awareness-raising efforts remains on pressing for creating conditions enabling IDPs' right to return.

3. Collect Data on Number and Conditions of IDPs

Do the national authorities collect data on the number and conditions of IDPs?

The government collects data on the number and, to a certain extent, the conditions of IDPs. Specifically, data collection efforts focus on IDPs displaced by conflict; data are not systematically collected on the internal displacement that periodically occurs, on a smaller scale, because of natural disasters such as earthquakes and landslides.

Data collection by the authorities on conflict-induced IDPs is based on national IDP registration, which is undertaken in accordance with national legislation regulating IDP status (see Benchmark 5), which defines IDPs as persons displaced by conflict. The Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees (previously known as the Ministry of Refugees and Accommodation and, even after the name change, still referred to using the acronym MRA) has responsibility for IDP registration.

The first countrywide IDP registration exercise occurred in 1996; the most recent, a "re-registration" exercise, took place from April 2007 to April 2008. During this exercise, a total of 218,858 IDPs were registered in

Georgia. Of those, 206,538 were IDPs who had fled from Abkhazia; another 12,320 had fled from South Ossetia.³⁶

For each registered IDP, personal data collected include the IDP's name, IDP registration number, age, gender, current address and contact details, predisplacement address, and indication of any vulnerability status recognized under national law, such as orphan, war veteran, and so forth. Basic personal data on IDPs are updated annually to reflect any changes in information, such as a change of address, or new information, including births and deaths. According to national legislation, an IDP is obliged to inform the ministry of any change to her/his place of residence within one month of the change and of planned absences from the country of more than two months (in which case IDP status and its entitlements are to be suspended).³⁷ In practice, however, those requirements are not enforced, nor do they now have much practical importance given that since 2007 all legally recognized IDPs can receive directly through their bankcards and ATM machines the monthly allowance to which they are entitled; thus they can receive their allowance wherever they are. Moreover, in recent years, with the introduction of programs to provide IDPs with improved living conditions through purchase of their current living space or through compensation schemes, the ministry stopped accepting changes of IDPs' addresses with a view to impeding IDPs from abusing the programs to claim ownership of or compensation for housing in a location associated with higher property values, such as Tbilisi, rather than in the location of the residence where the IDPs actually have been living.³⁸

Between countrywide re-registration exercises, IDP figures are updated to reflect normal demographic changes—the birth of children to IDPs and deaths of

³⁶ UNHCR, *Protection of Internally Displaced Persons: A Gap Analysis* (UNHCR and EU, July 2009), p. 10 (hereafter, UNHCR, *Gap Analysis*).

³⁷ Government of Georgia, *Law of Georgia on Forcibly Displaced-Persecuted Persons*, Article 5.

³⁸ I am indebted to Tina Gewis, protection and advocacy adviser, Norwegian Refugee Council, Georgia, for these points. E-mail correspondence with author, June 2011.

registered IDPs—as well as the registration of individuals who were displaced by the conflict and then lived abroad (IDP status is terminated if the individual leaves the country and establishes permanent residence or acquires citizenship of another country) but who have since returned to Georgia but still cannot return to their areas of origin.³⁹

IDPs displaced by the August 2008 conflict initially were registered through another process. Although IDP registration is a mandated responsibility of the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees, in the aftermath of the August 2008 conflict, the suddenness and scale of displacement—130,000 persons became internally displaced in five days—overwhelmed the capacity of the MRA in many respects, including registration. As MRA was considered to be ill equipped to mount emergency registration of the newly displaced, the government turned to the Civil Registry Agency (CRA) of the Ministry of Justice to complete this essential task. The CRA, with support from USAID, recently had upgraded its information technology and invested in staff training, both of which were mobilized for this purpose.⁴⁰ Significantly, UNHCR also decided to partner with and support CRA rather than MRA in registering the new IDPs. Inevitably, that experience raised serious questions within government as well as among international stakeholders of whether data collection responsibilities for IDPs—and even focal point responsibility for IDP issues overall—should remain with the MRA in the long term (see also Benchmark 7).⁴¹ MRA, for its part,

voiced concern about discrepancies in the data and in the methodology used by the CRA.⁴² The information collected by the CRA on the “new” IDPs eventually was integrated into a new, comprehensive database developed by the MRA beginning in May 2009.

Yet the MRA has been slow to grant official IDP status, as provided for under the Law on Forcibly Displaced Persons–Persecuted Persons, to all of the “new” IDPs who were unable to return to their home areas in the weeks and months immediately following the end of hostilities and who, factually speaking, remain IDPs. By law IDPs are to be registered within ten days of presenting their application.⁴³ While the government did begin granting IDP status to those cases in the second half of 2009, specific groups of IDPs from 2008, namely those from territories outside the control of the government of Georgia, have been left out of the process (for further discussion of this issue, see Benchmark 5). It therefore is important to note that government figures for the 2008 caseload refer only to IDPs who have been granted IDP status; thus, while the government reports 17,916 “new” IDPs, other observers—including the Public Defender of Georgia (see Benchmark 8), UNHCR, and other international actors—report 22,000 IDPs remaining from the August 2008 conflict.

According to the most recent official data, dated May 2011 and based on the ministry’s database of persons registered as having IDP status, currently there are 256,103 IDPs (88,834 households) in Georgia.⁴⁴ Data are broken down according to whether individuals are “old” or “new” IDPs. The vast majority, 238,187 persons, are IDPs (and their descendants) as a result of the hostilities in South Ossetia and Abkhazia in the early 1990s—the

³⁹ Government of Georgia, Law of Georgia on Forcibly Displaced–Persecuted Persons, Article 6(3), paras. (c)-(d).

⁴⁰ U.S. Agency for International Development (USAID), “Georgian Agency’s new Infrastructure Is Put to the Test,” 14 February 2009 (<http://georgia.usaid.gov/ka/node/126>).

⁴¹ Interviews by author and Guy Hovey, with government representatives, UNHCR, international NGOs and donors, Tbilisi, February–March 2009, in connection with the USAID-FORECAST project to provide technical assistance on IDP issues to the Ministry for Refugees and Accommodation; the project ran from February 2009 to July 2010.

⁴² Interviews by author and Guy Hovey with officials of the MRA, February–March 2009.

⁴³ Government of Georgia, Law of Georgia on Forcibly Displaced–Persecuted Persons, Article 2, para. 9.

⁴⁴ E-mail correspondence with the MRA in June and July 2011. Note that these figures received from the MRA, based on its IDP registration database, differ slightly from the statistics (undated) that were posted at the time on the MRA website (<http://mra.gov.ge/main/ENG#section/50>).

so-called “old” IDPs (of whom most are IDPs from the Abkhazia conflict). In addition, 17,916 persons registered with IDP status are “new” IDPs, resulting from the renewed outbreak of conflict, primarily around South Ossetia and adjacent areas, in August 2008.⁴⁵ Another figure provided by the MRA, of 3,687 persons, refers to those who were displaced by both periods of conflict, that is, in the early 1990s and again in August 2008. However, to avoid double-counting those people, this figure was not and should not be counted in the total number of IDPs noted above. (That calculating error led MRA to provide a total figure of 259,790 IDPs, double-counting the 3,687 persons displaced during both phases of displacement.) Besides the overall figures, the MRA compiles, based on information collected during IDP registration, disaggregated data on IDPs—for instance, data on age, gender and location of residence while displaced. The MRA website publicly posts statistics on the registered location of IDPs, by region and district.⁴⁶ With the exception of the above-noted discrepancy regarding granting IDP status to all of the 22,000 IDPs remaining from the August 2008 conflict, other key actors, most notably UNHCR and the Office of the Public Defender, cite official IDP figures.⁴⁷

⁴⁵ Recall, as noted above, that of the estimated 130,000 IDPs resulting from the August 2008 conflict, the overwhelming majority were able to return in the weeks following the end to hostilities.

⁴⁶ See “IDP Figures” (<http://mra.gov.ge/main/ENG#section/50>), although note that these figures (undated) are slightly different, in terms of total number of IDPs, than the database-generated statistics that the author received directly from MRA on 1 July 2011. Given that the discrepancy between the overall figures is slight, the statistics on the regional distribution of IDPs therefore still are useful as an indication of general pattern of IDP locations.

⁴⁷ See, for example, UNHCR, *Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights’ Compilation Report, Universal Periodic Review: Georgia* (July 2010), para. 2 (www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain) (hereafter UNHCR, *Submission to the UPR: Georgia*); Public Defender of Georgia, *Report of the Public Defender of Georgia: The Situation of Human Rights and Freedoms in Georgia: Second Half of 2009, 2010*, p. 174

The statistics generated by the government’s IDP registration exercises nonetheless require a number of qualifications. First, the government figures and the IDP registration exercise on which the figures are based do not cover persons displaced within Abkhazia and South Ossetia, territories over which the state authorities have not had effective territorial control since the early 1990s. According to UNHCR, at the time of the last countrywide registration exercise, completed in April 2008, there were 12,320 IDPs from South Ossetia and an estimated 10,000 IDPs within South Ossetia including some 5,000 persons (mostly ethnic Ossets) who fled from Georgia proper into South Ossetia.⁴⁸ Since the August 2008 conflict, there has been almost no humanitarian access to South Ossetia, apart from access by the International Committee of the Red Cross (ICRC). As a result, little is known about the number or conditions of the IDPs who were displaced within South Ossetia by the August 2008 conflict or about the conditions of the conflict-affected population in general.⁴⁹ Walter Kälin, the Representative of the Secretary-General on Internally Displaced Persons, who visited the conflict zone in November 2009, reported that an estimated 10,000 to 15,000 persons had become internally displaced within the Tskhinvali Region/South Ossetia due to the August 2008 conflict; in addition, of the 5,000 IDPs displaced within South Ossetia during the hostilities of 1991–92, many had yet to find a durable solution, including most notably some 3,500 people still living in collective centers.⁵⁰ The number of IDPs who were and still are displaced within Abkhazia is unknown.⁵¹

(www.ombudsman.ge/index.php?page=21&lang=1).

⁴⁸ UNHCR, *Gap Analysis*, 2009, p. 10.

⁴⁹ UNHCR, *Submission to the UPR: Georgia*, para. 2.

⁵⁰ UN Human Rights Commission, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum: Follow-Up to the Report on the Mission to Georgia*, A/HRC/13/21/Add.3, 14 January 2009, para. 5.

⁵¹ UNHCR, *Gap Analysis*, 2009, p. 10; UN Human Rights Commission, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin – Addendum: Mission to Georgia (21–24 December 2005)*, E/CN.4/2006/71/Add.7, 24 March 2006, para. 9.

Second, government IDP figures do not take into account that some return has occurred. The rationale is partly pragmatic: without having access to and effective control over South Ossetia and Abkhazia, the government is not able to access and assist returnees or ensure their security. However, there also are political reasons—namely, concern that return will be cited by the de facto authorities as evidence of their establishment of effective control over the area. The Georgian government therefore does not officially acknowledge returns. Consequently, returnees retain their IDP status and thus remain eligible to receive all the entitlements that the IDP status affords under national legislation, including the monthly allowance. Particularly in the case of Abkhazia, significant numbers of IDPs are reported by UNHCR to have returned (spontaneously, without UNHCR assistance) in recent years. It is estimated that 45,000 to 50,000 IDPs have returned spontaneously to southeastern Abkhazia, in particular to the region of Gali as well as to Ochamchira and Tkuarchali. For several years, UNHCR, which maintains a small field presence in the area and undertakes regular monitoring of the overall protection situation, has pointed out the need to collect more precise and comprehensive data on the number and conditions of the returned IDPs. An agreement was brokered by UNHCR in 2006 between the government of Georgia and the de facto Abkhaz authorities to conduct data “verification” regarding the situation of the returned IDPs and of other conflict-affected population residing in the area; this exercise was explicitly encouraged and supported by the UN Security Council.⁵² However, lack of consensus among the parties to the agreement on implementation modalities has continued to impede verification. To this day, the occurrence and sustainability of returns to Abkhazia remains a contentious issue among the parties to the conflict and a stumbling block in the conflict resolution process (see also Benchmark 10).

Historically it has proven difficult to obtain accurate and agreed IDP figures, even when focusing on the

defined scope of the government’s IDP registration exercises. To address this issue, in 2004–2005, UNHCR and the Swiss Agency for Development Cooperation (SDC) supported the government in undertaking an IDP verification exercise. During the exercise, 221,000 people were verified and registered as IDPs, although the Georgian government did not endorse the jointly calculated figure and continued to use its own estimate of 247,000 into 2007, although no new displacement had occurred in the interim. A closer alignment between official and nonofficial figures was achieved by April 2008, after the re-registration process that began in April 2007. However, the registration process was flawed in a number of respects, including that it lacked information on registration dates and procedures; on redress mechanisms if deadlines were missed; on the possibility for invalid, incapacitated, or incarcerated IDPs to be registered through on-site visits; insufficient staff on site; and delays. Moreover, while the exercise did collect certain disaggregated data (including that an estimated 50.5 percent of the Georgia IDP population is female, 70 percent is urban, and 44 percent live in state-owned collective accommodations while the remainder live in private accommodations with host families or in their own rented or purchased accommodations) the registration process is still not an effective mechanism for identifying the most vulnerable. This data gap inevitably poses complications for any programs, including housing allocation programs, seeking to give priority to the most vulnerable persons.⁵³

Residency data is especially problematic. Owing to the protracted nature of displacement, many people inevitably have changed their residences, sometimes several times. Updating that information is, by law, the responsibility of IDPs at the time that they move, and it also should be captured during re-registration exercises. To a certain extent, inaccuracies can be attributed to the failure of some IDPs to re-register when they change residence. However, as noted above, IDPs are not adequately informed about changes in registration dates and procedures or about available remedies in the event that they

⁵² UN Security Council Resolutions 1752 (2007), 1781 (2007) and 1808 (2008).

⁵³ UNHCR, *Gap Analysis*, 2009, pp. 17, 22.

miss the deadline for registration or their application is rejected for other reasons. Further, as noted above, the government no longer enforces these requirements in an effort to avoid fraud in the current program, which provides durable housing assistance, in some cases cash compensation, to IDPs currently living in substandard housing. Presumably for that reason, during the 2007 registration exercise IDPs were required to register only their 2004 address, even if they had since moved. IDPs living in private accommodations face additional barriers, as they must have permission of the owner of the property to notify the authorities of their actual residence.

The lack of accurate residency data can create difficulties for IDPs in claiming their monthly IDP stipend or having their communal expenses covered if they live in a collective center. Moreover, having the wrong address registered risks preventing IDPs from participating in the privatization of collective centers which is currently under way, from being protected from eviction, and from obtaining compensation.⁵⁴

The data collected through IDP registration are limited to the personal details of IDPs. More detailed information on the living conditions of IDPs and their access to rights tends to be generated mostly by nongovernment sources: local and international NGOs, UNHCR and other UN offices, and researchers working in the country.⁵⁵ However, analysts note that those sources tend to offer only partial snapshots of specific issues or analysis based on very specific research questions and small samples of empirical data, so there is a paucity of comprehensive data.⁵⁶ In particular, the Internal Displacement Monitoring Center (IDMC) points out that additional, updated data are needed on the socioeconomic and health status of IDPs, including data comparing employment, health status and access to education of IDPs with the same information on the

nondisplaced population.⁵⁷ Moreover, data on number of households is not necessarily accurate. Especially considering the protracted nature of displacement, families have grown and expanded into second and even third generations of IDPs. While children born to IDPs have the right to be recognized as IDPs and granted IDP status under national legislation, the division of households beyond the original family unit registered needs to be taken into account; this is especially important for issues of allocation of adequate housing space.⁵⁸

There has been a persistent gap in data collection on the large numbers of IDPs living in private accommodations (living with host families or in rented flats or purchased homes)—more than half (55 percent in 2007; 61 percent according to May 2011 statistics)—as opposed living in the government-managed collective centers. The government flagged in the State Strategy for Internally Displaced Persons–Persecuted Persons the problem of lack of sufficient information about IDPs in private accommodations. To fill the gap, the strategy’s revised action plan of May 2009 provided for a survey of the conditions of IDPs in private accommodations. In 2009, a temporary expert group of the Steering Committee on IDP Issues (see Benchmark 6, below) developed a methodology for profiling IDPs in private accommodations. Pilot IDP profiling exercises have since been undertaken by UNHCR and NGOs in the areas of Samegrelo, Adjara and Tbilisi.⁵⁹ The Public Defender’s Office (see Benchmark 8) also was reported to be undertaking a survey of IDPs in private accommodations;

⁵⁴ Ibid., pp. 22–23.

⁵⁵ See, for example, IDMC, “Sources,” *IDPs in Georgia Still Need Attention: A Profile of the Internal Displacement Situation*, 9 July 2009 (www.internal-displacement.org).

⁵⁶ E-mail correspondence with staff of international NGO based in Georgia, May 2011.

⁵⁷ IDMC, “Georgia: Towards Durable Solutions for IDPs,” IDMC Briefing Paper, September 2010, pp. 3–4 (www.internal-displacement.org).

⁵⁸ E-mail correspondence with representative of IDP association, June 2011.

⁵⁹ UNHCR, Field Office Zugdidi, *Report on Pilot Profiling: IDPs in Private Sector of Samegrelo and Adjara Regions of Georgia* (November 2009); Danish Refugee Council (DRC), *Survey Reports on Privately accommodated IDPs in the Samegrelo Region and Tbilisi: An Analysis of Housing Situations and Conditions as well as Durable Housing Solutions in Private Accommodation* (Tbilisi: DRC and the Swedish International Development Cooperation Agency, January 2011).

findings and recommendations will be summarized in the Ombudsperson's annual report, to be presented in fall 2011.

That data collection efforts need to be expanded further is suggested by the analysis above and echoed by Amnesty International's recommendation to the Georgian authorities that they collect disaggregated data through regular and comprehensive surveys to monitor IDPs' realization of their rights.⁶⁰ The MRA has identified the need for more comprehensive data collection and improved data management to implement the state strategy and action plan. At the MRA's request, USAID provided technical assistance to the MRA in 2009–10 to develop a comprehensive database on IDPs—including a case management system for individual concerns that IDPs register with the ministry—and to develop and implement a data collection and management strategy, with particular emphasis on improving data on internal displacement.⁶¹

4. Support Training on the Rights of IDPs

Has there been any training of the authorities on the rights of IDPs?

Since at least the year 2000, government officials have participated in numerous training programs and seminars on the rights of IDPs and issues related to internal displacement. In May 2000, as part of the first visit to Georgia by the Representative of the Secretary-General on Internally Displaced Persons, a regional workshop on internal displacement hosted by the government raised awareness of the Guiding Principles on Internal Displacement among government officials as well as international and local stakeholders. In attendance from the government of Georgia were representatives not only

of the MRA, including the Department for Ecological Migration, but also of the Ministries of Foreign Affairs, Health and Social Care, and Internal Affairs as well as the Office of the President, parliamentarians and regional line ministries of the Abkhazia government in exile.⁶² In advance of the workshop, the RSG, together with UNHCR and the Office for the Coordination of Humanitarian Affairs, had arranged for the translation and publication in the Georgian language of the Guiding Principles on Internal Displacement. A translation into the Abkhaz language followed the RSG's dialogue in May 2000 with the de facto authorities of Abkhazia.⁶³

Several training initiatives on the Guiding Principles followed the workshop. For instance, in November 2000, the Global IDP Project (now known as the Internal Displacement Monitoring Center) of the Norwegian Refugee Council (NRC) conducted a workshop on the Guiding Principles on Internal Displacement for local NGOs and state, regional and municipal authorities in the Kutaisi and Zugdidi regions, where there are high concentrations of IDPs.⁶⁴ In 2002, NRC Georgia developed and began using a training tool to explain the principles to IDP communities and local authorities. In 2006, senior staff of the MRA participated in a course on IDP law organized by the Representative of the Secretary-General on Internally Displaced Persons in Sanremo, Italy.

Notwithstanding these training initiatives, in 2006 humanitarian field staff pointed out that there remained a lack of awareness among government officials of IDPs'

⁶⁰ Amnesty International, *In the Waiting Room: Internally Displaced People in Georgia*, p. 48

⁶¹ Guy Hovey and Erin Mooney, *Technical Assistance to the Ministry for Refugees and Accommodation, Phase III: January–July 2010*, Report to USAID-FORECAST, July 2010; on file with the author.

⁶² *Regional Workshop on Internal Displacement in the South Caucasus (Armenia, Azerbaijan, Georgia)*, Tbilisi, Georgia, May 10–12, 2000 (Brookings Project on Internal Displacement, Organization for Security and Cooperation in Europe, and Norwegian Refugee Council, 2000) (www.brookings.edu/~media/Files/events/2000/0510_caucasus/20000510_SummaryRpt.pdf).

⁶³ See Brookings-LSE Project on Internal Displacement, "Guiding Principles on Internal Displacement" (www.brookings.edu/idp).

⁶⁴ Global IDP Project, *Workshop on the UN Guiding Principles on Internal Displacement*, Borjomi, Georgia, 13–15 November, 2000 (www.internal-displacement.org).

needs and of the national regulatory framework for addressing their needs and ensuring protection of their rights.⁶⁵ To address this gap, NRC Georgia developed a training program targeting authorities working on IDP-related issues to raise their awareness of the Guiding Principles on Internal Displacement and of national legislation of particular relevance to the protection of IDPs' rights. In addition, through its legal program, NRC has regularly included MRA staff from central and regional levels in training events on national IDP legislation as well as the Guiding Principles. At the same time, UNHCR began to increase and systematically integrate IDP issues and the Guiding Principles into its training activities, including those for government officials, in particular for the MRA.⁶⁶ In January 2010, regional staff of the MRA and the staff of a new IDP unit established within the Office of the Public Defender participated in a joint training workshop on the Guiding Principles and other IDP protection issues; training was provided by the Council of Europe and UNHCR, with contributions by NRC on monitoring the rights of IDPs (see Benchmark 8). The Council of Europe also organized a series of training workshops for senior MRA staff on community cohesion, which addressed the importance of facilitating IDPs' integration into the communities in which they currently reside.⁶⁷

In addition to training on the Guiding Principles and the national legal framework for the protection of the rights of IDPs (see Benchmark 5), a number of training initiatives for authorities have been undertaken or recommended on certain thematic or technical issues relevant to the realization of IDPs' rights. Indeed, mapping

and addressing the training needs of MRA staff was a significant component of an eighteen-month USAID technical assistance program to the MRA from 2009 through July 2010. Priority areas identified and addressed through mentoring and training activities were strategic leadership and secretariat functions in chairing the Steering Committee on IDP Issues, communications (both internal and external, in particular with IDPs and international partners), program planning and management, and an in-depth training program for Legal Department staff on legislative drafting, legislative techniques, administrative and civil procedural legislation and court proceeding issues related to IDPs.⁶⁸ In March 2011 in Shida Kartli, UNHCR organized training on the recently adopted standard operating procedures regulating relocation of IDPs (see Benchmarks 5 and 10); participants included not only MRA staff but also members of the police forces. UNHCR and NRC plan to hold a training workshop in September 2011 focused on the Inter-Agency Standing Committee (IASC) Framework on Durable Solutions for Internally Displaced Persons (which NRC translated into Georgian in 2010); officials from the MRA and the Public Defender's Office will participate.

In addition, the MRA has sought training in disaster and other emergency preparedness and response procedures, recalling the challenges that MRA and the government as a whole experienced when caught off guard by the massive humanitarian crisis that resulted from the renewal of conflict in August 2008.⁶⁹ Since then the first deputy minister has attended international training on this issue and senior MRA staff have participated in intragovernment national disaster preparedness exercises. The extent to which

⁶⁵ IDMC, "Enhancing NRC's Capacity to Develop Training on the Protection of IDPs," international workshop for NRC field staff, Tbilisi, Georgia, 20–24 January 2006 (www.internal-displacement.org).

⁶⁶ Author's notes, Tbilisi 2006–07 (when deployed to UNHCR to provide technical assistance on IDP issues to the MRA); and interviews conducted in 2009–10 as part of a USAID-FORECAST technical assistance project for MRA.

⁶⁷ E-mail correspondence with former MRA official, June 2011.

⁶⁸ Hovey and Mooney, *Technical Assistance to the Ministry for Refugees and Accommodation* report, July 2010. On the legal training program, see also Civil Society Institute, "Training programme for the Legal Department Staff of the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia," (www.civilin.org/Eng/viewtopic.php?id=61).

⁶⁹ Interviews by author and Guy Hovey with MRA officials, February 2009.

the training on disaster preparedness addressed specific issues regarding displacement is unclear. Training of Central Election Commission officials at the central, district and precinct level as well as MRA staff on IDP voting rights and procedures was recommended following the legislative amendments to the Electoral Code to enable IDPs to fully exercise their right to vote⁷⁰ (see Benchmark 9b); information was not available on whether training has occurred.

5. Ensure a Legal Framework for Upholding IDPs' Rights

Does national legislation address the specific needs arising in situations of internal displacement and support IDPs to realize their rights?

Since 1992—and therefore shortly after internal displacement first occurred in Georgia—the government has issued more than 200 normative acts with provisions directly relevant to internal displacement. These include normative acts for which the scope of application is limited to IDPs as well as acts that have a general scope of application but have specific relevance to the situation of IDPs.⁷¹

In the first category of IDP-specific legislation, the most notable example is that Georgia counts among the first countries in the world to have enacted a specific law to address internal displacement. The Law of Georgia on Forcibly Displaced Persons—Persecuted Persons was adopted on 28 June 1996, and it has been amended on a number of occasions, most recently on 25 October 2010. As stated in its preamble, the law “determines the

legal status of IDPs, grounds and rules for recognition as an IDP, granting, suspension, termination and deprivation of IDP status, legal, economic and social guarantees as well as IDPs' rights and obligations.”⁷²

Whereas the definition of “internally displaced persons” elaborated in the Guiding Principles on Internal Displacement is simply a descriptive definition, under Georgian legislation the definition of “IDP” or, more specifically of “forcibly displaced persons—persecuted persons” confers a specific legal status. According to Article 1 of the law, a “forcibly displaced person—persecuted person” (also commonly referred to as an “IDP”⁷³)

is a citizen of Georgia or stateless person permanently residing in Georgia who was forced to leave their place of habitual residence and became displaced within the territory of Georgia due to the threat to her/his life, health or freedom or to the life, health and freedom of her/his family members, as a result of aggression of a foreign power, internal conflict or mass violation of human rights.

There is no other national legislation that defines other categories of IDPs. National legislation in Georgia therefore defines IDPs more narrowly than in the Guiding Principles by excluding IDPs who were forced to flee their homes or places of habitual residence due to causes other than those mentioned, including natural disasters. However, it should be noted that although persons internally displaced by disasters in Georgia are not formally recognized as IDPs and given IDP status, the government does recognize and act upon its respon-

⁷⁰ Erin Mooney and Balkees Jarrah, *The Voting Rights of Internally Displaced Persons: The OSCE Region* (Brookings Institution—Johns Hopkins SAIS Project on Internal Displacement, November, 2004), p. 41.

⁷¹ UNHCR, *Gap Analysis*, 2009, p. 8. For a detailed analysis of the plethora of normative acts adopted from 1992 through to the end of 2001, see Chkeidze and Korkelia, “Report on the Guiding Principles on Internal Displacement and the Law of Georgia.”

⁷² Government of Georgia, Law on Forcibly Displaced Persons—Persecuted Persons.

⁷³ This term is commonly understood, both in translation as well as in state and international practice in Georgia, to mean “IDP.” Indeed, this is confirmed in the Government of Georgia, Decree No. 47 of 2 February 2007, “Approving of the State Strategy for Internally Displaced Persons—Persecuted Persons.”

sibilities to assist persons displaced due to ecological disasters,⁷⁴ whom it refers to as “eco-migrants” (see also Benchmark 1 and 7).

As noted above (Benchmark 3), even with regard to conflict-induced IDPs, the government is not entirely consistent or comprehensive in conferring that status. IDPs within Abkhazia and South Ossetia are not eligible for IDP status; perhaps that makes sense in practical terms as the government has not exercised effective control of those areas since the conflicts began in the early 1990s and therefore is not in a position to register, let alone to assist, them. More difficult to justify, however, is the government’s reluctance to register and grant IDP status to displaced persons currently in Georgia proper who come from what the government calls “uncontrolled territories,” which refers to Akhagori and villages outside of but in close proximity to the administrative boundary of South Ossetia—areas that were under the control of the government of Georgia prior to the August 2008 conflict. The Public Defender, in his report to Parliament in autumn 2010, pointed out that two years after their displacement, “the government has yet to determine what type of status should be granted to these persons” or to formulate a unified position on this issue, noting that this delay provided “a clear example” of “the slow pace of decisionmaking” in state policy. The lack of IDP status for these people carries significant repercussions, including lack of entitlement to support and adequate housing. The Council of Europe Commissioner for Human Rights also has voiced concern about this issue and urged the Georgian authorities

to grant IDP status swiftly and without discrimination to all those persons who cannot return to their places of habitual residence and thus remain effectively displaced, having regard

⁷⁴ Government decrees regulating action in this area included, for instance, Decree No. 485, “On Rehabilitation Works for the Houses of Eco-Migrants Built in the Eighties of the 20 Century.” The author is grateful to Dima Zviadadze, head of the legal department of NRC Georgia for pointing out this reference.

to the fact that those who have not yet benefited from a durable housing solution are in a particularly vulnerable situation.

In addition to the failure to grant IDP status to persons displaced from areas adjacent to the conflict zone, there have been severe delays in granting IDP status to those among the new cases of IDPs who opted to receive compensation instead of relocate to the alternative housing offered, thereby depriving them of access to the monthly stipend disbursed to IDPs. According to data compiled by the MRA, at the end of April 2011 more than 4,500 persons displaced by the August 2008 conflict still had not received IDP status. As the Georgian Young Lawyers Association has pointed out, the Law of Georgia on Forcibly Displaced Persons–Persecuted Persons does not specify that IDP status is limited to persons displaced from occupied territories, nor do the Guiding Principles on Internal Displacement.⁷⁵

The law affirms that all “forcibly displaced persons–persecuted persons” are entitled to enjoy, in full equality, the same rights and freedoms under domestic and international law as do other people in their country and that they should not be discriminated against in the enjoyment of any rights and freedoms on the grounds that they are internally displaced. In addition, the law provides for certain specific entitlements. Those registered as forcibly displaced or persecuted persons are entitled to the following benefits: a monthly special social assistance stipend, temporary shelter and temporary access to plots of arable land (which are exempt from related

⁷⁵ Public Defender of Georgia, *Report on the Human Rights Situation of Internally Displaced Persons and Conflict-Affected Individuals in Georgia: Reporting Period January–July 2010* (2010), pp. 12, 15–16 and 51. Council of Europe, Commissioner for Human Rights, *Report on Human Rights Issues Following the August 2008 Armed Conflict in Georgia*, by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, Strasbourg, 7 October 2010, Doc. CommDH(2010)40, paras. 17–18. Georgian Young Lawyers Association (GYLA), *State Policy on Internally Displaced Persons: Deficiency Analysis* (2011), pp. 6–7; Annex N4, letter of MRA No. 06-06/2176, dated 29 April 2011, p. 7; and pp. 7–8.

taxes), free primary and secondary education, health coverage under existing state programs and assistance in finding temporary employment in line with their profession and qualifications. IDPs living in collective centers also are entitled to free electricity, water and waste disposal. The authorities also have the responsibility to assist IDPs to return to their place of permanent residence once the reasons for their displacement cease to exist. They are also to assist IDPs to locate graves of relatives killed and the whereabouts of individual IDPs who have gone missing “as a result of massive human rights violations.”

The law designates the Ministry of Refugees and Accommodation (which in 2010 was officially renamed the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees) as responsible for ensuring its implementation; the ministry thereby serves as the national government focal point for responding to internal displacement (see Benchmark 7 below). More broadly, the law affirms that “the rights of IDPs are protected by the State.” Further, it specifies that “[a]ny illegal action of the authorities may be appealed to higher authorities or to the court” and that any violation of the law on IDPs is punishable by law.⁷⁶

In Georgia, therefore, the legislative framework for responding to internal displacement and safeguarding the rights of IDPs already was well developed in the years following the onset of displacement and thus preceded the development of the Guiding Principles on Internal Displacement. An extensive study of the compatibility of Georgian legislation with the Guiding Principles, which was conducted by local lawyers from 2001 to 2002 with the support of the Brookings Project on Internal Displacement, found that in large part the Georgian legislation conformed with and

sometimes offered an even higher degree of protection than the international standards set out in the Guiding Principles. Nonetheless, the study recommended that national legislation be strengthened or at least clarified in a number of areas in order to bring it in line with the Guiding Principles. For instance, electoral legislation needed to be amended in order to enable IDPs to exercise fully their right to vote in their place of displacement without forfeiting the specific assistance benefits to which they were entitled by law as IDPs; certain amendments to the procedures for IDP registration were required; minimum standards needed to be elaborated regarding living conditions for IDPs; and legal provisions needed to be elaborated to protect the right of IDPs to own land and participate in the property privatization process and to regulate IDPs’ claims for property restitution. Those recommendations were presented and discussed with government officials as well as representatives of IDP associations, civil society groups, and international organizations at a roundtable convened in 2002.⁷⁷

In subsequent years, important revisions to strengthen the legal protections of the rights of IDPs that the framework affords have included a ruling by the Constitutional Court of Georgia confirming the rights of IDPs to purchase property without losing their IDP status or in any way diminishing their right to return;⁷⁸ and revisions to the Electoral Code to safeguard IDPs’ voting rights in local and parliamentary elections held in their place of displacement (see Benchmark 9b). The Georgian Parliament also adopted a law on property restitution for IDPs from South Ossetia. It was developed

⁷⁶ Government of Georgia, Law of Georgia on Forcibly Displaced—Persecuted Persons, 1996, as amended 25 October 2010, Articles 9 and 11.

⁷⁷ See study by Chkeidze and Korkelia, “Report on the Guiding Principles on Internal Displacement and the Law of Georgia,” as well as the Roundtable report, both in Cohen, Kälin, and Mooney, eds., *The Guiding Principles on Internal Displacement and the Law of the South Caucasus*, pp. 153–69.

⁷⁸ Kharashvili, Kharashvili, and Subeliani, “Experience of the Guiding Principles in Georgia,” p. 16.

through intensive consultations with the parties to the conflict that were facilitated by OSCE and UNHCR, which also offered technical assistance, in 2007 (see also Benchmark 10).⁷⁹

In 2006, the State Commission for the Elaboration of a State Strategy on Internally Displaced Persons (see Benchmark 6) established a legal issues working group, co-chaired by the Ministry of Justice and UNHCR, which identified other issues and put forth additional recommendations for necessary legislative amendments to strengthen the legal framework for protecting the rights of IDPs.⁸⁰ The state strategy that was adopted in 2007 affirms in its preamble the expectation that in implementing the strategy,

the state and the local authorities act in accordance with the Constitution of Georgia, the legislation of Georgia, and the UN Guiding Principles on Internal Displacement, within the framework of internationally recognized human rights and norms determined by international law.

It includes an express affirmation that “IDPs shall be protected against illegal eviction.” The strategy further notes that “from the legal viewpoint, IDPs have all the rights as other citizens of Georgia; despite this, however, they are not fully integrated in the society”; to this end “it is necessary to create the conditions, or to eradicate the hindering factors, for IDPs to enjoy legal, political, living and socio-economic conditions like other citizens of Georgia.”⁸¹

⁷⁹ Brookings-LSE Project on Internal Displacement, “National and Regional Laws and Policies on Internal Displacement: Georgia” (www.brookings.edu/projects/idp/Laws-and-Policies/georgia.aspx).

⁸⁰ The author, seconded to UNHCR, served as co-Chair, with the Deputy of the Ministry of Justice, of this working group, which submitted a report to the state commission in November 2006 (internal document, on file with author).

⁸¹ Government of Georgia, State Strategy for Internally Displaced Persons–Persecuted Persons (2007), Preamble; Chapter V, Section 2.2; Chapter III, Section 2.2.1.

UNHCR subsequently has identified the following areas of the law as requiring amendment and/or elaboration in order to bring Georgian legislation in line with international standards and to contribute to effective application of the laws and regulations on IDPs: IDP status; social benefits and allowances; shelter; and protection from forced return or resettlement.⁸² In July 2010, UNHCR reported to the UN Human Rights Committee that “IDPs still face discrimination with regard to some specific sectors of legislation”; for example, IDPs cannot participate in the privatization of arable land on the same terms as the local population,⁸³ although it is not clear whether the problem is a matter of the law itself or a matter of interpretation and implementation.⁸⁴ To address these and other remaining gaps in the legislation, UNHCR has recommended that there be “a comprehensive review of Georgian legislation governing the treatment of or indirectly impacting on IDPs.”⁸⁵

Moreover, it is significant that the steering committee for implementation of the State Strategy on Internally Displaced Persons (see below) has established several temporary expert groups (TEGs) addressing various legal issues of particular pertinence to IDPs and has produced legal and policy guidance, including the above-mentioned Standard Operating Procedures on Vacation and Re-Allocation of IDPs for Durable Housing Solutions. The work of three of the four TEGs in existence in mid-2011 has a strong legal dimension, namely the TEGs on privatization; on complaints and redress mechanisms; and on guiding principles on durable housing solutions.

Finally, regarding the legal framework in place for safeguarding the rights of IDPs, it is important to be aware of the de facto legislation enacted by the nonstate controlling authorities in Abkhazia and South Ossetia.⁸⁶

⁸² UNHCR, *Gap Analysis*, 2009, p. 13.

⁸³ UNHCR, *Submission to UPR: Georgia*, para. 11.

⁸⁴ E-mail correspondence with NRC, Georgia, May 2011.

⁸⁵ UNHCR, *Submission to UPR: Georgia*, para. 11.

⁸⁶ For a summary of the most relevant legislation adopted by the de facto authorities in each region, see UNHCR, *Gap Analysis*, p. 13.

In Abkhazia in particular, the de facto authorities have passed numerous laws and acts that impact the rights of IDPs and especially returnees regarding “citizenship” and property registration and transfer of ownership.⁸⁷ These laws have no force under international law, which does not recognize them or the de facto authorities. Even so, as UNHCR points out, the de facto legislation does create administrative hurdles for IDPs who want to return and has the effect of creating “at the very least a psychological obstacle to IDP return.”⁸⁸ In addition, there have been widespread reports that in the aftermath of the August 2008 conflict, the de facto authorities in South Ossetia have imposed requirements (besides pre-existing legislation by which IDPs from Georgia were classified as “refugees”), such as for notarized translation of identity cards, for persons to cross the administrative boundary line adjacent to Akhalkgori. At the same time, the Georgian Law on Occupied Territories reportedly is invoked by Georgian law enforcement officials as the legal basis for limiting freedom of movement toward Akhalkgori for both persons and goods (see also Benchmark 12).⁸⁹

6. Develop a National Policy on Internal Displacement

Has the national government adopted a policy or plan of action to address internal displacement?

That the government should adopt a national policy for addressing internal displacement in accordance with the Guiding Principles on Internal Displacement first was

recommended to the government in 2000, during the mission to Georgia by Francis Deng, Representative of the Secretary-General on the Human Rights of Internally Displaced Persons. In particular, the RSG recommended that the government develop a more comprehensive approach to durable solutions to displacement that went beyond simply emphasizing IDPs’ “right to return” to also improving the living conditions of IDPs in their current place of displacement and thereby cease viewing these goals as mutually exclusive.⁹⁰ When Deng’s successor, Walter Kälin, visited the country in 2005, he was pleased to learn that the government had finally begun to make plans to draft a national strategy for IDPs in line with those recommendations. RSG Kälin strongly encouraged that initiative and recommended that the national policy be rights-based and comprehensive, with the aim of supporting IDPs’ integration into society and access to adequate living arrangements while maintaining their option to return. Kälin also advocated that the government consult closely with civil society groups, including IDPs, in the process of designing the policy, and that UNHCR and the wider international community assist the government in its efforts.⁹¹

In February 2006, the State Commission for Elaborating the State Strategy for Internally Displaced Persons was established.⁹² The commission was chaired by the Minister of the MRA; other members included the Ministers of Finance; of Justice; of Economic Development; of Labor, Health and Social Affairs; of Education and Science; Agriculture; Civil Integration; and Reforms Coordination; as well as the Deputy Minister of Foreign Affairs and the chair of the Abkhaz

⁸⁷ For a summary, see for instance, UN Commission on Human Rights, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Mission to Georgia (21 to 24 December 2005)*, 24 March 2006, paras. 20, 41 and 48.

⁸⁸ UNHCR, *Gap Analysis*, Section 2.2.1, p. 13.

⁸⁹ Council of Europe, *Report on Human Rights Issues Following the August 2008 Armed Conflict in Georgia*, by Thomas Hammarberg, Commissioner for Human Rights, Strasbourg (7 October 2010), CommDH(2010)40, para. 11.

⁹⁰ UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng—Addendum: Profiles in Displacement: Georgia*, 2001, para. 130(iii)-(iv).

⁹¹ UN Commission on Human Rights, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Mission to Georgia (21 to 24 December 2005)*, 24 March 2006, paras. 18 and 56-57.

⁹² Government of Georgia, Decree No. 80, 23 February 2006.

government in exile. The commission's work also was to benefit from the participation of the Secretary of the National Security Council, chairpersons of relevant parliamentary committees (namely, the Committees on Human Rights and Civil Integration, on Finance and Budget, on Issues of Restoration of Territorial Integrity, and on Health and Social Issues) and representatives of international organizations and NGOs. To prepare proposals for the commission, four working groups were set up on the following issues: shelter; economic activities; legal issues; and social protection. Each working group was chaired by the relevant line ministry and co-chaired by an international agency or NGO.⁹³ According to the work plan developed by MRA, the membership of each working group was limited to eight representatives, with two seats reserved for local NGOs and two for international organizations or NGOs with relevant expertise.⁹⁴ The working groups each submitted analytical reports and recommendations to the State Commission, on the basis of which the strategy was drafted and adopted by the commission. The government adopted the State Strategy for Internally Displaced Persons–Persecuted Persons in February 2007.⁹⁵

The State Strategy for IDPs outlines two goals for addressing the protracted plight of IDPs from the conflicts of the early 1990s: facilitating the return of IDPs to their

pre-war homes; and supporting IDPs' integration into local society and access to improved living conditions while displaced. It therefore marks a long-advocated policy shift by the government in its approach to addressing the protracted plight of IDPs, in particular regarding durable solutions (see Benchmark 10). More specifically, with the adoption of the state strategy the government departed from its long-standing exclusive emphasis on the right to return of IDPs to recognize for the first time that supporting the local integration of IDPs was a legitimate policy goal. The State Strategy recognizes that those goals are not mutually exclusive and that supporting improved living and socioeconomic conditions for IDPs in their place of displacement does not hinder their right to return whenever return becomes possible. The State Strategy also contains the government's first official recognition of the fact that some spontaneous return to Abkhazia already had occurred, while noting that "upon resolution of the conflict, governmental agencies should be ready to support the dignified return of IDPs in a safe environment."⁹⁶ In the interim, the government recognizes through the strategy the need to improve IDPs' living conditions in their place of displacement, in particular by addressing the conditions in the 1,600 collective centers—"most of which are unsuitable for living"—to ensure that IDPs have access to dignified shelter conditions. In addition, the strategy emphasizes the need to ensure IDPs' equal access to public services, including education, health care and social protection, as well as to promote their self-reliance through support for livelihoods.⁹⁷ The strategy is to be implemented in accordance with ten key principles, including the free and informed choice of IDPs; dialogue with IDPs and their participation in decisionmaking; developing tailor-made programs to address different vulnerabilities; and ensuring gender equality, protection of the rights of the child and respect for human rights generally.

As noted in the document, "the main condition for the successful implementation of the Strategy is the

⁹³ Specifically, the following organizations served as co-chairs of the working groups: on shelter, the Abkhaz government in exile and UNHCR; on economic activities, the Ministry of Economic Development and the Danish Refugee Council (DRC); on legal issues, the Ministry of Justice and UNHCR; and on social protection, the Ministry of Labor, Health and Social Affairs and the Norwegian Refugee Council.

⁹⁴ The work plan for drafting the State Strategy on IDPs was developed by MRA with technical assistance from the Swiss Agency for Development Cooperation; copy on file with author.

⁹⁵ Government of Georgia, Decree No. 47 of 2 February 2007, "Approving of the State Strategy for Internally Displaced Persons–Persecuted Persons." For an unofficial translation, see Brookings-LSE Project on Internal Displacement (www.brookings.edu/projects/idp/Laws-and-Policies/georgia.aspx).

⁹⁶ Government of Georgia, *State Strategy for Internally Displaced Persons–Persecuted Persons*, Chapter IV, 3.1.

⁹⁷ *Ibid.*, Chapter V.

development of a well-planned, detailed and realistic action plan” that spells out specific activities and indicators for implementation, indicates priorities, specifies the necessary resources, and clarifies the division of responsibilities among institutional actors. The action plan not only was significantly delayed in its preparation—having been adopted only in July 2008, more than a year after adoption of the strategy—it also was not comprehensive; instead it focused overwhelmingly on the long-standing government priority placed on return. In any case, in early August, within less than two weeks of the adoption of the action plan, conflict broke out anew, resulting in significant new internal displacement. In December 2008, an annex to the State Strategy conveyed two important decisions of the government: to formally extend the applicability of the State Strategy on IDPs to incorporate the new caseload of IDPs; and to develop a new action plan to reflect more fully the State Strategy with respect to addressing the goal of return and also to elaborate activities for realizing the second goal—improving IDPs’ living conditions in their place of displacement.⁹⁸ The revised State Action Plan for Implementation of the National Strategy on Internally Displaced Persons adopted by the government in May 2009 focused on the second goal of the strategy, improving the living conditions of IDPs while displaced, in particular through programs to secure durable housing solutions for IDPs; some attention was given also to the importance of improving their access to livelihoods.⁹⁹ In keeping with a commitment to update the action plan on a regular basis, an updated plan was adopted by the government in May 2010, further elaborating the durable housing strategy and expanding the focus on livelihoods support (see also Benchmark 10).¹⁰⁰

⁹⁸ Government of Georgia, Decree No. 854 of 4 December 2008, “On Making Additions to Ordinance No. 47 as of 2 February 2007 on Approving State Strategy for Internally Displaced Persons,” called on MRA to lead the design, implementation, and coordination of a revised action plan to the State Strategy that would focus on resettling IDPs and supporting their local integration.

⁹⁹ Government of Georgia, Decree No. 403 of 28 May 2009.

¹⁰⁰ Government of Georgia, Decree No. 575 of 11 May 2010.

The strategy assigns the “leading role, responsibility and coordination function for the elaboration of programs and monitoring outcomes of their implementation” to the Ministry for Refugees and Accommodation,¹⁰¹ which is the designated government institutional focal point on IDPs (see Benchmark 7). To assist MRA in effectively fulfilling its role, in March 2009 the government established the Steering Committee on IDPs. Chaired by the Minister of the MRA, the steering committee brings together representatives of the Ministry of Justice, the Ministry of Finance, and the Municipal Development Fund as well as the UN Resident Coordinator and the Representative of UNHCR. Also included are representatives of the European Commission, Swiss Agency for Development and Cooperation, US Agency for International Development, Swedish International Development Cooperation Agency (as of 2011) and the World Bank as well as one representative of international NGOs¹⁰² and one representative of Georgian civil society.¹⁰³ There are provisions to invite to steering committee meetings, on an ad hoc basis, representatives of the Ministry of Interior Affairs, the Ministry of Economic Development, the Ministry of Labor, Healthcare and Social Affairs, and the Ministry of Regional Development and Infrastructure and other government entities; the international community; and

¹⁰¹ Government of Georgia, *State Strategy for IDPs*, Chapter VII.

¹⁰² To date, the Danish Refugee Council has tended to be the international NGO participating in the steering committee, doing so on the basis of its role since 2010 of providing technical assistance for the restructuring of the MRA. However, DRC and others note that this is a de facto arrangement; the selection of an international NGO to participate in the steering committee never has been decided formally by NGOs. E-mail correspondence with NRC Georgia, May 2011, and DRC Georgia, August 2011.

¹⁰³ To date, Transparency International (TI), a Georgian local NGO, has participated in this role. While its candidacy was endorsed by eight local NGOs, as with the international NGO seat on the steering committee, there has been no formal selection process. TI does report, however, that as part of its participation in the steering committee, it channels related information to some thirty local NGOs that work actively on IDP issues. Transparency International, *Annual Report 2010* (2011), p. 31.

nongovernmental organizations. As stated in its terms of reference, the steering committee is “a decisionmaking/advisory board to coordinate joint efforts of the government of Georgia and international organizations” regarding implementation of the State Strategy.¹⁰⁴ Putting in place an effective and transparent mechanism for coordination of efforts to implement the State Strategy, both within government and with the international community, was a consensus recommendation of the international community and a precondition for donor funding of the revised action plan.¹⁰⁵ Complementing the USAID technical assistance project of 2009–10, UNHCR’s ongoing support to the MRA includes support for the continued effective functioning of the steering committee and its subsidiary bodies.

The Steering Committee on Internally Displaced Persons is to meet monthly, with provision for extraordinary meetings should the need arise; in practice, it meets on average every six weeks to two months. To support its work, it has established several temporary expert groups to undertake analysis and develop policy recommendations. Among its achievements have been the development and adoption in August 2009 of Shelter Standards for the Conversion or Rehabilitation of Collective Centers and for New Construction; the development and adoption in August 2009 of the Guiding Principles on Livelihoods Projects; and the development and adoption in September 2010 of Standard Operating Procedures for Vacation and Re-allocation of IDPs for Durable Housing Solutions (also commonly known as the Standard Operating Procedures for Evictions and Relocation). All of these and other documents adopted by the steering committee as well as its terms of reference and now also the minutes of its meetings are posted (in Georgian and English) on the website of the MRA. Yet, besides the MRA, which continues to chair and serve as

secretariat of the steering committee, and some ministries that participate on the steering committee, other ministries have taken a generally limited part in the overall national response to internal displacement.¹⁰⁶

7. Designate an Institutional Focal Point on IDPs

Has the government designated a national focal point on IDPs?

Georgia has had a designated national focal point for responding to internal displacement, usually a government ministry, since 1993. While the designated entity has remained constant, its name and institutional profile have changed a few times over the years. Initially known as the Committee for Refugees and Accommodation, in 1995 it was renamed the Ministry of Refugees and Accommodation; in 2010, it was renamed the Ministry for IDPs from the Occupied Territories, Accommodation and Refugees.¹⁰⁷

The 1996 Law on Forcibly Displaced Persons–Persecuted Persons formally recognized the responsibility of MRA to organize assistance to IDPs, in particular the issues of IDP registration, shelter, and social and other assistance. It is noteworthy that the law speaks of the responsibilities of MRA and of government authorities generally in terms of “guaranteeing exercise of IDPs’ rights.” In particular, MRA, together with other relevant government actors, is to ensure that IDPs enjoy all of the specific entitlements provided for them under law (see Benchmark 5. If an IDP returns to the place of permanent residence, the MRA and “relevant bodies of executive authorities and local self-government” have responsibilities including to guarantee exercise of returnees’ constitutional

¹⁰⁴ “Terms of Reference for the Steering Committee on IDP Issues,” March 2009 (www.mra.gov.ge).

¹⁰⁵ Author’s notes, mission to Georgia for USAID-FORCAST, February–March 2009. Proposing and supporting the establishment of the steering committee was a recommendation and achievement of the USAID-FORCAST technical assistance project to the MRA.

¹⁰⁶ IDMC, “Georgia: Towards Durable Solutions for IDPs,” 2010, p. 4.

¹⁰⁷ Government of Georgia, Decree of the Prime Minister No. 185 of 30 June 2010. The name change reflects the legal declaration by the government of Georgia in October 2008 of Abkhazia and South Ossetia as “occupied territories” (see the analysis relevant to Benchmark 12).

rights; to create the necessary safety conditions and socioeconomic living conditions at their places of permanent residence; to reinstate “their legal heritage” and personal assets, including house and land; to rehabilitate damaged shelter; and to process claims for compensation for damage.¹⁰⁸

Later the ministry’s broader mandate was elaborated.¹⁰⁹ It encompasses IDPs, including not only those displaced by conflict and accorded the status of forcibly displaced-persecuted persons but also those “displaced due to disasters, pandemics etc.”; refugees; asylum seekers; repatriates; and environmental and other migrants. The ministry’s main goals include protection of rights; registration and management of migration flows; organizing accommodation and resettlement, temporary or permanent, of persons of concern; “facilitating their adaptation/integration”; supervising provision of their social and legal protection; organizing and facilitating return to their permanent residence, providing appropriate socioeconomic conditions; and cooperation with international organizations and NGOs. The ministry’s functions, among others, are to elaborate strategy and policy on issues within its competence as well as secure implementation of decisions adopted by the government; prepare the legislative framework for social and legal protection of all persons of concern to the ministry, in cooperation with appropriate central legislative and executive authorities; facilitate the “reception/resettlement, first aid, employment and adaptation/integration of migrants” in cooperation with relevant executive and local authorities; organize the return of refugees and IDPs to their permanent residence in cooperation with central and local authorities and international organizations; collaborate with international organizations; and disseminate relevant information.

¹⁰⁸ The obligations discussed in this paragraph can be found in Government of Georgia, *Law of Georgia on Forcibly Displaced Persons–Persecuted Persons, 1996, as amended 25 October 2010*, Article 7; Article 8; Article 5.1 and 5.2a-k.

¹⁰⁹ See in particular Government of Georgia Resolution No. 43 of 29 May 2004 spelling out the goals, functions and structure of the ministry.

The ministry has two main departments, each of which is headed by a deputy minister: one department is dedicated exclusively to IDP issues; the other covers migration, repatriation and refugee issues. A legal department, international affairs department, and administrative and finance department support all aspects of the ministry’s work. The ministry also has four “territorial units” headed by regional field offices. In total, the ministry currently has 172 staff, of which twenty-eight are posted to the regional field offices.¹¹⁰

In addition handling its mandated responsibilities, the MRA has served as the coordinator of a number of broader national governmental initiatives. In 2000, in connection with the “New Approach to IDPs” (see Benchmark 10 below), the president established a State Commission for improving the living conditions of IDPs, although no evidence was readily available as to the work of this commission and its impact; it appears that this commission no longer exists. In addition to the Minister of MRA, who acted as chairperson, the commission comprised twenty senior government officials, including the Minister of Health and Social Welfare, the Minister of Education, the Minister of Food and Agriculture, the Minister for Finance, and the Deputy Minister of Justice. Four working groups were established, charged with developing proposals in the areas of shelter; income-generation; access to social services; and community development.¹¹¹ In 2006, when the government established a State Commission for the Elaboration of a State Strategy on Internally Displaced Persons (see Benchmark 6), the MRA was assigned the leading role, with the MRA minister serving as chair-

¹¹⁰ The four territorial units of the ministry are Adjara and Samegrelo-Zemo Svaneti division; Imereti, Guria, Racha-Lechkum and Kvemo Svaneti division; Kvemo Kartli, Mtskheta-Mtianeti and Kakheti division; and Shida Kartli and Samtskhe-Javakheti division. *MRA Mandate*, Government Resolution 343 of 29 May 2004. For staffing information, see ministry budget for 2011 (www.mra.gov.ge).

¹¹¹ UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng—Addendum: Profiles in Displacement: Georgia, 2001*, para. 114.



**Khobi, Georgia / Rusudani, aged 27, stands with her child in one of the dark rooms at the Khobi Swimming Complex. Rusudani and her children live with 10 other families in the swimming complex.
Photo: UNHCR / P. Taggart / October 2008**

person of the commission.¹¹² The resulting strategy designated the MRA as responsible for performing “the leading role, responsibility and coordination function for the elaboration of programs and monitoring outcomes of their implementation” related to the State Strategy on IDPs.¹¹³ In December 2008, the MRA’s responsibilities for the State Strategy were updated and elaborated to include developing a revised action plan for implementation of the strategy with an emphasis on its second goal, improving the living conditions of IDPs in their place of displacement.¹¹⁴

Historically, however, the MRA has underperformed as the national institutional focal point for addressing internal displacement. In particular, the ministry has been constrained by weak institutional capacity and limited political leverage within the government. Indeed, until only very recently, the MRA could have been described as a “caretaker” ministry, focused mainly on care and maintenance issues—namely disbursing IDPs’ monthly allowance and supervising management of the collective centers—even more than a decade after displacement first occurred. In line with government policy emphasizing exclusively the right to return, MRA was inactive in advocating for more durable solutions for IDPs—for instance, improved shelter and socioeconomic conditions, enhanced self-reliance, and the possibility of local integration.

At the same time, the MRA’s role as the focal point institution for IDPs was undermined by the strong and active role played until recently by the so-called Abkhaz government in exile. Following the mass displacement from Abkhazia in 1993–94, the government, including elected officials as well as administrative staff, that had

been in place in Abkhazia effectively was reconstituted, now based in Georgia proper. The Abkhaz government in exile was actively involved in supporting the state-level response; in fact, each ministry or department of the central Georgian government allowed its counterpart from the government in exile to use its facilities. Activities in which the Abkhaz government in exile actively engaged included disbursing the monthly stipend to IDPs; facilitating family tracing; allocating shelter to IDPs; distributing humanitarian assistance; and providing health services and education, including through “exile” schools that reconstituted schools based on the children’s place of origin and even employed the same teacher. The Abkhaz government in exile also maintained its own military commissariat, tax authorities, police force, and so forth,¹¹⁵ although some of these entities, including the police force in exile, were disbanded after the Rose Revolution of 2003. That parallel system of services had certain advantages in terms of preserving IDPs’ links to their community of origin as well as providing employment for displaced civil servants, including teachers, but especially after displacement became protracted, it did not facilitate IDPs’ integration into the local communities in their place of displacement. The government in exile also exerted strong political influence, on both IDPs and the central government, advocating a hard line approach that emphasized return only, and until 2004, the central Georgian government officially recognized the exiled government of Abkhazia as the political representative of the displaced (see Benchmark 9b). In practice as well as perception, it supplanted the MRA in terms of several core responsibilities toward IDPs and eclipsed the MRA in terms of leading the government response

¹¹² Government of Georgia, Decree No. 80, *On Establishing Government Commission for Elaborating the State Strategy for Internally Displaced Persons–Persecuted Persons*, 23 February 2006.

¹¹³ Government of Georgia, *State Strategy*, Chapter VII.

¹¹⁴ Government of Georgia, Decree No. 854, *On Making Additions to Ordinance No. 47 as of 2 February 2007 on Approving State Strategy for Internally Displaced Persons*, 4 December 2008.

¹¹⁵ UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng—Addendum: Profiles in Displacement: Georgia*, 2001, paras. 19, 53, 55; Julia Kharashvili, “Georgia: Coping by Organizing. Displaced Georgians from Abkhazia,” in *Caught Between Borders: Response Strategies of the Internally Displaced*, edited by Marc Vincent and Birgitte Refslund Sorensen (London: Pluto Press), pp. 234–35.

to displacement. However, by 2004 the government in exile had been formally disbanded as an operational administrative structure.

Besides the role of the government in exile, however, MRA has suffered its own institutional shortcomings. Particularly in earlier years, MRA was plagued by allegations of nepotism and misuse of funds. Overall, MRA has been constrained by weak institutional capacity, inefficiencies and limited political leverage, both within government and with national and international stakeholders. Given that the MRA already was underperforming as the lead agency for IDPs, it inevitably was not well equipped to fulfill its additional responsibilities to lead and coordinate the broader government and international efforts required for the implementation of the State Strategy on IDPs and its action plan. Further, as noted above, when the new displacement crisis erupted with the resumption of hostilities in August 2008, a weak response by the MRA raised serious doubts about the ministry's capacity to discharge even its mandated responsibilities for emergency response, let alone to lead the national response to internal displacement at a time of national crisis. Other government agencies, in particular the Civil Registry Agency of the Ministry of Justice, the Ministry of Labor, Health and Social Affairs, the Ministry of Interior, and the Municipal Development Fund were called on by the government to step in to fill critical gaps in MRA's performance in core areas (data collection on IDPs, emergency assistance, and shelter). Confidence in the MRA reached an all-time low not only within the government but also among IDPs as well as even long-time international partners. However, with a surge of capacity-strengthening support starting in 2009 and strong leadership from the current minister, the MRA since has regained their confidence as the government focal point institution.

Over the years, there have been a number of efforts to strengthen the capacity of MRA. UNHCR, in particular, has invested heavily, including by providing not only technical assistance but also vehicles and computer equipment and even at one point subsidizing the salaries of some 100 staff of the ministry (although according

to the 2011 budget of the ministry, staff costs are now covered entirely by the ministry's own resources). NGOs have provided training for MRA staff on IDP issues (see Benchmark 4). Moreover, UNHCR, UNDP, and donor agencies such as the Swiss Agency for Development Cooperation have seconded personnel to support the MRA by providing advisory services on specific IDP issues and initiatives, including the development of the State Strategy in 2006–07. Beginning in 2009, when the future of the MRA as the national institutional focal point was very much in doubt, USAID undertook an assessment of MRA's capacity to perform that role and lead implementation of the State Strategy for IDPs. USAID then launched an eighteen-month technical assistance project with the goal of improving the effectiveness of the MRA, in particular its capacity to fulfill its responsibilities as the lead government agency on IDP issues and to operationalize the Action Plan for Implementation of the State Strategy for IDPs. Support was concentrated in four interrelated areas in which critical capacity gaps had been identified: information collection, analysis, and dissemination; communication, both internal and external, including with IDPs and other stakeholders; coordination, both of the national response and with the efforts of local and international partners; and implementation of policies and programs, in particular of the State Strategy on IDPs and its action plan.¹¹⁶ The strengthening of capacity in each of these mutually reinforcing areas has generated increased confidence in the MRA. That, in turn, has translated into significant additional support, political as well as financial, from other international actors for the MRA's work with IDPs, in particular for implementation of the State Strategy on IDPs and its action plan (see Benchmark 6 and Benchmark 12). UNHCR's ongoing support for the MRA has included, since 2009, support for the continued effective functioning of its steering committee and TEGs.

¹¹⁶ The author of this case study and Guy Hovey co-led the implementation of this technical assistance project. See USAID-FORECAST, "Capacity-Building on IDP Issues at the Ministry for Refugees and Accommodation," which ran from February 2009 to July 2010. A summary of the project and key results is available on the ministry website (<http://mra.gov.ge/main/ENG#projects/74>).

Moreover, renewed confidence in the MRA has encouraged other actors, namely the European Union (EU), Danish Refugee Council (DRC), and the World Bank, to invest in and assist the MRA to address the wider range of capacity gaps that still exist. For example, at the recommendation of USAID-FORECAST and with the support of the EU through DRC, a reception center and case management system for receiving and addressing the individual concerns of IDPs was established at MRA in April 2010, helping to rectify a major gap in the national response.¹¹⁷ Complementing the reception center is a telephone “hotline” at the ministry. First established with the support of UNHCR in 2008, it was significantly enhanced through the capacity-strengthening efforts of UNHCR, USAID-FORECAST and DRC in 2009–10. Operating from 09:00 to 23:00 hours daily, the hotline receives up to 1,000 calls a day. MRA reports that IDPs’ inquiries usually concern living spaces, communal problems in collective centers, and compensation and cash assistance as well as IDP status applications and registration at a new address. In addition, IDPs call the hotline to seek information about the programs of other offices and organizations, including those of the government social welfare agency and of UN agencies and NGOs.¹¹⁸ Following up on the USAID-FORECAST assessment and recommendations, a restructuring of the

entire ministry currently is under way with the support of the DRC and the EU.

There is recognition that local authorities as well as state institutions have a key role to play in the national response to displacement. The State Strategy on IDPs asserts that its implementation will rely on the engagement of relevant government ministries and agencies at both the state and local levels.¹¹⁹ Specific roles and responsibilities are elaborated in the action plan for implementation of the strategy and in particular in the government’s 2010 IDP Housing Strategy,¹²⁰ which is based on the action plan. Under the IDP Housing Strategy, the Ministry of Regional Development and Infrastructure (MoRDI) and relevant municipalities are responsible for selecting, together with MRA, the buildings to use and the beneficiaries for the different forms of housing assistance. Moreover, MoRDI is responsible for coordinating implementation of regional development plans with implementation of the State Strategy on IDPs. The Municipal Development Fund (MDF), a state-level fund and agency to support strengthening of the institutional and financial capacity of local government units, plays an especially important role. It has been assigned responsibility under the action plan and Durable Housing Strategy for assessing the buildings selected for housing, contracting the construction companies, and monitoring the quality of work, including ensuring that the rehabilitation and construction standards adopted by the steering committee are applied. Recall (from Benchmark 6) that the Municipal Development Fund is a full member of the steering committee on IDPs, while MoRDI is a standing invitee. A lingering problem, however, is that when it comes to the national response to IDP issues, the MRA largely is “left to implement plans without much engagement from other ministries.”¹²¹

¹¹⁷ Earlier it had been reported that to have certain individual IDP cases resolved effectively was difficult or impossible, as the distribution of responsibilities among the various levels and branches of government addressing internal displacement were unclear and cooperation between them inefficient. UN Commission on Human Rights, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum: Mission to Georgia (21 to 24 December 2005)*, 2006, para. 44. This changed with the establishment of the MRA reception center in 2010. In the first six months of operation, it responded with more than 5,000 consultations on issues such as IDP housing programs and IDP registration. For a summary of the impact of the reception center on the responsiveness of MRA to IDPs’ queries and other benefits for the MRA’s overall productivity, see the “Reception Center” tab on MRA’s Web site (<http://mra.gov.ge/main/ENG#section/65>).

¹¹⁸ See “Hotline” tab on the ministry’s website (<http://mra.gov.ge/main/ENG#section/5>).

¹¹⁹ *State Strategy on IDPs*, Preamble.

¹²⁰ Government of Georgia, Ministry of Refugees and Accommodation, *IDP Housing Strategy and Working Plan* (2010), pp. 16–17.

¹²¹ IDMC, *Internal Displacement: Global Overview of Trends and Developments in 2010, 2011*, p. 64 (www.internal-displacement.org).

8. Support NHRIs to Integrate Internal Displacement into their Work

Is there a national human rights institution (NHRI) that gives attention to the issue of internal displacement?

The Office of the Public Defender, which was established by law in 1996,¹²² has been recognized since October 2007 as the internationally accredited national human rights institution for Georgia.¹²³ Its mandate is “to oversee observance of human rights and freedoms on the territory of Georgia and within its jurisdiction” and in particular “to independently monitor the observance of human rights and freedoms and examine cases concerning alleged human rights violations.”¹²⁴ The Public Defender is required to submit a report on these issues to Parliament once (previously twice) a year.

The Office of the Public Defender has been monitoring and reporting on IDP issues since at least 2004, when its report to Parliament that year (the earliest such report available on its website) included a chapter on IDPs and refugees.¹²⁵ By 2006, the human rights of IDPs and of refugees were assessed in separate chapters of the Public Defender’s report. The IDP chapter tended to focus on the socioeconomic rights of IDPs. Also relevant is the chapter on the human rights situation in the conflict zones, which gives attention to the situation of returnees.¹²⁶ The most recent annual parliamentary report

available in English, the report covering the second half of 2009, merges the human rights situation of “IDPs and persons affected by conflict” into a single chapter. It begins by noting that “[o]ne of the priorities in the Public Defender’s activities has been the examination of internally displaced persons’ legal status, considering the topicality of the issue. In the reports submitted to the Parliament, a separate chapter has always been devoted to issues related to IDPs.”¹²⁷ An important development is that the attention devoted to IDP issues by the office, including use of the Guiding Principles, has not only continued but also increased with the change in mandate-holder (a new Public Defender was appointed by Parliament in July 2009 for a five-year term).

Yet, as the Public Defender has pointed out, the office’s efforts to monitor and report on internal displacement nonetheless have been limited:

Study and assessment of the situation was not easy because of the large number of IDPs and diversity of the problems in this sphere. Large numbers of IDPs and diversity of the problems they face does not allow the Public Defender to undertake a full analysis of the situation and IDPs legal status.¹²⁸

Strengthening the capacity of the Office of the Public Defender to address issues related to internal displacement was the specific aim of a 2010 project entitled “Support to Public Defender’s (Ombudsman’s) Office in Solving the Problems Related to IDPs and Persons

¹²² Public Defender of Georgia, Organic Law of Georgia on the Public Defender, 16 May 1996 (www.ombudsman.ge/index.php?page=777&lang=1&n=7).

¹²³ OHCHR, “Chart of the Status of National Institutions, Accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights,” accreditation status as of August 2011” (www.ohchr.org/Documents/Countries/NHRI/Chart_Status_NIs.pdf).

¹²⁴ Public Defender of Georgia, Organic Law of Georgia on the Public Defender.

¹²⁵ Public Defender of Georgia, *Report on Conditions of Human Rights in Georgia in 2004* (www.ombudsman.ge/files/downloads/en/szounjmrncjpcvcdgasn.pdf), pp. 66–73.

¹²⁶ Public Defender of Georgia, *Human Rights in Georgia:*

Report of the Public Defender of Georgia, First Half of 2006, 2007, pp.156–68; and Public Defender of Georgia, *Human Rights in Georgia: Report of the Public Defender of Georgia, Second Half of 2006, 2007*, pp. 148–66. Both available at Public Defender of Georgia, “Reports,” (www.ombudsman.ge/index.php?page=21&lang=1).

¹²⁷ Public Defender of Georgia, *The Situation of Human Rights and Freedoms in Georgia: Second Half of 2009*, pp. 174–79. At the time of finalizing this study, the Ombudsman’s report for the first half of 2010 was available, but only in the Georgian language.

¹²⁸ *Ibid.*, p. 174.

Affected by Conflict,” which was funded by the Council of Europe’s Commissioner for Human Rights. Six new staff members were hired, a project coordinator and five monitors, one of whom was stationed in each of the five regional offices of the Public Defender’s Office in areas with significant numbers of IDPs, namely Gori, Zugdidi, Batumi, Kutaisi and Tbilisi (there also are regional offices of the Public Defender the other locations of the country where there are few, if any, IDPs). The project began in January 2010 with training for the project team and the staff of MRA’s regional offices on the rights of IDPs; relevant Georgian legislation; measures taken by the government; international humanitarian law; specific protection issues, including violence against women and participation in decisionmaking processes; the role of UNHCR; universal and regional human rights protection mechanisms; and monitoring techniques.¹²⁹ The monitors then began to conduct regular visits to IDP collective centers and other IDP settlements, undertaking a survey of 10 percent of IDP households in the collective settlements, providing legal consultation on site and, in cooperation with the regional offices of the MRA, working to resolve specific problems and rights issues.¹³⁰

The Public Defender’s Office prepared a special report on the human rights situation of IDPs based on data gathered by the monitors from January to June 2010 and an analysis of existing national legislation, policies and programs. The report summarizes its findings and makes a number of recommendations for improving the national response, in particular with regard to increasing dissemination of information to IDPs on current state programs to support IDPs, providing comprehensive and timely replies to IDPs’ queries addressed to the MRA, and ensuring that the process under way for the privatization and rehabilitation of collective centers

is carried out in full compliance with legal standards and with the additional specific guidelines and procedures developed and adopted by the MRA-led Steering Committee on IDP Issues.¹³¹ In reports addressing IDP issues, the Public Defender typically makes reference to the Guiding Principles on Internal Displacement.¹³²

The Public Defender has become increasingly active, especially since the second half of 2010, in advocating for IDP rights. The office has issued several public statements and press releases, in particular voicing concerns about the eviction of IDPs from temporary shelters and some collective centers in 2010 and 2011.¹³³ The IDP project team also has undertaken a survey on the situation of IDPs in private accommodations, thereby helping to address an important gap in data collection; the results of the survey will be included in the 2011 annual report of the Ombudsman.¹³⁴

The project continues, now with a full-time staff of seven persons including six field monitors (five are lawyers; one is a psychologist) and the project manager. As of January 2011, the project was co-funded by the Council of Europe together with UNHCR.¹³⁵ The IDP team thus relies, at present, entirely on extra-budgetary

¹²⁹ Agenda for the training program, 18–22 January 2010, on file with author.

¹³⁰ Public Defender of Georgia, *Report on the Human Rights Situation of Internally Displaced Persons and Conflict-Affected Individuals in Georgia* (September 2010), pp. 5–7 (www.ombudsman.ge/files/downloads/en/njyyccudreysvwtqszj.pdf).

¹³¹ Public Defender of Georgia, *Report on the Human Rights Situation of Internally Displaced Persons and Conflict-Affected Individuals in Georgia* (September 2010).

¹³² See, for example, Public Defender of Georgia, *Human Rights in Georgia: Report of the Public Defender of Georgia: Second Half of 2006*, p. 149; Public Defender of Georgia, *Report of the Public Defender of Georgia: The Situation of Human Rights and Freedoms in Georgia: Second Half of 2009*, p. 177 and *Report on the Human Rights Situation of Internally Displaced Persons and Conflict-Affected Individuals*, pp. 8, 13, 40, 43.

¹³³ See, for example, “Statement of Public Defender of Georgia Regarding Eviction of Internally Displaced Persons,” 17 August 2010; “Statement of the Public Defender,” 21 January 2011; and “The Public Defender’s Statement Regarding the Planned Process of Displacement of IDPs in Tbilisi,” 12 August 2011 (www.ombudsman.ge).

¹³⁴ E-mail correspondence with the Council of Europe office in Georgia, February 2011.

¹³⁵ E-mail correspondence with the Council of Europe office in Georgia, February 2011.

funds from donors rather than being integrated, at least in some part, in the annual regular budget of the Public Defender's Office.

9. Facilitate IDPs' Participation in Decisionmaking

(a) Do the national authorities encourage and facilitate the ongoing participation of IDPs in the planning and implementation of policies and programs for addressing internal displacement?

Generally, as UNHCR has observed, "Georgia has a vibrant and active NGO community devoted to work for IDPs" and "key IDP NGOs have easy access to political leaders."¹³⁶ Even so, as the government pointed out in the State Strategy, historically "[i]n planning and implementing solutions for IDP problems, IDPs' interests and needs often have been not adequately taken into consideration; dialogue has not been conducted with them."¹³⁷

The process for preparing the State Strategy worked to rectify this gap. Representatives of IDP associations were integrated and actively involved in the strategy development process for each of the four sectoral working groups (legal issues; housing; economic activities; and social protection), and two of the eight member seats of the committee were designated for civil society groups (two other seats were designated for international representatives, and the remaining four were designated for relevant government ministries). The civil society representatives in the working groups were drawn mostly from IDP associations, including the IDP Women's Association, and NGOs providing legal aid to IDPs; other representatives from civil society were organizations with an established reputation for advocacy on IDP rights, such as the Georgian Young Lawyers Association.

The State Strategy that resulted from this process states, as the second of ten guiding principles, that its implementation will be based on "dialogue with IDPs and their participation in decisionmaking: IDPs participate in the planning and implementing of activities envisaged in the strategy."¹³⁸ According to the strategy, a comprehensive information campaign should be implemented through which IDPs regularly receive updated information on all aspects and components of the action plan.¹³⁹

Further, according to the state strategy, "[i]n monitoring implementation of the strategy, much importance is given to the participation of IDPs themselves and of civil society, as well as to the transparency of the process."¹⁴⁰ In this connection, two representatives of nongovernmental organizations (one from local civil society, one a representative of international NGOs) count among the members of the steering committee for implementation of the State Strategy and its revised action plan, which was established in 2009 (see Benchmark 7). To date, Transparency International, a local NGO, has participated in the Steering Committee (see Benchmark 6). Some, albeit few, civil society and IDP associations also have participated in certain of the technical expert groups established by the steering committee—for instance, the TEG on livelihoods—or with the Georgian Young Lawyers Association in the TEG on drafting standard operating procedures regulating eviction and relocation of IDPs. Even so, it is noteworthy that the perception among associations of IDPs is that only international NGOs, not local NGOs, participate in the TEGs.¹⁴¹

Regarding IDPs' representation in the management of their daily living conditions, UNHCR reports that there are "well-functioning IDP committees in collective centers."¹⁴² However, UNHCR has also pointed out that "community mobilization among IDPs living in

¹³⁶ UNHCR, *Submission to the UPR: Georgia*, para. 12.

¹³⁷ State Strategy on IDPs, Chapter I.

¹³⁸ *Ibid.*, Chapter VI, para. 1.2.

¹³⁹ *Ibid.*, Chapter VI, para. 1.5.

¹⁴⁰ *Ibid.*, Chapter VII, para. 3.

¹⁴¹ E-mail correspondence with IDP association representative, April 2011.

¹⁴² UNHCR, *Submission to UPR: Georgia*, July 2010, para. 12.

collective centers varies and in many cases is informal in nature and based on the strong networks formed amongst people living in crowded conditions.” Further: “Although there are some strong IDP women leaders, women still tend to take a back seat to men in Georgia. Few children are involved in decisionmaking.”¹⁴³ Consent, a local NGO, has provided training on the participation of IDPs, both men and women, in the activities of local self-government bodies.¹⁴⁴ Moreover, with the support of DRC, a coalition of NGOs, including the Georgian Young Lawyers Association, the Charity Humanitarian Center Abkhazeti (CHCA), Consent, and the Social Programs Foundation, undertook community mobilization efforts among IDP populations to encourage IDPs to advocate for themselves with local and central authorities, including by organizing regional meetings at which IDP representatives have the opportunity to meet with and express their concerns to high-ranking government officials.¹⁴⁵

Structurally, therefore, a number of policy commitments, processes, mechanisms and awareness-raising initiatives on the importance of IDP participation are in place. In practice, however, those efforts have not yet translated into adequate and meaningful participation of IDPs. Indeed, according to the Public Defender: “When addressing State policy, one of the most acute problems—the lack of communication between IDPs and the ministry—should be emphasized.”¹⁴⁶ Echoing this view, UNHCR has pointed out:

Generally IDPs are not sufficiently involved in decisions affecting their lives. There is not enough explanation about policies launched by the government and insufficient encouragement of IDP participation. IDPs, especially in rural areas or in the small towns, live in

completely isolated circumstances without access to information relating to them.

Consequently, “IDPs have become passive, indifferent, and apathetic with low inspiration” to participate; indeed, tellingly, when UNHCR conducted participatory assessments “[m]ost IDPs welcomed the discussions, although some refused to participate as they felt the discussions would not lead to any improvement in their lives.”¹⁴⁷ Generally, however, human rights observers point out that adequate information about programs and policies affecting IDPs’ lives is not provided to them, nor is there sufficient consultation with IDPs or opportunities for them to influence in a meaningful way decisions that concern them.¹⁴⁸

The creation in 2009–10 of a hotline telephone number as well as a reception center and case management system within the ministry, at the recommendation and with the assistance of UNHCR, USAID and DRC (see Benchmark 7, above), has gone a significant way to improve access to information for IDPs. The Public Defender has assessed these developments “positively,” noting that “[t]hrough these tools, IDPs are able to obtain necessary information and/or consultation during 24-hours.” Yet, despite these developments, he also has pointed out that “it is evident that the lack of information among IDPs remains a problem. The complaints addressed to the Public Defender also attest to this.” Generally, complaints stem from the fact that when IDPs have addressed the ministry regarding a particular concern, they tend to wait for months before they receive a response, if they ever do.¹⁴⁹ In an effort to address this specific time-lag problem, the action plan was updated in May 2010 to include a commitment by

¹⁴³ UNHCR, *Gap Analysis*, p. 24.

¹⁴⁴ Agenda of training program, on file with author.

¹⁴⁵ E-mail correspondence with IDP association representative, June 2011.

¹⁴⁶ Public Defender of Georgia, *Report on the Human Rights Situation of Internally Displaced Persons and Conflict-Affected Individuals in Georgia* (September 2010), p. 12.

¹⁴⁷ UNHCR, *Gap Analysis*, 2009, p. 10.

¹⁴⁸ Public Defender of Georgia, *Report on the Human Rights Situation of Internally Displaced Persons and Conflict-Affected Individuals in Georgia*, p. 16; Amnesty International, *In the Waiting Room: Internally Displaced People in Georgia*, pp. 42–43.

¹⁴⁹ Public Defender of Georgia, *Report on the Human Rights Situation of Internally Displaced Persons and Conflict-Affected Individuals in Georgia*, p. 12.

the government to undertake a comprehensive information campaign to ensure that IDPs are “well informed to make informed decisions.” An assessment of the implementation and impact of this information campaign is expected to be included in the Public Defender’s report to the government in fall 2011.

In addition, IDPs displaced in 2008 who have been provided housing in new settlements reportedly have faced significant political pressure and close scrutiny, especially in the run-up to elections, making it very difficult for them to express their opinions without the risk of being labeled as affiliated with the political opposition. Consequently, many IDPs from the new settlements have opted not to participate actively in government-run or -facilitated assessments and other discussions soliciting their opinion. Civil society and IDP associations have stressed the importance of ensuring that IDPs can participate in discussions freely and without risk of any reprisal or stigmatization.¹⁵⁰

Moreover, concerns regarding IDPs’ access to information and meaningful participation also have arisen in the context of the series of evictions of IDPs from temporary shelters and selected collective centers that began in June 2010 (see Benchmark 10). Indeed, much of the current criticism of the evictions focuses on the lack of a clear framework for genuine consultations—as opposed to simple information sharing—with IDPs.¹⁵¹ A distinction therefore must be made between information sharing and meaningful participation when assessing the issue of IDPs’ participation.

Similarly, a distinction must be made between active engagement by established IDP NGOs in advocacy and humanitarian activities and meaningful participation by members of the IDP community at large. IDPs generally suffer from a lack of familiarity with key policies and programs affecting them, including the State Strategy

and action plan. Indeed, UNHCR has concluded that notwithstanding the number of active IDP and civil society groups working on IDP issues, “more outreach is needed to inform IDPs who are not connected to any organization or association.”¹⁵² The new displacement crisis caused by the August 2008 conflict led to the establishment of several new local NGOs working on IDP issues, a number of which have jointly established, along with several pre-existing NGOs, a coalition for IDP rights.¹⁵³

In terms of outreach to IDPs, it has been suggested by one IDP representative that messages are most persuasively conveyed through the statements of high-ranking public officials rather than in brochures and general information campaigns because “the population believes much more the promises made by these personalities.”¹⁵⁴ Indeed, a recent survey of IDPs displaced from Abkhazia in the early 1990s underscores that point. The IDPs surveyed cited what was assessed as a “relatively high” degree of trust in Georgian government institutions: 41 percent (but only 30 percent of the general population) trusted the Georgian Parliament, 45 percent (but only 31 percent of the general population) trusted the executive government and 47 percent trusted the MRA, toward which 28 percent of respondents were neutral, saying they neither trusted nor distrusted the government. IDPs’ highest degree of trust was reserved for the president, in whom 68 percent (but only 48 percent of the general population) placed their trust.¹⁵⁵ Overall, the survey found that 10 to 30 percent more IDPs than non-IDP Georgians trusted the government’s executive, legislative and judicial institutions. Apparently these findings were not surprising to IDP associations; they pointed out at a workshop analyzing the survey results that “IDPs have higher needs and expectations, and

¹⁵⁰ E-mail correspondence with representative of an IDP association in Georgia, April 2011.

¹⁵¹ Amnesty International, *Uprooted Again: Forced Evictions of the Internally Displaced Persons in Georgia*, 2011, p.13.

¹⁵² UNHCR, *Gap Analysis*, p. 10.

¹⁵³ See Coalition for IDPs Rights (www.idp.ge/geo).

¹⁵⁴ E-mail correspondence with representative of an IDP association in Georgia, April 2011.

¹⁵⁵ Magdalena Fichovo Grovo, *Displacement in Georgia: IDP Attitudes to Conflict, Return and Justice* (Conciliation Resources, February 2011) p. 12, (www.c-r.org).

hence need to trust the government more.”¹⁵⁶ It is important to note that this survey took place before the series of evictions, beginning in summer 2010, of IDPs from selected collective centers; the author of the survey surmises that those developments likely would have had a negative impact on IDPs’ perceptions of the authorities, especially in Tbilisi.¹⁵⁷

(b) Are IDPs able to exercise their right to political participation, in particular the right to vote, without undue difficulties related to their displacement?

The Constitution of Georgia (1995) provides in Article 28.1 that every citizen eighteen years of age and older has the right to participate in referenda and elections. However, for many years, until the relevant provisions eventually were amended, national legislation effectively restricted the voting rights of IDPs in parliamentary and local elections.¹⁵⁸

The Georgian parliament is elected through a mixed electoral system whereby half of the 150 seats are allocated to registered political parties on the basis of proportional representation and the remaining 75 seats are occupied by members elected by majority vote in single-member electoral districts. According to the 1995 Organic Law of Georgia on Parliamentary Elections, IDPs were entitled to vote only in the proportional component of parliamentary elections, not in the election of the parliamentary representative for the district where they were residing while displaced. The rationale given was that IDPs already had representation in the form of the parliamentary deputies for the electoral districts of their places of origin. Indeed, the mandate of the eight deputies from Abkhazia, who were elected in 1992 and

thus were in office at the time the conflict began, was extended by Parliament until such time as the central government reestablished its control over Abkhazia and national elections could be held there again. The seats of the two deputies from South Ossetia were to remain vacant until similar conditions were established in that region. In other words, the mandate of the deputies from Abkhazia was extended indefinitely (until a decision of Parliament in 2004 ended the practice; see below), and that remained the case notwithstanding the fact that many IDPs indicated that after several years they no longer felt that their views were being well-represented by the Abkhaz government in exile. Interestingly, internally displaced women in particular voiced wide discontent with the Abkhaz deputies, whom they perceived to be “genuinely uninterested in and out of touch with the issues and concerns of displaced people.”¹⁵⁹ Meanwhile, IDPs originating from South Ossetia were left without any representatives in Parliament whatsoever.

Regarding local elections, under Georgian law, eligibility to participate as an elector is related to an individual’s registered place of permanent residence. For IDPs to take part in local elections in the area where they reside while displaced, they would have to register that locality as their new place of permanent residence. Changing the registration of place of permanent residence was legally feasible. However, national legislation regulating the status of IDPs stipulated that if an IDP registered her or his residence in a place other than her or his place of origin, the individual’s IDP status and the entitlements and benefits that this status entails would be revoked (see Benchmark 5). In addition, the rumor was rife among IDPs that if they voted for representatives of the area in which they were residing, that would signal acceptance of the de facto territorial situation and would be misconstrued as a decision on their part to relinquish their right to return and seek restitution of their property. For political reasons related to the goal of reestablishing Georgia’s control over the conflict areas,

¹⁵⁶ Ibid.

¹⁵⁷ Ibid., pp. 12–13.

¹⁵⁸ For the more detailed analysis on which the summary in the present case study is based, including an analysis of how these restrictions manifested in every election held in Georgia from the outset of the displacement crisis through 2004, see Mooney and Jarrah, *The Voting Rights of Internally Displaced Persons: The OSCE Region*, pp. 33–41.

¹⁵⁹ Ibid., p. 33, and note 192 citing Norwegian Refugee Council, *Profile of Internal Displacement: Georgia* 18 March 2004, p. 81 (www.internal-displacement.org).

the authorities made little effort to dispel those fears, and they may even have encouraged such misunderstandings, contravening established human rights standards. In fact, the 1998 Law of Georgia on Elections of Bodies of Local Government explicitly stated, in Article 36, that IDPs were ineligible from participating in local elections.

Beginning in 1998, IDPs legally challenged, through the Constitutional Court of Georgia, the national legislation in force, which impeded their ability to fully exercise their right to political participation, in particular the right to vote in local elections and in parliamentary majoritarian elections. Advocacy efforts by a number of international actors supported their efforts, namely the Organization for Security and Cooperation in Europe and the UN Office of the High Commissioner for Human Rights, which were joined in 2000 by the RSG on IDPs and in subsequent years by the UN Human Rights Committee and the Council of Europe Parliamentary Assembly.¹⁶⁰

Eventually, the concerted national and international advocacy efforts bore fruit. In August 2001, the Parliament of Georgia adopted the Unified Election Code of Georgia, which, among other things, removed the earlier restrictions on IDP voting in local elections. Henceforth, IDPs could participate in local elections according to their current place of residence; they would be included on voter lists based on data provided by the MRA. Further amendments to the Unified Electoral Code made in August 2003 rectified the problems with parliamentary elections by enabling IDPs to vote not only in the proportional component but also in the majoritarian component of parliamentary elections. In other words, IDPs could now vote for the parliamentary deputy representing the district in which they currently were residing.¹⁶¹ After affirming, in Article 5, the right

of every Georgian citizen aged eighteen years and older to vote in all local, presidential and parliamentary elections, the revised Unified Election Code of Georgia introduced, in Article 9, a number of special provisions to enable IDPs to realize that right. While in general voters are to be entered in the general list of voters according to the place of his or her residence, the law now specifies that IDPs “shall be entered in the general list of voters at their actual place of residence,” for which the place of “temporary residence shall be indicated.” That provision means that IDPs no longer need to change their place of permanent residence and give up their IDP status in order to vote in their current place of “temporary” residence. As in local elections, IDPs’ names are included in the general list of voters based on data to be provided by the MRA. Further, on the basis of the voter list, each voter is to be issued a paper ballot on election day upon presentation of personal documentation; the revised Election Code specifies that an IDP certificate counts among the accepted pieces of documentation. Furthermore, the revised code affirms the right of every citizen to be elected as a member of Parliament and a representative of local government, without any apparent restriction for IDPs such as having to change one’s permanent place of residence.¹⁶² In a related legal development in November 2003, the Constitutional Court declared unconstitutional and void article 6.2(c) of the national IDP law containing the restrictive provision regarding registration of permanent residence; that provision since has been removed from the Law on Forcibly Displaced Persons–Persecuted Persons. Finally, by a decision of Parliament in April 2004, the mandate of the Abkhaz parliamentary deputies, who were last elected in 1992, was ended and their seats left vacant until such time as parliamentary elections can be held again in Abkhazia.¹⁶³

of Georgia (as amended 14 August 2003), Article 127.

¹⁶² Ibid., Articles 80, 92 and 110.

¹⁶³ This decision was not unanimously welcomed by IDPs, some of whom felt that with the loss of the deputies, there was no longer anyone in Parliament who shared their identity and would really press for their interests. Mooney and Jarrah, *The Voting Rights of Internally Displaced Persons*, p. 40.

¹⁶⁰ For a summary of these efforts and of the responses of the Constitutional Court, see Mooney and Jarrah, *The Voting Rights of Internally Displaced Persons*, pp. 34–36.

¹⁶¹ The mandate of the parliamentary deputies from Abkhazia nonetheless continued to be extended. Government of Georgia, Organic Law of Georgia. Unified Election Code

These important changes to national legislation removed the legal obstacles impeding IDPs' ability to exercise fully their right to vote or to be elected.¹⁶⁴ The remaining difficulties regarding IDPs' political participation have been practical in nature—in particular, the preparation of accurate and timely lists of IDPs eligible to vote; the coordination required between the MRA and electoral officials on this issue; training of MRA and electoral officials on specific provisions for facilitating the exercise by IDPs of their voting rights; and ensuring awareness of voting regulations among IDPs.¹⁶⁵ With respect to knowledge of regulations, a public awareness campaign and voter education programs were undertaken, in particular by the UN Office for the Coordination of Humanitarian Affairs and NRC, that included a televised public service announcement featuring the chairperson of the Central Election Commission providing information about IDPs' right to vote.¹⁶⁶

In practice, despite the removal of legislative impediments to IDPs' exercise of their right to vote, actual voter turnout by IDPs has remained much lower than the national average.¹⁶⁷ Further, IDPs rarely stand as candidates for election, for reasons including lack of financial resources, limited access to political networks, and, as UNHCR points out, the fact that the “constant struggle for survival in everyday life in a precarious economic situation is such a challenge that the question of participation in politics hardly arises.”¹⁶⁸ However, it is noteworthy that currently the vice speaker of Parliament is an IDP, Paata Davitaia, a lawyer who has been active on IDP-related issues, including the government's submission of a case to the International Court of Justice

alleging genocide and arbitrary forcible displacement during the conflicts.¹⁶⁹ The next parliamentary elections are due to take place in Georgia in 2012.

10. Establish the Conditions and Means for IDPs to Secure Durable Solutions

Is the government working—or has it worked—to establish conditions enabling IDPs to secure a durable solution to displacement?

Resolving the situation of IDPs has been a central concern of the government since shortly after displacement first occurred. Indeed, the government has devoted its advocacy and efforts on IDP issues primarily to this subject over the past two decades of internal displacement. However, in so doing, the government has promoted the return of IDPs and refugees to their places of origin as the only possible solution, while impeding IDPs' access to other solutions, including integration in the place of displacement or settlement elsewhere in the country. The government of Georgia's active engagement on the issue of solutions to displacement—or more accurately, on one particular solution—therefore has not been entirely in the best interests of IDPs. By emphasizing IDPs' right to return with such single-mindedness, it effectively ruled out for IDPs their right to choose among solutions. Indeed, the government even restricted IDPs' ability to fully access their rights and improve their living conditions in their place of displacement, even simply as an interim measure until such time as return becomes a feasible option. Only recently, following years of intense international advocacy, has the government shifted its position to enable and support a more comprehensive approach to durable solutions.

It is important to note that to a large extent, the preoccupation of the government with return has corresponded with the preferred solution voiced by many, even the

¹⁶⁴ UNHCR, “Input to Universal Periodic Review” (2010), para. 11.

¹⁶⁵ See Mooney and Jarrah, *The Voting Rights of Internally Displaced Persons*, pp. 35 and 37–41.

¹⁶⁶ *Ibid.*, pp. 37–39; and NRC, *Voting Rights: A Guide to IDP Voting Rights and How to Cast your Vote in the Parliamentary Elections* (Tbilisi: 2003).

¹⁶⁷ *Internally Displaced Persons and Their Behaviour during the Election* (Tbilisi: Business Consulting Group, May 2004), p. 4.

¹⁶⁸ UNHCR, *Gap Analysis*, 2009, para. 6.1.

¹⁶⁹ With thanks to Julia Kharshvili for pointing this out.

majority, of IDPs.¹⁷⁰ Further, the government's advocacy of the right to return is consistent with international human rights standards, which support IDPs' right to return as a general principle.¹⁷¹ In fact, the right of IDPs and refugees to return to Abkhazia and South Ossetia is recognized in the ceasefire agreements brokered for both conflicts back in the early 1990s,¹⁷² and it continues to be emphasized by the international community as a key principle today.¹⁷³

Yet in the absence of a lasting solution to the conflicts, for most IDPs return is a goal that has remained out of reach. Even so, until recent years, the government effectively held IDPs hostage to that goal by going so far as to put legal, administrative and political obstacles in the way of IDPs who wanted access to alternative solutions, namely local integration, and to their full rights in their place of displacement.¹⁷⁴ As a result, IDPs were "left in

limbo," unable to return in safety and rebuild their lives in their area of origin but at the same time impeded by the government from getting on with their lives elsewhere in the country.

In fact, during periods over the past seventeen years when there has been an absence of active hostilities, considerable IDP return has occurred. As noted in the overview section to this study, from 1997 to 2005, UNHCR assisted some 5,700 persons who were internally displaced from or within South Ossetia to return to their areas of origin. In the case of Abkhazia, the government approach has varied from actively promoting return, often prematurely, to at other times denying that any return has taken place. IDPs have "recalled how in 1993 and 1998," even in the absence of a negotiated solution to the conflict, "the government, through mass media, strongly encouraged IDPs to return without sufficient safety guarantees" following agreements between the parties on return.¹⁷⁵ That return was not sustainable in the absence of security conditions and a lasting solution to the conflict was exposed with especially devastating effect in May 1998, when a renewed outbreak of violence in the Gali district of Abkhazia sent some 40,000 recent returnees fleeing again and saw more than \$2 million in international assistance for return and reconstruction literally going up in flames with the burning of some 1,400 houses and sixteen schools.¹⁷⁶

In subsequent years, the de facto authorities have allowed IDPs to return only to a defined area in southeastern Abkhazia, namely the districts of Gali, Ochamchira and Tkuarchuli. UNHCR reports that approximately 50,000 IDPs have returned to their villages of origin in

¹⁷⁰ See, for example, Fichovo Grono, *Displacement in Georgia: IDP Attitudes to Conflict, Return and Justice*, pp. 18–19; IDP Voices Project, *A Heavy Burden: Internally Displaced in Georgia: Stories from Abkhazia and South Ossetia* (IDMC, April 2008) (www.internal-displacement.org). These findings also accord with the author's interviews with IDPs, for instance, in May 2000, and in 2006–07.

¹⁷¹ Principle 28, *Guiding Principles on Internal Displacement*, UN Doc. E/CN.4/1998/53/Add.2.

¹⁷² Quadripartite Agreement of 1994, UN Doc. S/1994/397, Annex II.

¹⁷³ See, for example, UN Security Council Resolution 1866 (2009) of 13 February 2009. See also UN General Assembly (UNGA) Resolution 65/287 of 29 June 2011 on the Status of Internally Displaced Persons and Refugees from Abkhazia, Georgia, and the Tskhinvali Region/South Ossetia, Georgia; UNGA Resolution 64/296 of 7 September 2010; UNGA Resolution 63/307 of 9 September 2009; and UNGA Resolution 62/249 of 15 May 2008.

¹⁷⁴ See UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng—Addendum: Profiles in Displacement: Georgia*, 2001, paras. 34–69; UN Commission on Human Rights, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Mission to Georgia (21 to 24 December 2005)*, 24 March 2006, para. 15; Mooney and Jarrah, *The Voting Rights of Internally Displaced Persons*, pp. 33–41.

¹⁷⁵ Global IDP Project, Workshop on the Guiding Principles (2000), p. 4. See also Erin D. Mooney, "Internal Displacement and the Conflict in Abkhazia," *International Journal on Group Rights*, vol. 3, no. 3 (1995/1996), pp. 209–14, 222–24.

¹⁷⁶ UN Security Council, *Report of the Secretary-General to the Security Council Concerning the Situation in Abkhazia, Georgia*, S/1998/647, 14 July 1998, para. 13 (www.un.org/Docs/sc/reports/1998/sgrep98.htm).

these areas.¹⁷⁷ However, these figures are not officially acknowledged by the government of Georgia and efforts to verify the number of returnees and their conditions repeatedly have been resisted by the government. Monitoring from UNHCR and others reveals that the situation of the returnees remains precarious as the area remains volatile, with general insecurity and serious criminality, against which local law enforcement bodies are either unable or unwilling to take effective measures. Moreover, the “lack of a reliable state structure and social welfare” means that inadequate social protection for vulnerable people combined with limited access to social rights, lack of sources of income and poor infrastructure make for “extremely difficult living conditions, especially for IDPs in the process of return, [which are] hampering their sustained reintegration.”¹⁷⁸ UNHCR has pointed out the need for more precise and comprehensive data on the number and conditions of returned IDPs and of other conflict-affected persons in the area in order to better assess and therefore better address their needs. While an agreement was brokered by UNHCR in 2006 between the de facto Abkhaz authorities and the Georgian government to conduct a verification and profiling exercise of returned IDPs—an initiative supported by the UN Security Council since 2007¹⁷⁹—implementation of the verification exercise has been stalled in the absence of consensus between the parties to the conflict on the operational modalities of the exercise.

¹⁷⁷ UNHCR, *Submission to the UPR: Georgia*, p. 4.

¹⁷⁸ UNHCR, *Submission to the UPR: Georgia*, pp. 4–5. See also Human Rights Watch, *Living in Limbo: The Rights of Ethnic Georgian Returnees to the Gali District of Abkhazia* (Human Rights Watch, July 2011) (www.hrw.org); UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng—Addendum: Profiles in Displacement: Georgia*, 2001, paras. 75–104; UN Commission on Human Rights, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Mission to Georgia (21 to 24 December 2005)*, 24 March 2006, paras. 35–43.

¹⁷⁹ UN Security Council Resolutions 1752 (2007), 1781 (2007) and 1808 (2008).

Return of IDPs and refugees always has been a heavily politicized issue and major stumbling block in the peace processes for both conflicts, in particular regarding Abkhazia and since August 2008 more intensively politicized regarding South Ossetia. For the government of Georgia, the return of IDPs is regarded as integral part of reestablishing territorial and political control over the breakaway regions of Abkhazia and South Ossetia and for attenuating the regions’ claims for self-determination by reversing the significant demographic changes wrought by displacement. For the same reasons, the de facto authorities largely resist return—or at least mass return—of IDPs and refugees, albeit with some limited exceptions, as noted above. It should be noted that resistance to return or limitations on return are not in line with the Quadripartite Agreement on Voluntary Return of Refugees and Displaced Persons, signed in April 1994 by the Georgian government, the Abkhaz de facto authorities, the Russian Federation and UNHCR, which remains the basis for conflict resolution efforts on displacement issues.¹⁸⁰ Lasting political solutions to these conflicts and the possibility of large-scale return of displaced persons remain elusive.

Meanwhile, the same political imperatives that drive the government’s emphasis on promoting the right to return also led to the adoption of national laws and policies designed to impede IDPs from integrating—economically, socially, and politically—in the areas in which they were residing while displaced (see Benchmarks 5 and 6). For instance, IDPs legally were barred from owning land or voting in the locality where they were living while displaced, unless they forfeited their IDP status and associated benefits. Also, less explicitly, IDPs were led to believe that by exercising such rights in their place of displacement, they risked forfeiting their right to return and to regain their property in their place of origin; the government and especially the Abkhaz government in

¹⁸⁰ *Quadripartite Agreement on Voluntary Return of Refugees and Displaced Persons, 4 April 1994*, Annex II to UN Security Council Document, S/1994/397 (1994) (www.unhcr.org/refworld/country,,MULTILATERALTREATY,GEO,,3ae6b31a90,0.html).

exile did little to discourage those rumours. At the same time, the authorities resisted allowing international aid and development agencies and donors to help IDPs shift from a state of dependency to self-reliance by providing support for livelihoods. While some IDP children attended regular schools, several “parallel” schools for IDP children were set up and run by the Abkhaz government in exile, which, in anticipation of eventual return, sought to recreate and maintain children’s educational experience in their area of origin, even by organizing classes for IDPs with the same teacher and classmates as they had in their place of origin. In addition to being obstructed from meaningful participation in the socio-economic and political life of the local communities, almost half of IDPs have lived since the early 1990s in dilapidated and overcrowded “collective centers,” which were established in schools, dormitories, factories and even functioning hospitals and intended only to serve as temporary emergency shelter.¹⁸¹ Already in 1999, the buildings were assessed to be in very poor or poor condition, and by 2003, 70 percent of units were found not to meet minimum shelter standards. In 2005, during his first mission to the country, RSG Walter Kälin observed that he was “shocked by the misery in which thousands of IDPs are still living, more than a decade after the violent fighting that caused them to flee their homes.”¹⁸²

The international community—in particular humanitarian agencies and NGOs in Georgia as well as both RSG Deng following his mission to Georgia in 2000 and RSG Kälin following his first mission to the country in 2005—long had advocated that the government change

its approach to solutions for IDPs. In particular, they wanted the government to stop viewing the right of IDPs to return and their right to live in dignified conditions in their place of displacement as mutually exclusive; instead, both were rights that should be respected in parallel and that even could be mutually reinforcing.¹⁸³ While fledgling steps were taken by the government, at international urging, to move in this direction, most notably with the “New Approach” to IDP assistance promoted by the international community beginning in 2000, the policy and practices of the government did not fundamentally change.¹⁸⁴

However, new opportunities opened up following the Rose Revolution of 2003, which brought into power the government of President Saakashvili. While maintaining the policy of promoting the right of IDPs and refugees to return, the new administration began to modify its absolutist approach of impeding alternative, or at least interim, solutions for IDPs in their place of displacement. This significant policy shift was formalized with the government’s adoption in February 2007 of the State Strategy for Internally Displaced Persons (see Benchmark 6). The strategy articulates two main goals for government policy: to create conditions for the dignified and safe return of IDPs; and to support dignified living conditions, in terms of both housing and overall socioeconomic conditions, for IDPs in their current places of residence. The strategy marked the government’s first-ever recognition that solutions other than return, specifically local integration, were a legitimate

¹⁸¹ UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng—Addendum: Profiles in Displacement: Georgia*, 2001, paras. 25–69.

¹⁸² International Federation of the Red Cross (IFRC), *Survey of Collective Centers Accommodating Internally Displaced Persons, 1999* (Tbilisi: 2000); UN Office for the Coordination of Humanitarian Affairs (OCHA), *Georgia Humanitarian Situation Strategy 2004* (November 2003) (<http://reliefweb.int/node/138045>); Walter Kälin, “Georgia Must Act on Promises to End Displacement Crisis,” 2006 (www.brookings.edu/articles/2006/0531georgia_kalin.aspx?rssid=georgia).

¹⁸³ See UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced persons, Mr. Francis Deng—Addendum: Profiles in Displacement: Georgia*, 2001, paras. 105–111, 128 and 130(xii); UN Commission on Human Rights, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced persons, Walter Kälin—Mission to Georgia (21 to 24 December 2005)*, 2006, para. 15.

¹⁸⁴ UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng—Addendum: Profiles in Displacement: Georgia*, 2001, paras. 108–128 and 130.

policy goal. In practice, however, the government, including the MRA, continued to place emphasis on the right to return and did not meaningfully pursue the strategy's second goal of improving IDPs' shelter and socioeconomic conditions in their place of displacement. The action plan for implementation of the strategy that the government adopted in July 2008 largely reflected its continued emphasis on the goal of return.¹⁸⁵

Yet following the August 2008 renewal of hostilities and the subsequent recognition by the Russian Federation and a handful of other countries of Abkhazia and South Ossetia as independent states, the government and population of Georgia have come to the realization that most IDPs will not be able to return to their homes in the foreseeable future.¹⁸⁶ Propelled forward by intense international advocacy as well as pledges of significant international financial support for alternative solutions (see Benchmark 11), the government began to implement the strategy's second goal, of supporting improved living conditions for IDPs in their place of displacement, in particular by focusing on securing durable housing solutions for IDPs. The government first began to implement this approach for the "new" cases of IDPs. Beginning in September 2008, the government initiated construction of thirty-eight settlements (fifteen of which are clusters of newly built "cottages" while the remaining thirteen are apartment blocks that have been rehabilitated) to provide housing to IDPs displaced by the August 2008 conflict.

The irony, which was not lost on the "old" IDP cases, was that the much larger group of IDPs who had been displaced for much longer—nearly two decades—was second in line to access decent living conditions and durable housing solutions. However, at the end of 2008, the government recognized the need to correct the

imbalance and reiterated the commitment, first articulated in the State Strategy for IDPs adopted in 2007, to secure durable housing solutions for the IDPs displaced in the 1990s. As spelled out in the State Strategy and in the revised action plan, priority would be given to closing the 1,600 collective centers where nearly half of the "old" cases of IDPs still resided; that would be followed by housing support for IDPs in private accommodations. More specifically, the housing solutions would be rolled out in three phases. Stage 1 (2008–10) would entail transferring ownership to IDPs of their living spaces in the collective centers or providing them living spaces in previously unoccupied buildings, with rehabilitation of the buildings as necessary to comply with the Standards for Rehabilitation, Conversion or Construction Works of Durable Housing for IDPs (2009). Stage II (2010–12) would entail construction of new apartment blocks "in areas which provide sustainable integration and livelihoods opportunities," with ownership of the apartments transferred to IDPs. Stage III (2011–12) would entail providing one-off financial grants to IDPs in private accommodations to enable them to secure, or in some cases simply finalize securing, a housing solution on their own initiative. Throughout all three stages, social housing for the most vulnerable IDPs as well as vulnerable nondisplaced individuals would be supported.¹⁸⁷

Three different scenarios were envisaged regarding the situation of IDPs in collective centers. First, with respect to the large number of collective centers that were state-owned and could be refurbished, the government would help IDPs to privatize the buildings, should they wish, transferring IDPs' current living spaces to their legal ownership, and it would undertake the necessary renovations. IDPs who chose not to own their current living space in the collective center or who were living in collective centers that could not be converted into durable housing were to be provided with dignified housing elsewhere. Second, IDPs living in state-owned collective centers in buildings of "special importance for

¹⁸⁵ *Action Plan for Implementing the State Strategy for Internally Displaced Persons – Persecuted* (July 2008) [copy on file with author].

¹⁸⁶ As of July 2011, the Russian Federation, Nicaragua, Venezuela, Nauru and Vanuatu had recognized Abkhazia and, except in the case of Vanuatu, South Ossetia as independent states.

¹⁸⁷ *State Strategy on IDPs; Action Plan 2009; Revised Action Plan 2010; and Government of Georgia, MRA, IDP Housing Strategy*, p. 6.

the state”— for instance, those of significant commercial value and thus of potential interest to private investors or buildings that had a public purpose, for example, hospitals and schools—would be relocated to alternative housing. Third, the government would help IDPs living in collective centers that were privately owned and could not be purchased by the state for onward transfer of ownership to IDPs to find decent housing solutions elsewhere.¹⁸⁸ For those IDPs for whom privatization of their living space was not an option or who did not choose that option, the revised action plan provided for the purchase or construction of individual flats or houses and transfer of ownership to IDPs.¹⁸⁹

Combined, government programs for both the “new” and “old” cases of IDPs had helped, in just over a year and a half, a reported 68,495 IDPs (23,838 families)—or nearly a third of IDPs—to access durable housing by April 2010. For IDPs displaced as a result of the August 2008 conflict, 7,663 IDP families (totaling 22,108 persons) had received durable housing through one of three types of housing assistance: 4,379 houses were constructed, 1,598 apartments were rehabilitated or purchased, and 1,686 IDP families received a one-time financial grant of \$10,000 to help them secure their preferred housing.¹⁹⁰ Meanwhile, among the IDPs in protracted displacement since the 1990s, 16,173 families (totaling 46,384 persons) had received or were in the process of receiving a durable housing solution; of those families almost half (7,818 families) already had received a certificate verifying that they owned the apartments.¹⁹¹

¹⁸⁸ Government of Georgia, *State Strategy on IDPs*, Chapter III, sections 3.1.2. and 3.2., Chapter V, section 2.1.

¹⁸⁹ Government of Georgia, Ministry of Refugees and Accommodation, *IDP Strategy Action Plan: Updated in 2010*, 11 May 2010.

¹⁹⁰ Government of Georgia, Ministry of Refugees and Accommodation, *IDP Housing Strategy and Working Plan* (December 2010), p. 7.

¹⁹¹ *Ibid.*, p. 7. As confirmed by the author’s correspondence with the government in August 2011, this remains the most recent comprehensive set of statistics published by the government at the time of finalizing this study. Updated statistics are expected to be issued at the end of 2011.

Even so, a number of concerns have been noted. While the swiftness of the government response to the housing needs of the “new” IDPs was welcomed overall, especially given the years of resistance to providing similar support to the protracted IDPs, some concerns did arise regarding the quality of assistance provided. As pointed out by several observers, including the Georgian Public Defender, the so-called “cottages,” individual homes, for the “new” IDPs did not always meet construction standards, especially with regard to water and sanitation, on account of a hasty planning process.¹⁹² As for the collective centers, renovations of the buildings reportedly have not always been fully compliant with the above-mentioned standards on shelter construction and renovation.¹⁹³ Another concern is that the government has decided that the estimated 332 state-owned collective centers located in the capital of Tbilisi will be transferred to IDPs’ ownership without renovation assistance. Different explanations provided by the government for the decision reportedly include that the condition of collective centers is generally much worse outside of the capital city, that property in Tbilisi has a higher market value and therefore higher resale value, and that the funding available cannot cover the costs of renovating every collective center as planned.¹⁹⁴ In the case of IDPs who require alternative housing (because they live in collective centers that are too run down to renovate, are not state-owned, or are considered of significant commercial interest to the state or because they opted not to privatize their current space), the housing

¹⁹² Public Defender of Georgia, *Report on the Human Rights Situation of Internally Displaced Persons and Conflict-Affected Individuals in Georgia*, pp. 33–36. Transparency International Georgia, *Cottage Settlements for Georgia’s New IDPs: Accountability in Aid and Construction* (2010) (www.osgf.ge/files/publications/2010/new_transparency_eng_2.pdf).

¹⁹³ Public Defender of Georgia, *Report on the Human Rights Situation of Internally Displaced Persons and Conflict-Affected Individuals in Georgia*, pp. 40–43; Amnesty International, *In the Waiting Room: Internally Displaced People in Georgia*, pp. 27–29.

¹⁹⁴ Godigze and Ryan, “Fact-Checking the State of the Nation Address: IDPs,” citing Government of Georgia, MRA, *IDP Housing Strategy*, p. 10.

offered tends to be in locations entirely different from where they are currently living, requiring them to move to new, often remote areas where opportunities to earn a livelihood are very limited. Consequently, few IDPs have been willing to accept that option. For those who did in fact move, while the housing generally was found to be adequate, in certain cases the location of the settlement has proven problematic in terms of adequate access to health care services, schools and other public services as well as to livelihoods.¹⁹⁵

An issue of particular concern that affects most “new” IDPs but also some of the “old” IDPs has been the series of evictions, beginning in 2010, of IDPs from temporary shelters and some collective centers in Tbilisi.¹⁹⁶ In June 2010, the government announced that thirty-three temporary shelters and three collective centers where IDPs, mostly new cases, were living would be vacated as part of a concerted action to bring to an end the housing allocation process for IDPs displaced as a

result of the August 2008 conflict.¹⁹⁷ Recall, as noted above, that IDPs from August 2008 who chose not to move to settlements newly built to accommodate the new caseload IDPs were eligible to receive a one-off payment of \$10,000 with which to secure housing independently (by contrast, IDPs displaced in the 1990s who could not or did not wish to privatize their current living space were to be supported through resettlement to alternative accommodations but were not eligible for any compensation). According to the IDPs, however, instead of cash compensation they were offered only accommodation in rural areas where there were limited job opportunities.¹⁹⁸ Refusing to move, IDPs staged protests that included demonstrations outside of the MRA; several IDPs went on a hunger strike, some sewing their mouths shut.¹⁹⁹ The evictions nonetheless were carried

¹⁹⁵ Amnesty International, *Uprooted Again*, 2011, pp. 9, 20–21.

¹⁹⁶ It is important to clarify that whereas both types of buildings would meet the definition of “collective center” used internationally, in Georgia, there is a distinction. “Temporary shelters” refers to buildings to house IDPs displaced in August 2008 that, given the government’s mass housing construction and resettlement program for these IDPs that began by late September, were intended to be used by IDPs only for a brief period. “Collective centers” are buildings legally recognized as such by the government in 1996 to provide residency rights to people displaced by the conflicts in the early 1990s. “Collective centres are pre-existing buildings and structures used for the collective and communal settlement of the displaced population in the event of conflict or natural disaster.” Cluster on Camp Coordination and Management, *Collective Centre Guidelines* (UNHCR and International Organization for Migration, 2010), p. 5, (<http://onerresponse.info>). On definitional issues and the need for conceptual clarity, see also Erin Mooney, “Collective Centers: When Temporary Lasts Too Long,” *Forced Migration Review*, no. 33 (September 2009), pp. 64–66 (www.fmreview.org). Regarding this distinction in Georgia, see Lasha Gogidze and Caitlin Ryan, “IDP Evictions: Explaining the Real Issues,” 24 January 2011 (<http://transparency.ge/en/blog/pidp-evictions-%E2%80%93-explaining-real-issuesp>).

¹⁹⁷ According to the Public Defender, whose office was closely monitoring the eviction process, the buildings were inhabited predominantly by “new” IDPs, but also by some IDPs from the 1990s, thus representing IDPs in several different situations who, as set out in the action plan for implementing the State Strategy on IDPs, were to be assisted in different phases of implementation, with first priority given to IDPs in collective centers. The majority of the residents were IDPs from August 2008 who had applied for monetary compensation in lieu of accepting the alternative housing constructed for them and who were still waiting to receive compensation. In addition, residents of the building included some “old” IDPs who were registered as living in private accommodations or in other buildings that were recognized collective centers but who had moved into the premises shortly before the evictions. Public Defender of Georgia, *Report on Human Rights Situation of Internally Displaced Persons and Conflict-Affected Individuals in Georgia: January-June 2010*, p. 62. See also Amnesty International, *Uprooted Again*, 2011, p. 10.

¹⁹⁸ UNHCR, “UNHCR Concerned over IDPs Eviction Process,” 24 August 2010 (www.unhcr.org/refworld/country,,UNPRESS,,GEO,,4c762de8c,0.html).

¹⁹⁹ Radio-Free Europe/Radio Liberty, “Displaced Georgians Protest Eviction Attempt in Tbilisi,” 12 August 2010 (www.rferl.org/content/Displaced_Georgians_Protest_Eviction_Attempt_In_Tbilisi/2125629.html); “Georgian IDPs Sew Mouths Shut in Eviction Protest,” 25 August 2010 (www.rferl.org/content/Georgian_IDPs_Sew_Mouths_Shut_In_Eviction_Protest_/2137496.html).

out. Afterward, a number of the IDPs protested that the housing that they were provided was located in a remote region in western Georgia with scant employment opportunities and no possibility for growing food for subsistence farming. They staged further demonstrations and set up camp outside the MRA, calling for the minister's resignation; one IDP woman set herself on fire in protest and later died.²⁰⁰

The first round of evictions, which was undertaken from June to August 2010 and affected 5,000 IDPs, also caused a widespread public outcry. The Public Defender pointed out that the process of evictions was marred by four main problems. First, the evictions were carried out in an "extremely limited" timeframe; on average, IDPs were given five days' notice (delivered verbally) of the eviction; in some cases, they received notice only hours before the eviction. Second, there was a lack of information about the alternative housing on offer; observers report that in many cases IDPs were told that such information would be provided to them en route to the location. Third, while in some cases IDPs were informed in advance of possible alternative housing, the housing did not meet the agreed minimum standards for durable housing for IDPs. Fourth, according to the IDPs, the eviction process was carried out in a manner that was "very insulting"; verbal abuse was frequent and in some cases IDPs also were subject to physical abuse.²⁰¹ UNHCR voiced concern that the evictions "have not been undertaken with the necessary transparency or circulation of information."²⁰² In response to these concerns, which also were communicated through representations by UNHCR to the prime minister, the government agreed in late August to a moratorium on evictions and stated that any further

evictions would proceed only after standards were developed, in partnership with the international community, to guide the process and protect IDPs' rights. In October 2010, the Standard Operating Procedures on Vacation and Re-allocation of IDPs for Durable Housing Solutions were adopted by the steering committee.²⁰³ The standing operating procedures on evictions outline the rights and obligations of all parties involved, based on existing national legislation. Observers point out that the procedures do not create additional guarantees for IDPs, nor do they address post-eviction issues, including issues associated with the location of alternative housing offered, such as access to employment opportunities and education.²⁰⁴

A second round of such evictions took place in January 2011, affecting some 1,500 IDPs (some 500 families) from twenty-two buildings in Tbilisi. Generally, the second round was regarded as having shown marked "improvement" over the earlier round. In particular, IDPs were provided in advance with information on the specific assistance or alternative housing options for which they were eligible, the accommodation sites were prepared in advance, financial compensation was paid to those who were eligible and had submitted their application in a timely manner, and the use of disproportionate force was avoided.²⁰⁵ While noting that "no major violations of international law or standards were observed," UNHCR pointed out that there nonetheless remained "shortcomings" in the process, including not giving protection monitors full access to IDPs during the eviction process, communication gaps, and some disputes over the calculation of the amount of financial compensation.²⁰⁶ Other observers were sharper in

²⁰⁰ Radio-Free Europe/Radio Liberty, "Self Immolation Incident Highlights Desperation of Georgian IDPs," 29 October 2010.

²⁰¹ Public Defender of Georgia, *Report on Human Rights Situation of Internally Displaced Persons and Conflict-Affected Individuals in Georgia*, p. 62. See also GYLA, *State Policy on Internally Displaced Persons: A Deficiency Analysis*, pp. 13–24.

²⁰² UNHCR, "UNHCR Concerned over IDPs Eviction Process," 2010.

²⁰³ *The Standard Operating Procedures for Vacation and Re-allocation of IDPs for Durable Housing Solutions* (2010) (www.mra.gov.ge).

²⁰⁴ Caitlin Ryan and Lasha Gogidze, "IDP Evictions: Explaining the Real Issues," 24 January 2011 (www.transparency.ge/en/blog/pidp-evictions-%E2%80%93-explaining-real-issues).

²⁰⁵ UNHCR, "UNHCR Observations on the Resumption of the IDP Relocation Process," 3 February 2011 (www.civil.ge/files/files/2011/UNHCRstatement-ENG.pdf); "Statement of the Public Defender," 21 January 2011 (www.ombudsman.ge); Amnesty International, *Uprooted Again*, 2011, p. 13.

²⁰⁶ UNHCR, "UNHCR Observations on the Resumption of

their criticism, in particular certain local NGOs and opposition politicians.²⁰⁷ Amnesty International, in an in-depth report on the evictions published in August 2011, agreed that the process represented a “significant improvement” over the first round of evictions but also raised a number of concerns—including the lack of genuine consultation with the IDPs to be affected and failure to provide them with information about where they could raise concerns and complaints—and called for revision of the guidelines governing the eviction process.²⁰⁸ The MRA issued a statement refuting those criticisms and asserting that there had been “a long-term consultation ongoing with IDPs about the relocation process; however, certain political groups interfered in their decisionmaking process and the social process has been politicized.”²⁰⁹ Further evictions, in this case of IDPs from recognized collective center buildings of interest to private investors, are planned. In August 2011, the Public Defender called on the MRA to protect the rights and interests of IDPs in the process, denoting a number of specific actions expected in that regard.²¹⁰

The issue of restitution of housing, land and property left behind in IDPs’ place of origin also is essential to durable solutions to displacement, and it long has been an important and often a high-profile element of the national approach to resolving the situation of IDPs.

In 1994, the Cabinet of Ministers requested the State Insurance Company to calculate the damage suffered by IDPs.²¹¹ Moreover, in 1999 the president of Georgia created a working group charged with recommending measures and drafting legal provisions to restore and protect the housing and property rights of refugees and IDPs.²¹² Moreover, in 2006 President Saakashvili allocated several million U.S. dollars in discretionary funds to establish a program entitled “My House” for registering and substantiating claims for property, with the assistance of satellite imagery.²¹³ Though intended to secure IDPs’ property claims, the program proved to be an ineffective means for doing so because it was not adequately linked to the cadastral records. Also, although the program ostensibly was voluntary, some IDPs reported not being allowed to renew their IDP registration unless and until they submitted a claim under the program.²¹⁴

Specifically regarding South Ossetia, in 2007 the government of Georgia adopted the Law on Property Restitution and Compensation for the Victims of Conflict in the Former South Ossetian Autonomous District in the Territory of Georgia.²¹⁵ The law had been prepared as a peace-building measure through intensive consultations between the parties to the conflict and with input from

the IDP Relocation Process.” See also “Statement of the Public Defender,” 21 January 2011.

²⁰⁷ “NGOs Condemn UNHCR Response to Georgia’s IDP Evictions,” *Hurriyet Daily News and Economic Review*, 18 February 2011 (referring to a statement issued by eight local NGOs) (www.hurriyetaidailynews.com/n.php?n=ngos-condemn-unhcr-reponse-to-georgia8217s-idp-evictions-2011-02-18). See also, “Georgia and IDPs: Homeless in Georgia,” Eastern Approaches Blog, *The Economist*, 4 February 2011 (www.economist.blogs/easternapproaches/2011/02/georgia_and_idps).

²⁰⁸ Amnesty International, *Uprooted Again*, 2011, pp. 22-23.

²⁰⁹ “Reply by the Government of Georgia, Ministry of Internally Displaced Persons, Accommodation and Refugees to the Report by Amnesty International,” 5 August 2011 (mra.gov.ge/main/ENG#readmore/635).

²¹⁰ “The Public Defender’s Statement Regarding the Planned Process of Displacement of IDPs in Tbilisi,” 12 August 2011 (www.ombudsman.ge).

²¹¹ Resolution No. 900 of the Cabinet of Ministers of the Republic of Georgia, 31 December 1994. Cited by Chkeidze and Korkelia, in *The Guiding Principles on Internal Displacement and the Law of the South Caucasus*, edited by Cohen, Kälin and Mooney, p. 104.

²¹² Ordinance of the President of Georgia No. 294 on Measures of Restoration and Protection of the Housing and Property Rights of Refugees and Internally Displaced Persons, 30 April 1999. Cited in Chkeidze and Korkelia, in *The Guiding Principles on Internal Displacement and the Law of the South Caucasus*, edited by Cohen, Kälin and Mooney, p. 104.

²¹³ Government of Georgia, Decree of the President No. 124 on Measures to Register the Rights to Immovable Property Located in the Abkhazian Autonomous Region and Tskhinvali Region, February 2006.

²¹⁴ UNHCR, *Gap Analysis*, 2009, p. 23.

²¹⁵ See Brookings-LSE Project on Internal Displacement, “National and Regional Laws and Policies on Internal Displacement: Georgia” (www.brookings.edu/projects/idp/Laws-and-Policies/georgia.aspx).

UNHCR, OSCE and local legal experts. It establishes the legal grounds on which and procedures by which refugees and IDPs who fled South Ossetia can submit claims for property restitution or compensation, with awards of compensation to be funded from the state budget as well as other sources. The six-member Commission on Restitution and Compensation, comprising two representatives each from Georgia, South Ossetia and the international community, was to have been established by mid-2007, but in fact it was never formed.

The UN Security Council underlined the need “to ensure, without distinction ... the protection of the property of refugees and displaced persons” in Georgia.²¹⁶ Most households whose homes were destroyed during the hostilities in August 2008 received \$15,000 from the government to rebuild their homes; however, little reconstruction has taken place as many who received assistance fear the resumption of hostilities or general insecurity and thus are reluctant to invest in rebuilding their homes in the context of a fragile ceasefire agreement.²¹⁷ In 2009, the RSG recommended the establishment of a comprehensive mechanism for resolving housing, land and property claims in both South Ossetia and Abkhazia.²¹⁸

Achieving durable solutions to displacement requires allowing IDPs to choose among possible solutions—whether return, local integration in the place of displacement, or settlement elsewhere in the country—and ensuring that whichever solution they choose, IDPs enjoy on a sustainable basis and without discrimination safety, security, and freedom of movement; access to an adequate standard of living; access to livelihoods and

employment; and restoration of housing, land and property rights.²¹⁹ In Georgia, important progress has been made in the search for durable solutions in recent years, in particular with the significant shift in government policy to enable IDPs to access decent living conditions and remove legal barriers to their integration into communities other than their place of origin. However, much work remains to be done in order to meet the criteria for achieving durable solutions.²²⁰ In particular, the progress achieved in recent years regarding local integration has concentrated on housing, whereas greater attention to livelihoods and IDPs’ self-reliance is a critical need. A “scoping study” on IDP issues undertaken by the World Bank in 2011 holds promise for a stronger government focus on promoting the local socioeconomic integration

²¹⁶ UN Security Council Resolution 1866 adopted on 13 February 2009, S/RES/1866 (2009), para. 3.

²¹⁷ Amnesty International, *In the Waiting Room: Internally Displaced People in Georgia*, p. 14.

²¹⁸ UN Human Rights Commission, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum: Follow-Up to the Report on the Mission to Georgia*, A/HRC/13/21/Add.3, 14 January 2009, paras. 44–45 and 49.

²¹⁹ Additional criteria that may be relevant to securing a durable solution are access to documentation; family reunification; public participation; and remedies for displacement-related violations. Inter-Agency Standing Committee (IASC), *IASC Framework on Durable Solutions for Internally Displaced Persons*, Brookings-Bern Project on Internal Displacement, April 2010 (www.brookings.edu/reports/2010/04_durable_solutions.aspx). Also presented to the UN Human Rights Council, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum: Framework on Durable Solutions for Internally Displaced Persons*, A/HRC/13/21/Add.4, 9 February 2010.

²²⁰ For an assessment of the situation in Georgia in reference to the Framework criteria, see Nadine Walicki, “Part Protracted, Part Progress: Durable Solutions for IDPs through Local Integration,” in *IDPs in Protracted Displacement: Is Local Integration a Solution? Report from the Second Expert Seminar on Protracted Internal Displacement, 19–20 January 2011, Geneva* (Brookings-LSE Project on Internal Displacement and IDMC, June 2011) (www.brookings.edu/idp). For lessons for Georgia from other countries’ experience in trying to meet these criteria, see Erin Mooney, “Securing Durable Solutions to Displacement: The Experience in Bosnia and Herzegovina,” Presentation to the Information Session on “When Does Displacement End?” Geneva Discussions XVI, Working Group II, on Humanitarian Issues, Geneva, Switzerland, 6 June 2011. “Geneva Discussions” refers to the conflict resolution process, in which authorities from Georgia, Abkhazia, South Ossetia and the Russian Federation participate.

of IDPs and potential support for such an effort.²²¹ In parallel, of course, efforts to secure a political settlement to the conflicts must continue.

To promote broader discussion on durable solutions, the Norwegian Refugee Council translated the Framework for Durable Solutions into Georgian and in September 2010 co-organized with UNHCR an event, in which the Representatives of the Secretary-General on the Human Rights of Internally Displaced Persons participated, to introduce the document to all major stakeholders in Georgia, including the MRA, the Ministry of Justice and the Ministry of Labor, Health and Social Issues as well as to civil society groups and the international community. As a follow-up, UNHCR and NRC plan to hold a training workshop for relevant authorities and stakeholders, specifically on the Framework for Durable Solutions and its application in Georgia, in September 2011.

11. Allocate Adequate Resources to the Problem

Do the authorities prioritize internal displacement in allocating budgetary resources and in mobilizing international support?

The Law of Georgia on Forcibly Displaced Persons—Persecuted Persons devotes a chapter to financial resources for IDP assistance. It specifies that “financial expenses to IDPs shall be borne by the State and local budgets,” while “additional financial sources are reserve budget funds, donations from private individuals or legal entities and financial assistance rendered by other governments and international organizations.” In addition, the law specifies that in the case of death of an IDP, the cost of burial expenses will be borne by the local budget for IDPs in the area of their temporary settlement.²²²

²²¹ The report on this study by the World Bank was not yet released at the time that this case study was finalized.

²²² Government of Georgia, *Law of Georgia on Forcibly Displaced Persons—Persecuted Persons*, 1996, as amended

In Georgia, as in other countries, it can be difficult to determine precise figures for allocations of national resources for addressing internal displacement. They are not necessarily reflected in a single line item of the state budget; typically resources are channeled to various government agencies and programs, some of which are IDP-specific while others are broader in scope, with IDPs being one of a group of beneficiaries. Budgetary allocations to ministries and even to focal point agencies for IDPs also are generally not disaggregated in terms of the percentage of the allocation devoted to addressing IDP issues. Moreover, figures for resources allocated from local government budgets are not accessible in the available literature. In addition, until recently a significant but indeterminate portion of resources was channeled through the Abkhaz government in exile to address IDPs’ needs through the system of parallel structures that it had established to assist IDPs from Abkhazia, and there were reports of misuse of funds.²²³ While “mismanagement, corruption and the lack of funds” historically has “impacted” government efforts to effectively address the situation of IDPs,²²⁴ combating corruption has been a government priority in recent years and one on which measured progress has been recorded.²²⁵

The Ministry for Refugees and Accommodation, as the designated government focal point for IDP issues, warrants specific attention. In 2000, the Minister for Refugees and Accommodation informed the Representative of the Secretary-General on Internally Displaced Persons that 15 percent of the state budget that year was devoted to providing IDPs with assistance

25 October 2010, Article 10; Article 5(2)(j).

²²³ UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng—Addendum: Profiles in Displacement: Georgia*, 2001. para. 110.

²²⁴ IDMC, *Georgia: IDPs in Georgia Still Need Attention: A Profile of the Internal Displacement Situation*, 9 July 2009 (www.internal-displacement.org).

²²⁵ Organization for Economic Cooperation and Development (OECD), *Georgia: Anti-Corruption Achievements Must Become Sustainable*, 31 March 2010 (www.oecd.org).

Figure 2-1. Ministry for Internally Displaced Persons, Accommodation and Refugees Budget

Year	Georgian Lari (GEL)	USD equivalent (approximate, based on 2011 conversion rates)
2005	61,866,600	37,592,900
2006	59,239,300	35,996,400
2007	65,537,600	39,823,500
2008	121,783,100	74,000,800
2009	66,697,600	40,528,400
2010	41,670,600	25,320,900
2011	40,708,200	24,736,100

to meet their basic needs.²²⁶ For the past several years, the allocation from the state budget to the MRA usually has hovered at around 60 million Georgian Lari (GEL); see figure 2-1. An exception was in 2008, when, in response to the renewed conflict and massive new displacement in August, allocations from the state budget to the ministry increased significantly, almost doubling in size. By 2009, however, the budget dropped back to its earlier amount. In 2010, the budget of the ministry was reduced by a third, to just above 40 million Lari, where planning figures remained in 2011.²²⁷

In comparative terms, the planned state budget allocation for the MRA in 2010 was equivalent to the allocation for the Ministry of Agriculture; considering that agriculture is a major sector of the Georgian economy, this comparison gives some indication of the relative weight given to IDP issues. The same year, the allocation to MRA was more than double the amount allocated to the Ministry of Environmental Protection and nearly four times greater than the allocation to the Ministry of Energy.²²⁸

²²⁶ Author's notes, mission to Georgia, May 2000; UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng—Addendum: Profiles in Displacement: Georgia*, 2001, para. 110.

²²⁷ Figures reported by the Government of Georgia, Ministry of Finance. The author is grateful to Lasha Gogidze of Transparency International for pointing me to and translating this information from the Ministry of Finance website.

²²⁸ Government of Georgia, Ministry of Finance, *A Citizen's*

The budget of the ministry for 2011—which is posted on the ministry website—reflects both the state budget resources (38,732,200 GEL) and direct donor funding to the ministry in the form of a World Bank community development project in the amount of 1,976 million GEL. Beyond that, while certain IDP budget line items are specified—such as one-time health care allowances for IDPs (in the amount of 20,000 GEL for 2011)—the budget of the ministry is not disaggregated in terms of the portion that goes to fund work with IDPs. Indeed, that could be difficult or even impossible to do given that a number of the staff and programs (for example, the hotline and reception center) and resources of the ministry go beyond IDPs to address other persons of concern to the ministry.

Government offices and programs besides the MRA also disburse resources for IDP-related activities. For instance, immediately after the 2008 conflict, the government allocated some 40 million GEL for shelter reconstruction, through the Municipal Development Fund. The Ministry of Health, Labor and Social Protection reported providing “Targeted Social Assistance” to over 22,000 IDP families as part of its overall budget of nearly 1.6 billion Georgian Lari in 2010.²²⁹

Guide to the 2010 State Budget of Georgia (January 2010), p. 17 (www.mof.ge/en/4070).

²²⁹ Author's e-mail correspondence with Transparency International Georgia, June 2010 and May 2011; and Government of Georgia, *A Citizen's Guide to the 2010 State Budget of Georgia*.

A large component of the financial resources devoted to IDPs goes to the monthly stipend for all those recognized, under national legislation, as “forcibly displaced persons–persecuted persons.” As noted earlier, the amount of the monthly stipend is minimal (see Benchmark 1 The same amount is given to every IDP regardless of differences in needs and vulnerabilities. Shifting from a status-based to a needs-based system, whereby vulnerable IDPs would have their needs addressed through the general social assistance system, has long been advocated and indeed is recognized in the State Strategy as a necessary goal. However, little progress has been made at a policy level. Moreover, there is little incentive for IDPs to make the transition. While legally there is no barrier to IDPs registering for general social assistance, if they do so they are no longer entitled to receive the monthly IDP allowance and other IDP-specific entitlements.²³⁰ At the same time, the social protection system does not yet provide a reliable or enhanced level of support.

Significantly, the president at times has chosen to allocate discretionary funds to addressing IDP issues. Most notably, in 2006 President Saakashvili allocated significant resources from the discretionary funds of his office to the project “My House,” administered by MRA, to allow IDPs who had lost property in Abkhazia to register their lost property and substantiate their claims using satellite imagery (see Benchmarks 2 and 10).²³¹ State budgetary resources continue to be devoted to this project: 300,000 GEL (\$180,230), according to the 2011 budget of MRA.

In addition, the government actively seeks financial resources from the international community to supplement its own efforts to address internal displacement. Indeed, the government of Georgia openly admits that “it was the donor community which took the major responsibility for allocating financial and material

aid and ensuring . . . appropriate planning and implementation of humanitarian programs for IDPs.”²³² For years, however, the government had resisted large-scale international support for undertaking activities to improve the living conditions of IDPs and reduce their dependency.²³³

Yet, after the adoption of the State Strategy, in which the government envisages “close cooperation” with donor organizations to implement the strategy,²³⁴ in particular after the August 2008 conflict, the government adopted a more welcoming approach to international assistance in support of securing durable solutions to displacement. Of the \$4.5 billion in aid that was pledged by donors at a conference in October 2008 to help rebuild the country, \$102.7 million was earmarked to secure durable housing for IDPs from the August conflict.²³⁵ Donors then pledged significant additional funds to support government efforts to implement the broader State Strategy and its revised action plan of 2009, in particular to support durable housing solutions and livelihoods for the “old” IDP cases. Indeed, adoption by the government of a comprehensive action plan for implementing the State Strategy for IDPs was a condition for provision by the European Union of sizable financial support for its implementation: a total of 115 million Euros, allocated in three tranches.²³⁶ EU support was made conditional on

²³² Government of Georgia, MRA, *IDP Housing Strategy and Working Plan*, p. 17.

²³³ UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng—Addendum: Profiles in Displacement: Georgia, 2001*, paras 34, 111–114, 128–129.

²³⁴ Government of Georgia, *State Strategy for IDPs*, Chapter VI, para. 1.3 and Chapter VII, paras. 1 and 3. See also Revised Action Plan, adopted in May 2010, Chapter 4, para. 4.3.

²³⁵ According to an opinion poll conducted in the fall of 2008, only 27 percent of Georgians thought that the influx of aid money would be properly spent, citing concerns about ineffective spending and corruption. Transparency International Georgia, *Annual Report 2009* (2009), p. 27 (<http://transparency.ge>).

²³⁶ European Commission, Commission Decision of

²³⁰ Government of Georgia, Decree No. 145 of 28 July 2006, on Social Assistance to the Georgian Population.

²³¹ Government of Georgia, President of Georgia, “IDP Property Satellite Imagery Presented to President Saakashvili,” 7 April 2006 (www.president.gov.ge/index.php?lang_id=ENG&sec_id=226&info_id=4516).

the adoption in 2008 of an action plan for implementing the State Strategy and in 2009 on revision of the action plan and establishment of a reliable mechanism for coordination between the government and the international community for overseeing implementation. Both conditions were met with the establishment of the Steering Committee on Internally Displaced Persons (of which, recall, major donors on IDP issues in Georgia—the EU, USAID and the World Bank—are members) and its adoption of the revised action plan. This strongly suggests that the adoption by a government of a policy or strategy, complete with an action plan, for addressing internal displacement (Benchmark 6) and a reliable coordinating mechanism with the international community (Benchmarks 7 and 12) is considered by donors to be an especially important indicator of a government's recognition of its national responsibility toward IDPs and its effort to implement a strategy to meet that responsibility.

According to government estimates, \$1 billion will be required for the state to ensure that all of the country's IDPs are provided with decent housing that they themselves will own; that they have opportunities to earn a living wage; and that they have full access to social services. By early 2011, it had only received \$200 million.²³⁷ On housing and livelihoods issues alone, the government reported that even with the significant new donor funding secured for 2011—namely \$61.5 million from the EU and \$42 million from the United States (funds that it reports would cover the needs of 5,200 IDP families)—there remain 22,000 IDP families in need of direct housing assistance and 30,000 IDP families in need of one-time monetary support. The funding shortfall is

463 million Euros (\$654.2 million).²³⁸

The deputy minister of the MRA concedes that while the government's own funding for the IDP housing program has been comparatively small, its in-kind support, including donating some 700 buildings as well as new roads, gas and electricity and infrastructure, has been significant.²³⁹ And while the government has come under criticism in some recent media reports for not giving priority to spending on IDP housing, other observers, including Transparency International and key local NGOs working on IDP issues, counter that it is inaccurate to suggest that providing IDPs with a durable housing solution is not a priority of the government.²⁴⁰

12. Cooperate with International Community when Necessary

Does the government facilitate efforts by international organizations to address internal displacement?

From the outset of internal displacement in the country, as noted by RSG Francis Deng in 2000, the “government readily acknowledged the problem of internal displacement and invited the international community to assist it in meeting the emergency needs of the displaced.”²⁴¹ As the displacement crisis became protracted, the cooperative approach generally continued, but the government now tried to limit international efforts to transition from humanitarian assistance to more development-oriented support aimed at securing durable, dignified

16/12/2009 on the special measure for *Support to Georgia's IDPs Action Plan: 2009–Part III*, to be financed under Article 19 09 01 03 of the general budget of the European Union, Brussels, 16/12/2009, C(2009) 9529.

²³⁷ “Georgia and IDPs: Homeless in Georgia,” Eastern Approaches Blog, *The Economist* (4 February 2011). For specific estimates of resources required for the remaining housing program and for programs of socioeconomic support, see MRA, *IDP Housing Strategy* (December 2010), p. 4.

²³⁸ Government of Georgia, MRA, *IDP Housing Strategy*, p. 15.

²³⁹ Interview with Deputy Ministry of MRA, Tamar Martiashvili, in EurasiaNet, “Georgia: Making a Luxury Resort a Priority over IDPs?” 31 August 2011 (www.eurasianet.org).

²⁴⁰ EurasiaNet, “Georgia: Making a Luxury Resort a Priority over IDPs?” 31 August 2011.

²⁴¹ UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng—Addendum: Profiles in Displacement: Georgia*, 2001, para. 109.

living conditions for IDPs and supporting IDPs' economic self-reliance. Such efforts were resisted because they were considered tantamount to supporting IDPs' integration in their place of displacement and thus were misinterpreted as running counter to the overriding goal of eventually securing for IDPs their right to return.²⁴² Indeed, as the government finally acknowledged in the State Strategy for IDPs of 2007, when it came to addressing protracted internal displacement, "no joint vision ... existed for addressing problems related to IDPs"²⁴³ until the shift starting in 1999, at the initiative of the international community, toward a "new approach" to assisting IDPs by transitioning from humanitarian assistance to development and other programs focused on self-reliance (see Benchmark 10). The State Strategy for IDPs adopted by the government in 2007, including the inclusive process by which the document and its action plan were drafted (see Benchmark 6), mark the culmination of these efforts and a strategic realignment of national and international objectives in supporting the internally displaced.

The MRA long has been the main government counterpart of international agencies and donors engaged in coordination on IDP issues. Its role in this regard has been formally recognized and institutionalized on a number of occasions, including when it was designated the chair of various mechanisms for coordinating with the international community, including the state commission established in 2000 to cooperate with the international community in developing and implementing initiatives

to improve the situation of IDPs and the state commission established in 2006 to develop a state strategy for IDPs (see Benchmark 7, above). The government, for its part, participated in the various sectoral cluster working groups set up by the international community in implementing the "cluster approach" to interagency coordination in response to the humanitarian crisis resulting from the conflict of August 2008. By early 2009, with the phase-out of the cluster approach, international stakeholders underscored the need for an effective coordination mechanism with the government and new principles of partnership for developing the revised action plan for the State Strategy for IDPs. Through technical assistance provided to MRA by USAID-FORECAST, the Steering Committee for IDP Issues was established in 2009 to bring together the key government and international agencies and donors as well as civil society representatives engaged in IDP issues in Georgia. The establishment of the IDP Steering Committee is widely regarded as having facilitated an enabling environment within which coordination on strategic and funding issues has been enhanced not only between the government and the international community but also among international agencies and donors.²⁴⁴ The government has been lauded specifically for having "engaged international organizations and NGOs, who are often vocal critics of the government, to help design policies and procedures."²⁴⁵ Indeed, IDMC observes that "[i]nternational organizations enjoy privileged, quick and meaningful access to government officials on IDPs issues."²⁴⁶

UNHCR always has been a strong partner of MRA on IDP issues. Over the years, MRA has demonstrated increased openness to receiving technical assistance from additional international partners to support its efforts on IDP issues (see Benchmark 7). A specific focus of the USAID-FORECAST project to provide technical

²⁴² The UN Secretary-General, in a report to the UN Security Council in 2000, noted that this approach left IDPs "in a precarious position, in effect locking them out of the benefits that could accrue to them from participation in longer-term development activities." United Nations, *Report of the Secretary-General Concerning the Situation in Abkhazia, Georgia*, S/2000/345, 24 April 2000, para. 24 (www.un.org/Docs/sc/reports/2000/sgrep00.htm). See also UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng—Addendum: Profiles in Displacement: Georgia*, 2001, paras. 34–36 and 111–12.

²⁴³ Government of Georgia, *State Strategy for IDPs* (2007), Chapter I.

²⁴⁴ Guy Hovey and Erin Mooney, *Technical Assistance to the Ministry for Refugees and Accommodation*, Final Report, July 2010.

²⁴⁵ "Displaced and Disgruntled in Georgia," Eastern Approaches Blog, *The Economist*, 2 November 2010.

²⁴⁶ IDMC, "Georgia: Towards Durable Solutions for IDPs," 2010, p. 4.

assistance to the MRA (2009–10) was to address the ministry's shortcomings and strengthen its institutional capacity and performance in the area of coordination, including coordination with the international community. Progress in this regard with the establishment of the Steering Committee and improved overall institutional performance by the MRA in fact generated renewed confidence in the ministry, which is benefiting from an expanded number of capacity-building projects. To maximum the impact of these efforts, the MRA has called for its partners to coordinate and support a comprehensive capacity-strengthening program for the MRA, based on a common analysis of needs and joint strategy for addressing these gaps.²⁴⁷ As noted earlier (Benchmarks 4, 6, 7, 10 and 11), key capacity-strengthening partners of the MRA currently include UNHCR, the Danish Refugee Council with EU support, USAID, the World Bank, and the Norwegian Refugee Council.

The government of Georgia has responded affirmatively to various requests by the Representative of the Secretary-General on Internally Displaced Persons to allow official visits to the country.²⁴⁸ Regarding humanitarian access more broadly, the government of Georgia historically has facilitated efforts by international organizations seeking access to Abkhazia and South Ossetia in order to engage with the de facto authorities, including on IDP issues, and to undertake humanitarian operations in these areas; its cooperation generally was mirrored by that of the de facto authorities of Abkhazia and South Ossetia. Most notably, UNHCR and the OSCE maintained since the mid-1990s a field presence in both regions, where peacekeeping missions also were

deployed over the same period.²⁴⁹

However, in a significant departure from the cooperation generally enjoyed by the international community with all parties to the conflict since the 1990s, humanitarian access to both conflict regions has been seriously restricted since the 2008 conflict. The Georgian government passed the Law on Occupied Territories of Georgia, which limits access to each region through only one point in Georgia proper (Zugdidi municipality to access Abkhazia and Gori municipality to access South Ossetia), and access is contingent on formal authorization by the central government.²⁵⁰ While the law provides that “special permission” to enter the territories may be granted in “extraordinary circumstances,” including for humanitarian purposes, this exception is limited to emergency humanitarian assistance.²⁵¹ As RSG Kälin has pointed out, it still would not allow for delivery of non-emergency assistance, such as for durable shelter, which, since the end of the emergency phase immediately following the conflict, is what is needed.²⁵² Meanwhile, the South Ossetian de facto authorities insist that humanitarian assistance may enter only through the

²⁴⁷ Hovey and Mooney, *Technical Assistance to the Ministry for Refugees and Accommodation*, 2010.

²⁴⁸ RSG Francis Deng undertook an official mission in May 2000; RSG Kälin undertook an official mission to the country in December 2005, a working visit in December 2006 and official missions in October 2008 and November 2009. Related documents, cited above, are available at Brookings-LSE Project on Internal Displacement (www.brookings.edu/projects/idp/rsg_info.aspx) and OHCHR (http://ap.ohchr.org/documents/dpage_e.aspx?m=71).

²⁴⁹ The UN Observer Mission in Georgia, composed of unarmed UN military observers, operated in Abkhazia and in Georgia proper from 1993 until July 2009, ending after the required consensus within the UN Security Council for continuation of the mission was lost in June 2009. In South Ossetia, the Joint Control Commission, comprising representatives from Georgia, the Russian Federation, North Ossetia (in the Russian Federation) and South Ossetia (in Georgia proper), was in place from 1992 to 2008 to monitor the ceasefire brokered in 1992.

²⁵⁰ Law on Occupied Territories of Georgia, adopted by Parliament on 23 October 2008 and signed by the President of Georgia on 31 October 2008.

²⁵¹ Compare in this regard the interpretation of European Commission for Democracy through Law (Venice Commission), *Opinion on the Law on Occupied Territories of Georgia*, Adopted by the Venice Commission at its 78th Plenary Session (Venice, 13–14 March 2009) ([www.venice.coe.int/docs/2009/CDL-AD\(2009\)015-e.asp](http://www.venice.coe.int/docs/2009/CDL-AD(2009)015-e.asp)).

²⁵² UN Human Rights Council, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum: Mission to Georgia*, 2009, para. 35.

Russian Federation. In addition, since the August 2008 conflict, they have barred UNHCR and OSCE (whose presence in Georgia was terminated in June 2009 due to Russia's veto of the proposed renewal of their mission) from reestablishing their long-standing presence in South Ossetia; human rights observers seeking to investigate claims of abuse and violations of international law also have been barred.²⁵³ Abkhazian authorities, for their part, terminated the the UN Observer Mission in Georgia in June 2009, following the Russian Federation's veto in the UN Security Council of a resolution to extend the mission's mandate. While UNHCR and a handful of international NGOs have continued to carry out humanitarian activities in Abkhazia and the UN Security Council has called on all parties to facilitate humanitarian access to persons affected by the conflict, "including refugees and internally displaced persons,"²⁵⁴ UNHCR noted at the end of 2010 that "it is becoming increasingly more difficult and complex to operate in Abkhazia."²⁵⁵ Meanwhile, in South Ossetia, UNHCR reported that humanitarian access to some 14,000 IDPs and returnees in South Ossetia "remains impossible."²⁵⁶ Indeed, with the exception of the International Committee of the Red Cross, international humanitarian agencies still did not have access to South Ossetia by August 2011, three years after the war.

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²⁵³ US Department of State, Bureau of Democracy, Human Rights and Labor, *2009 Human Rights Report: Georgia*, 11 March 2010, Sec. 1 (g) (www.state.gov).

²⁵⁴ UN Security Council Resolution 1866, adopted on 13 February 2009.

²⁵⁵ UNHCR, "Georgia," *UNHCR Global Appeal 2011 Update*, 2010, p. 255 (www.unhcr.org/4cd970e69.html).

²⁵⁶ *Ibid.*