

*Georgia:  
Analysis of Gaps in the Protection of Refugees  
April, 2008*



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## Foreword

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In August 1999 Georgia ratified the 1951 Refugee Convention and its 1967 Protocol. In the same year, following the renewed outbreak of conflict in the neighbouring Republic of Chechnya, Russian Federation, thousands of asylum-seekers of ethnic Chechen / Kist background crossed the mountainous border with Georgia in order to seek safety.

They were granted refugee status on *prima facie* basis and relocated to the remote Pankisi Valley where most of them reside until today along with local ethnic Kists. As of the beginning of 2008, and following acquisition of Georgian citizenship by many of the displaced, the number of refugees in Georgia from the Russian Federation amounts to 1021 individuals. Georgia also hosts a small but increasing number of asylum seekers and refugees from other countries. Georgia's efforts to provide international protection to refugees and asylum seekers run parallel to the search for solutions for more than 220,000 citizens who have been internally displaced due to unresolved conflicts in the provinces of Abkhazia and South Ossetia.

The following analysis of the protection situation in Georgia is focused on the refugee and asylum seeker population. Its aim is to set out current gaps in government and community protection capacities as a necessary first step to the development and implementation of measures to remedy those gaps. It is being undertaken on the heels of Georgia's signing of the European Neighbourhood Policy (ENP) programme, which sets out strategic objectives of cooperation between Georgia and the European Union *inter alia* in the areas of migration and asylum for the 2007-2013 time period.

This gaps analysis is part of UNHCR'S larger Strengthening Protection Capacity Project – Southern Caucasus (SPCP-SC), financed by the European Commission which is dedicated to the strengthening of protection responses to forced displacement in the region.

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## List of Abbreviations

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AGDM	Age Gender Diversity Mainstreaming
CA	Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment
CDT	Convention Travel Document
CoE	Council of Europe
CEDAW	Convention on Elimination of all Forms of Discrimination Against Women
CERD	Convention on Elimination of all Forms of Racial Discrimination
CRA	Civil Registry Agency
CRC	Convention on the Right of the Child
DRAS	Department of Refugees and Asylum Seekers
DRC	Danish Refugee Council
ECHR	European Court of Human Rights
EU	European Union
GCRT	Georgian Centre for Psychosocial and Medical Rehabilitation of Torture Victims
GEL	Georgian Lari (currency)
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRC	International Committee of the Red Cross
IOM	International Organization for Migration
MIA	Ministry of Internal Affairs
MoJ	Ministry of Justice
MRA	Ministry of Refugees and Accommodation
NRC	Norwegian Refugee Council
OHCHR	Office of the United Nations High Commissioner for Human Rights
OSCE	Office for Security and Co-operation in Europe
PA	Participatory Assessment
RSD	Refugee Status Determination
SGBV	Sexual and Gender Based Violence
SPCP	Strengthening Protection Capacity Project
TAG	Technical Assistance Georgia
TRP	Temporary Residence Permit
UNAG	United Nations Association of Georgia
UNICEF	United Nations Children's Fund

UNDAF

United Nations Development Assistance Framework

UNDP

United Nations Development Program

WFP

World Food Programme



## Executive Summary

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Georgia is presently undergoing multiple transition processes of which strengthening the rule of law and democratic institutions are central. Within this context, significant progress has been made in recent years in establishing a national refugee asylum system that builds on the country's strong traditions of hospitality.

The Government of Georgia (GoG) has stated its commitment to further improve Georgia's refugee protection mechanisms and bring them more fully in line with international standards. This gaps analysis is intended to contribute to that effort by identifying areas where further progress can be made to advance protection of refugees, accelerate the realization of a durable solution to their displacement and strengthen partnerships with civil society and the international community.

The following are the key gaps identified in this report:

### International and Regional Instruments

Although Georgia's constitution provides for the direct application of international law, courts and state authorities rarely refer to the provisions of the 1951 Refugee Convention and other ratified human rights instruments in decisions relating to refugees. Courts and state authorities are reluctant to apply international treaties if national legislation contradicts them, or where international obligations have not been explicitly transposed into national law.

### Legal and administrative framework

Although Georgia has enacted legislation regulating the granting of refugee status and the rights of refugees, the Law on Refugees and other legislation related to refugees are not consistent. Moreover, they do not fully comply with international standards in several key respects noted below.

### Refugees and development plans

The Law on Refugees requires executive authorities, local self-government and administration bodies to assist refugees in finding employment corresponding to their education and qualifications. In practice this assistance is not available for most refugees given their remote location and limited job opportunities in the Pankisi Valley. Moreover, refugees are, for the time being, not included in any of the Government's development plans.

### Admission

According to the Law on Refugees, asylum applications must be submitted in Georgian and in person before the Ministry of Refugees and Accommodation (MRA) in Tbilisi. The lack of explicit legal provisions and guidance for border guards to identify possible asylum seekers and refer them to the MRA can result in unwarranted detention and/or refoulement.

### Registration

All refugees – whether recognized on a *prima facie* basis or on basis of individual RSD procedure - are subjected to an annual re-registration exercise despite the continuing and indefinite nature of their protection needs. Participation in this exercise is a pre-condition to receiving social/financial assistance from the Ministry of Refugees and Accommodation (MRA) and also forms the basis for assistance from UNHCR.

## **Admissibility**

Once registered, the MRA must decide within three days whether to permit an asylum seeker access to the refugee determination procedure. There are no legal criteria or guidelines governing these decisions which compromises procedure transparency and leaves the process open to arbitrary and/or inconsistent practice.

## **Refugee status determination (RSD)**

Decision makers do not receive systematic training on the application of the refugee definition or on appropriate interview techniques. As a consequence, they do not always fully examine how relevant aspects of international and European refugee and human rights law and neutral sources of country-of-origin information apply to individual refugee claims. There have also been instances of decisions being unduly influenced by other Ministries.

There are no specific procedures for determining the claims of women or separated and unaccompanied children. There is no right to legal counsel. Interpretation is not guaranteed but is nonetheless provided by UNHCR.

## **Appeals on RSD decisions**

Although RSD decisions can be appealed to the Tbilisi City Court, in practice the Court is reluctant to interfere in first instance decisions. At most the court will refer cases back to the MRA for redetermination. This restrictive approach limits the value of the appeal process.

National courts lack expertise on refugee and asylum law and have limited access to regional jurisprudence.

## **Risks to security from violence and exploitation**

Improved law enforcement has enhanced security in the Pankisi valley. Feuds between families however remain a security issue for refugees and locals alike. Moreover, while there is no precise data on Sexual and Gender Based Violence (SGBV) in Georgia, including with respect to the refugee population, NGOs working with refugees believe that SGBV is wide-spread and underreported.

Implementation of the Law on the Elimination of Domestic Violence has been slow and to date the Government has not funded the establishment of a safe house for victims and survivors in refugee or host communities.

## **Nutrition**

There are no clear figures on nutrition rates within the refugee community, although food security is known to be a problem especially with the end of the World Food Programme's food assistance programme in 2007. Refugees have limited means of self-reliance which further exacerbates the problem which UNHCR's modest cash assistance scheme can not fully address.

## **Accommodation**

Some 20% of refugees in the Pankisi Valley live in state or privately owned collective centers. The conditions in some collective centers are deplorable, lacking electricity, water, appropriate roofing, windows and doors. A rehabilitation project involving refugees has improved the situation, but more resources are needed to ensure that all centers provide acceptable living conditions.

Due to their limited resources, most refugees in Tbilisi rent or live in unfinished buildings which do not meet minimum acceptable living standards.

The lack of a reception facility for recently arrived asylum seekers leaves those seeking protection to fend for themselves on a minimal living and subsistence allowance provided by UNHCR. The absence of reception facilities can also hamper the speedy and efficient processing of claims and increases the risk of irregular movements of asylum seekers.

## Healthcare

Refugees are not entitled to national health care insurance or free health care. They are entirely dependant in this regard on the assistance provided by the NGO community which is not sufficient to meet needs.

## Education

Many children in the Pankinsi valley attend unofficial schools in the Russian language run by refugees. Their school certificates are not recognized by state institutions limiting opportunities for higher education and employment in later life. Mainstreaming refugee schools into the national educational system is a priority to facilitate social integration and access to higher education and employment.



School attendance rates among refugee children are inadequate for a number of reasons including costs associated with education such as clothing, transport and books. Other factors limiting attendance are the remoteness of some refugee households and traditional perceptions relating to the value of education for girls.

## Documentation attesting to protected status

Although asylum seekers are issued a “notice that a person is undergoing RSD”, it is not an identification document nor recognized by all branches of the government. The absence of formal documentation for asylum seekers can result in problems accessing basic rights including the inability to grant a power of attorney, an essential requirement to acquire court representation.

Recognised refugees do not have access to Convention Travel Documents (CTDs). As a result refugees have difficulties travelling outside Georgia to visit family, study, or for other reasons. The absence of CTDs has led a number of refugees to travel without legitimate documentation which has sometimes resulted in their arrest and difficulties returning to Georgia.

## Civil status and documentation

Refugee children born in Georgia are registered. However, Chechen refugee children born in exile are neither recognized as Georgian citizens nor as citizens of the Russian Federation. They are rendered stateless which is a serious protection concern.

The registration of refugee marriages can be problematic as refugees often have difficulties producing required documentation from the country of origin, in particular to demonstrate the absence of legal impediments to marriage. Moreover refugees tend to adhere to religious norms and do not highly value civil registration of marriages. The low

registration of marriages in the refugee community leads to problems with regards to divorce, custody of children and property.

## **Employment**

Recognised refugees with a Temporary Residence Permit are entitled to work, however employment opportunities in the Pankisi Valley, where most refugees reside, are scant, leaving refugees dependent on external assistance. Limited refugee livelihoods constrain the ability of refugees to improve their living conditions and move towards meaningful integration within host communities.

## **Vocational Training**

There are no government-funded vocational programmes for refugees. Although refugees are not excluded from existing public and private vocational training programmes, refugees living in the Pankisi valley have no effective access to these programmes. Courses offered in Pankisi by UNHCR and NGOs are insufficient to meet needs, in particular those of vulnerable groups, including single female headed households.

Existing scholarships facilitating access to tertiary (university) education are insufficient to meet needs.

## **A Comprehensive Durable Solutions Strategy**

In the absence of wide-scale prospects for the repatriation or resettlement of refugees, local integration is the most feasible durable solution available to the displaced Chechen community. Sufficient objective conditions for the voluntary return of refugees to the Russian Federation do not yet exist, and many refugees have problems establishing their Russian Federation citizenship. UNHCR's resettlement programme is coming to a close due the improvement of the protection environment in Georgia and reluctance from resettlement countries to accept Chechen refugees.

The local integration of refugees requires collaborative efforts to address a number of outstanding challenges including the restricted access of refugees to national health, education and social care programmes, limited livelihoods in refugee and host communities, and poor awareness among refugees of civil obligations and rights. The application of naturalisation conditions to refugees – including residency and language requirements – also requires verification, to ensure facilitated access to citizenship by refugees, including stateless refugees, in accordance with the 1951 Refugee and 1954 Statelessness Conventions.

# 1. Favourable Protection Environment

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## 1.1 Demographic profile

The majority of refugees in Georgia are ethnic Chechens and Kists who fled from Chechnya, Russian Federation, in context of the second Chechen war. At the end of 2007 the number of *prima facie* refugees in Georgia stood at 1021 in addition to 26 recognized in individual status determination procedures. The number of registered refugees has declined over the last two years primarily for the following reasons:

In 2006 and 2007 two voluntary repatriation movements to Chechnya organized by the Russian Federation resulted in the organized return of about 90 refugees, and a small number of refugees are said to have returned to Chechnya on their own;

Since 2004, a total of 299 refugees were resettled through UNHCR and an additional unknown number have engaged in irregular movement to Western European countries or Turkey on their own initiative;

During the 2006 annual refugee re-registration exercise, the MRA identified several hundred Georgian citizens (local Kists) originally listed as refugees who were identified as *de jure* Georgian citizens. Their refugee status was therefore cancelled;

Refugee status of the significant number of persons originally registered as refugees was cancelled (300 – 400 persons in 2007 alone) as they were identified to be *de jure* Georgian citizens or eligible for Georgian citizenship. Mainly this was not due to fraudulent acts of the persons concerned but rather due to unfamiliarity with citizenship legislation. As a number of these persons subsequently faced difficulties in obtaining documents as Georgian citizens, UNHCR intervened and in consequence of this intervention more than 100 persons were able to reinstate their refugee status during the October 2007 refugee re-registration exercise.

The majority of refugees from Chechnya reside in Pankisi Valley among Georgian Kists who share their roots with Chechens. A small group of less than one hundred Chechen refugees reside in Tbilisi. There are currently 1,021 *prima facie* Chechen refugees of which 51% are female and 49% are male; 43% are under the age of 18 and almost 2% are over the age of 60. Chechens as well as Kists are of Muslim denomination; while traditionally following a rather liberal way of Islam during the last decade, a more fundamentalist approach has gained influence in the valley. Most of the refugees have completed secondary education while those originating from Grozny tend to be more educated, with some having university degrees. From 1999 until summer 2006 Chechens were granted refugee status on *prima facie* basis. Chechen asylum seekers who arrived after this date have had to undergo individual status determination procedures.

In addition to the Chechen refugees, Georgia hosts 26 refugees originating from different countries including Afghanistan, Azerbaijan, Russian Federation, Iran, and Tajikistan. These refugees were granted refugee status on an individual basis several years ago. Most of them reside in or near Tbilisi and appear well integrated. Many have a reasonable knowledge of Russian or Georgian and have established small businesses. 54% are female, 46% male, 31% are under the age of 18, while 12% are 60 years or

older. To UNHCR's knowledge 1 Chechen *prima facie* refugee and one non-Chechen refugee granted status through individual RSD procedures have acquired Georgian citizenship through naturalization.

In 2007, Georgia registered 21 asylum applications. The principal country of origin of asylum seekers is the Russian Federation, although persons from Iran, Azerbaijan, Iraq, Turkey, India, Pakistan, Nigeria, Cuba, Sri Lanka and Turkmenistan have also sought protection in recent years.

## 1.2 Major international and regional protection instruments

Georgia acceded to the 1951 Convention and its 1967 Protocol in 1999 with the following reservation: "According to Article 40(1) of the [...] Convention, before the full restoration of the territorial integrity of Georgia, this Convention is applicable to the territory where the jurisdiction of Georgia is exercised."

Georgia has also ratified the 1966 International Covenant on Civil and Political Rights (ICCPR), the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR), the 1969 Convention on Elimination of All Forms of Racial Discrimination (CERD), the 1989 Convention on the Rights of the Child (CRC) and the 1979 Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT).

In 1999 Georgia joined the Council of Europe and ratified the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). Georgia has also ratified Protocols No. 1, 4, 6, 7, 12, 13, and 14 to the ECHR and has recognized the jurisdiction of the European Court of Human Rights.

Georgia's constitution provides for the direct application of international treaties by the national courts. Article 6 stipulates supremacy of international treaties and agreements signed by Georgia over national legislation as long as they do not contradict the Constitution or Constitutional agreement. The latter also stipulates that universally recognized human rights and freedoms are recognized and protected as eternal and supreme human values.

In practice, only the Constitutional Court of Georgia refers to ECHR case law as well as International law standards and provisions. Lower level courts, including those dealing with appeals from asylum seekers, do not consider international legal standards. Courts dealing with the appeals from asylum seekers refer the cases back to the MRA, as the first instance, if they identify a violation of law and procedures requiring the latter to reconsider the case.

### Women's rights

In addition to the above mentioned international instruments, Georgia acceded to the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1994 and its Optional Protocol in 2002. Georgia has also acceded to other relevant international instruments promoting equal rights, including various International Labor Organization (ILO) conventions regulating equal employment opportunities. In principle, refugee women are granted the same rights as men.



It should be noted that the life of refugee women is *de facto* often governed by traditional laws and the Chechen interpretation of *Sharia* (Islamic) law, which generally are contrary to Georgian and international legal standards. Therefore, Georgian laws, especially family law relating to divorce, custody of children and alimony, are difficult to enforce in Pankisi Valley. Many refugee women are not aware of their rights and do not dare to initiate proceedings before Georgian courts, fearing that such proceedings will undermine their and their families' reputation.

### Children's rights

In addition to the CRC, Georgia has ratified the following international instruments relating to children: the Hague Convention on the Protection of Children and Co-operation in Respect of Inter-country Adoption (1993), ILO Convention no. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor (1999) and ILO Convention No. 138 on the Minimum Age for Admission to Employment, 1973. The norms contained in the above mentioned conventions are reflected in Georgian legislation and cases dealing with children's rights violations brought before the courts are generally dealt with effectively.

Although the legislative framework governing children's rights is in line with international and regional law, the lack of funds both within families and the government negatively impacts the respect for and promotion of children's rights, particularly their social and cultural rights. Refugee children generally face problems related to their right to education in addition to the aforementioned deficit in terms of social and cultural rights.

## 1.3 Legal and administrative protection framework in the host country

Georgia has a basic national legal framework for refugee protection, but this does not fully comply with international and European legal standards in key areas. Inconsistencies between key pieces of legislation also prevent refugees from accessing their rights under international law.

The Constitution foresees the granting of asylum to foreign citizens and stateless persons. It also prohibits the extradition or transfer of asylum seekers and their persecution on the grounds of "*political creed or ...an action not regarded as a crime under the legislation of Georgia*".

The 1998 *Law on Refugees* includes procedures for granting and terminating refugee status and sets out the rights of refugees. It does not fully comply with international standards in terms of the definition of a refugee, protection against *refoulement*, admissibility of asylum applications, cessation of refugee status or economic and social rights. In addition, it does not provide for any complementary forms of protection or the issuance of CTDs. It further requires refugees to re-register on an annual basis.

In 2007, the *Law on Refugees* was amended to include the issuance of TRPs to refugees, as regulated by the 2006 *Law on the Status of Aliens*. In theory, the TRP refugees are granted more rights. However, the *Law on the Status of Aliens* is unclear in terms of the rights granted to "aliens" who are deemed "temporary residents" (as refugees are now) and "permanent residents," which introduces an element of confusion and vagueness.



The related legislation on healthcare and social protection has yet to be amended, in line with the new regime so that refugees can benefit from its provisions. Government, UNHCR and partners will need to work jointly to ensure the laws governing refugees are fully in line with international standards and domestic legislation is harmonized.

Recent amendments to the *Law on the Status of Aliens*, which recognize that TRP is a ground for the legal stay in Georgia, are a major step forward. The new provisions also stipulate that TRPs replace visas and enable TRP holders to lawfully enter or exit Georgia. However the amendments create confusion, as in some places the *Law on the Status of Aliens* continues to refer to holders of refugee cards (which no longer exist due to issuance of TRPs), while in other places it refers to holders of TRPs.

### Administrative framework

The MRA is responsible for refugees and asylum-related issues. Under the *Law on Refugees*, the MRA has the competence to consider refugee claims, grant or cancel refugee status, issue refugee cards, provide financial aid and support healthcare and education for refugees.

The City Court of Tbilisi deals with the appeals from decisions taken by the MRA. The court has the power to overrule the MRA and to issue a substantive decision in favor of an asylum seeker. In practice however, if violations of the law and procedures are found, the court refers the cases back to the MRA in order for the latter to reconsider the cases.

The MoJ, in particular the Civil Registry Agency (CRA), is another key government body responsible for refugee protection. The MoJ is responsible for issuing TRPs to refugees and verifying applicants' citizenship to prevent any abuse. Other Ministries which play a role in providing protection and assistance to refugees are the Ministry of Internal Affairs, the MoE, and the Ministry of Labor, Health, and Social Affairs.

### Recognition of UNHCR's supervisory role

In broad terms, the *Law on Refugees* and established practices of cooperation with the MRA recognize UNHCR's role in the provision of international protection to refugees. The *Law* stipulates that pursuant to international agreements, "*Georgia shall cooperate with foreign countries and international organizations on refugee problems.*" In 2007 UNHCR and the MRA reached an agreement based on UNHCR's supervisory role, resulting in UNHCR gaining access to asylum interviews and observer status in RSDs.

## 1.4 Partnerships to strengthen protection capacity

UNHCR is the principal partner of the Government in providing protection and assistance to refugees and asylum seekers. A broad range of international and civil society partners also work to improve the situation of refugees. In early 2007, the MRA, NGOs and UNHCR jointly conducted a participatory assessment to ensure refugees are part of the planning process and are empowered to take a more active role in their future. This process also helped to develop tailor-made and realistic durable solutions.

### International partners

WFP provided basic food items to refugees until the end of 2007. UNHCR supplemented this food assistance with additional food and hygiene items to meet nutritional and sanitary standards. As WFP is withdrawing from Georgia, UNHCR as an interim measure has introduced a modest cash allowance scheme and is working with

the government of Georgia to find long term solutions of integrating refugees into the national social assistance system.

The Norwegian Refugee Council (NRC) provides education to refugee children, as well as legal counseling, and runs income-generating projects. The Danish Refugee Council (DRC) manages additional income-generating projects. Both international NGOs have a field presence in Pankisi Valley. In addition, other international agencies (WFP) and diplomatic missions (the European Commission, the Polish/Dutch/Lithuanian Embassies) support income-generating projects in Pankisi Valley. The US Embassy funded school rehabilitation in Pankisi Valley.

### Civil Society

The following Pankisi- and Tbilisi-based NGOs work actively on refugee and asylum seeker-related issues: Technical Assistance Georgia (TAG) – provides health care to refugees; the Georgian Centre for Rehabilitation of Victims of Torture (GCRT) – provides psychological counseling; the United Nations Association of Georgia (UNAG) – provides legal counseling, advocacy and training; and the Co-ordination Council of Chechen Refugees in Georgia which with UNHCR's support recently registered as an NGO and promotes the local integration of refugees, information-sharing among the refugees and awareness-raising about refugees' contribution to Georgian society.



Several NGOs who are not UNHCR's implementing partners provide free legal advice to asylum seekers and refugees. As the lack of an NGO legal aid network hampered information-sharing and coordinated advocacy, the UNHCR as of February 2008 has established a legal NGO working group. This working group, scheduled to meet 3 – 4 times a year, works to enable lawyers to share legal information and strategies.

## 1.5 Migration policies and refugee protection principles

Georgia is primarily a country of origin and transit migration and, to a lesser degree, a country of destination for trafficked victims. Since its independence in 1991 over 1 million Georgians have migrated from Georgia mainly to the Russian Federation and Europe mainly due to socio-economic reasons, but also following conflict-related internal displacement. While in 2007 the net migration was estimated at 445 migrants/1000 persons, the Government's five-year poverty reduction plan adopted in January 2008 anticipates the return of 150,000 Georgians from abroad.

In terms of combating trafficking, the Government has made substantial improvements by adopting the 2006 *Law on Combating Human Trafficking* and a Biannual Action Plan (2007/2008) encompassing the following three key goals: i) prevention; ii) protection of victims; and iii) prosecution of the offenders. The *Criminal Code* was amended to include harsher punishments for those who commit trafficking-related offences and the possibility to exempt victims of trafficking from their criminal responsibility for illegal entry. Two shelters for trafficking victims were opened with state funding. The Office of the State Prosecutor co-ordinates all activities related to trafficking on a national and regional level.

Despite these positive developments, female trafficking victims who enter Georgia illegally may be at risk of detention as border guards are not adequately trained to identify and differentiate between illegal aliens, asylum seekers, economic migrants and trafficking victims.

Georgia has signed and ratified re-admission agreements with Ukraine and Switzerland. Agreements with Bulgaria and Italy are pending ratification and negotiations are currently under way with number of EU countries. *The Law on Refugees* does not include provisions on the removal of rejected asylum seekers from the territory of Georgia, however the *Law on the Status of Aliens* stipulates that an alien may be deported from the territory of Georgia if there are no legal grounds to justify his/her future stay. UNHCR is not aware of the deportation of rejected asylum seekers, many of whom remain illegally in the territory of Georgia.

## 1.6 Local population receptivity towards refugees

Georgia is surrounded by Muslim countries and has generally shown a tolerant approach to different religions. A considerable number of ethnic Georgians mainly living in Adjara are Muslim. The role that Chechen fighters played during the Abkhazian conflict has caused some negative resentment against Chechens, particularly among IDPs from Abkhazia. At the same time, Georgians have a strong tradition of hospitality and understand the refugees' plight. The majority of refugees from Chechnya reside in Pankisi Valley in the local ethnic Kist communities, with whom they share common traditional and religious values. 80% of refugees reside in private accommodation with host families, friends and relatives while 20% reside in collective centers.

There are no specific awareness-raising or information-sharing programs on refugee issues targeting the general population of Georgia. The main tool for raising awareness and sharing information on refugee rights in Pankisi Valley, which is available to refugees and the local population, is the "*Refuge*" newsletter printed by UNAG and NRC's community centre. Also, in 2007, the Chechen Refugee Council engaged in raising understanding for the plight of refugees from Chechnya and their role in Georgian society *inter alia* by way of a conference conducted together with the Ombudsman.

Refugees and the local population rarely report security incidents, which have almost ceased in part due to the fact that the local population also benefits from assistance provided for the refugees (e.g. free health care as well as due to law enforcement interventions following the security incidents in 2003/2004). Discussions with refugees and host communities still disclose a certain level of distrust between them and a rather controversial debate among the communities on the level of ethnic identity.

Even though the number of asylum seekers in Georgia is relatively small, they have a diverse cultural, racial and religious background. However no religious, racial or discriminatory treatment involving or targeting asylum seekers are prevalent in Georgia.

Georgia is a country with about 240,000 Internally Displaced Persons, and the government tends to focus on this vulnerable group. Thus all public awareness programs funded by the Government target this particular group. This indirectly contributes to fostering an understanding of the refugees' plight.

A specific PI unit within the MRA would enable the government to develop a public awareness campaign and to respond to occasional criticism from NGOs.

### **1.7 Refugee and national, regional and development agendas**

In late 2006, the government signed a five-year action plan under the European Neighborhood Policy Program to support its efforts to build a democratic and prosperous state with the aim of integrating into European and Euro-Atlantic structures.

The action plan sets out priority areas for action in the field of asylum and migration. These include the modernization of the national refugee system in line with international standards; legal reform to bring national legislation on asylum and refugees in line with international and EU standards; and the establishment of standard procedures governing the treatment of asylum applications in accordance with EU and international standards.

Following the endorsement of the action plan, the MRA has initiated the process of re-drafting the *Law on Refugees*. The working group will resume drafting the new law in early 2008.

## 2. Admission in Safety and Registration

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### 2.1 Access to the territory

The control of Georgia's land, sea and air borders rests with the State Border Police under the overall responsibility of the Ministry of Interior Affairs. However in Abkhazia, Georgia, the Georgian government only exerts control over upper Kodori Valley. In South Ossetia effective jurisdiction of the Georgian Government is only exercised in a number of villages and no effective control mechanisms have been established along the administrative borders. Therefore the Government of Georgia is not able to effectively control the entry of persons into the country through these regions.

Asylum seekers entering Georgia illegally are at risk of detention or *refoulement*. Border guards have a discretionary right to refuse entry to all aliens who do not meet entry requirements prescribed by law, as well as to those who originate from a list of countries considered to be security risk (countries at war). This practice, coupled with the lack of identification and referral mechanisms, can lead to *refoulement* of genuine asylum seekers or their detention and subsequent imprisonment.

Neither the *Law on Refugees* nor the *Law on the Border Police* requires border officers to identify, register or refer asylum seekers to the MRA. Border police refer all persons who have entered illegally to the "investigation unit," a unit in the Border Police authorized to process and refer cases to the Office of the Prosecutor. Most aliens who enter illegally are appointed *ex officio* representation and charged with illegal entry. In the absence of standardized procedures to identify asylum seekers from other entrants, those with protection claims are at risk of a 3 – 5 year prison sentence for illegal entry and/or *refoulement*.

Recent amendments to the *Law on the Status of Aliens* allow TRP holders to enter and exit the territory of Georgia without a visa, protecting those who are recognized as refugees from non-admission when they travel and return to Georgia. However, the experience of some Chechen refugees with valid TRPs who were not allowed to return, demonstrates that the law is not being systematically applied.

### 2.2 Non-refoulement at point of entry

The Constitution of Georgia and the *Law on Refugees* contain provisions against *refoulement*, but they are not fully in line with the Refugee Convention or the European Convention on Human Rights. The *Law on Refugees* explicitly protects recognized refugees while the Constitution protects only those "*persecuted on the basis of their political creed or prosecuted for an offence not considered a crime in Georgia*".

The lack of legal provisions requiring border police to identify, register and/or refer asylum seekers to the appropriate authorities is a major protection gap. In order to effectively lodge an asylum application, asylum seekers must reach the MRA office at its seat in Tbilisi. Asylum seekers are not sufficiently protected against *refoulement* until they submit their application. In the absence of a standardized mechanism to identify and admit asylum seekers and to refer their claims, instances of *refoulement* cannot be ruled out. UNHCR is not fully informed of asylum requests and currently does not have the capacity to systematically monitor the situation at the border. Although UNHCR provides training to border police, UNHCR does not monitor operational aspects of the agency's work.

UNHCR has not heard of any cases of expulsion, *refoulement* or extradition of asylum seekers or refugees since 2005.

### 2.3 UNHCR access to new arrivals at entry points

Due to staffing constraints, UNHCR has not been able to conduct regular border monitoring missions in recent years. UNHCR must obtain authorization from the Ministry of Internal Affairs (MIA) for these missions. In 2008, UNHCR plans to conduct training of the border police at the major border check points, which will help to establish an understanding of realities at the border, and has reached a preliminary agreement with the MIA on such training. UNHCR has unimpeded access to asylum seekers who manage to reach Tbilisi and file an asylum application, as the MRA refers them to UNHCR or UNAG for further counseling and material assistance.

UNHCR receives no information about new arrivals at the points of entry and only hears of new or potential asylum seekers once they have reached the MRA, an implementing partner, or the UNHCR office directly. Following their detention UNHCR has access to persons of concern in detention facilities, as the MoJ always grants permission to visit these persons.

### 2.4 Individual registration of refugees and asylum-seekers

According to the *Law on Refugees* the MRA is responsible for the registration of asylum-seekers and refugees. The *Law on Refugees* further stipulates that once an asylum seeker approaches the MRA, the Department of Refugees and Asylum Seekers must reach a decision on whether to register the claim within three days. The MRA issues a note to those accepted into the asylum procedure, informing the person that his/her case has been accepted for consideration.

Largely due to the high turnover of the MRA staff registering asylum applications, there is an ongoing need for RSD as well as training on standards governing the accelerated procedures related to registration of asylum claims.

The *Law on Refugees* requires that all recognized refugees re-register on an annual basis, regardless of whether they have been granted status on an individual or *prima facie* basis. The purpose of the annual re-registration is to record the ongoing refugee claim, to check the accuracy of the data relating to refugees and to record demographic changes (births, deaths, departures) and to screen for cases which may be eligible for Georgian citizenship. Given that as of mid-2007, refugees were issued with TRPs which are valid for three years, this re-registration exercise funded by UNHCR seems to be redundant and should be replaced by an on-going registration mechanism using the UNHCR-funded improved MRA data base. One more re-registration exercise in 2008 will make sense, however, in order to systematically review citizenship/ statelessness status and analyze the potential for naturalization.

All family members are registered individually and TRPs are issued to all individuals, including newborns.

The MRA staff conducting annual re-registration have gained practical experience over the years and the commission working on refugee registration is gender-balanced. MoJ



staff did assist in the 2007 re-registration exercise. This helped to promptly identify persons who may be eligible for Georgian citizenship. During the re-registration of 2007, the MRA for the first time invited an NGO (UNAG) to participate in a monitoring capacity.

## 2.5 International registration standards

The MRA inputs all registration data, which meets minimum bio data standards, into its consolidated data base. The MRA has agreed to translate the data base into English so that UNHCR can monitor the data. The translation and formatting encountered major difficulties. The data base is outdated and cannot produce quantitative data that would facilitate statistical analysis. This, coupled with high staff turnover in the MRA, made it difficult to obtain accurate and timely statistical data on refugees and asylum seekers. In late 2007, UNHCR therefore helped the MRA to develop a new data base that will integrate the current data on refugees with additional fields to allow for better statistical analysis (vulnerability profiling and other protection data). In 2008, the database will be accessible on-line to relevant Ministries and UNHCR while safeguarding full confidentiality.

## 2.6 Information regarding rights and responsibilities

The quality of information disseminated to refugees is inadequate and uneven and is dependant on where they reside. In Pankisi Valley, where most refugees live, information is provided through the NRC community centre and by NGOs present in the area. UNAG publishes a quarterly newsletter in three languages (English, Russian and Georgian) with up-to-date information but it targets a variety of readers, ranging from Embassies to refugees. In Tbilisi, refugees have no systematic access to information. They may benefit from the occasional radio and TV campaigns announcing re-registration or similar exercises from counseling by the MRA, UNAG and UNHCR and the informal network of the Chechen Refugee Council. The 2007 refugee profiling exercise revealed that a considerable number of refugees are not aware of their rights and related existing assistance mechanisms including to vocational training, income-generation activities or educational opportunities. The government, NGOs and UNHCR must work closely together to improve systematic dissemination of quality information to urban and rural refugees.

In 2008, UNAG will publish its newsletter "*Refuge*" on a bi-annual basis and target mainly refugees. Some articles will be written by different stakeholders, including the MRA, the Coordination Council of Chechen Refugees in Georgia, other NGOs and UNHCR. The production of an information brochure comprehensively informing refugees about their rights and available services shall be considered.

## 2.7 Limited restrictions on movement

Refugees enjoy full freedom of movement within the region of Georgia under government control. Certain forms of government and UNHCR assistance such as free accommodation in collective centers and comprehensive community services are only provided in the Pankisi Valley. The *Law on Refugees*, however, does not provide for CTDs, which limits movement outside of Georgia, for example, for business or to maintain family ties.



## 3. Fair and Efficient Status Determination

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### 3.1 Group determination

The *Law on Refugees* provides for *prima facie* recognition of refugee status on a group basis. The MRA granted group status for persons fleeing Chechnya, Russian Federation, in 1999 and maintained this practice until mid-2006. Since that time individual status determination procedures apply for newly arriving asylum seekers from Chechnya, Russian Federation, in the same way as they apply to asylum seekers from the other countries. *Prima facie* status is reviewed on an annual basis during the obligatory refugee re-registration as required by the *Law on Refugees*. Under the *Law on Refugees*, the MRA may suspend refugee status as well as social and economic assistance of refugees who fail to re-register. Refugees who subsequently re-register will be eligible for assistance.

### 3.2 Individual refugee status determination

The *Law on Refugees* provides for a 3-day registration period during which the MRA has the discretion to reject registration of asylum claims on the grounds that the claim does not meet refugee definition as set by the *Law on Refugees*. The *Law* does not establish criteria for determining elaborate admissibility or procedural safeguards in line with European standards. In practice, however, few asylum claims are rejected at the registration stage and persons whose claims are not admitted can appeal to the Tbilisi City Court. Appeals are based on violations of procedural norms (non-respect of three-day timeframe, the MRA decision being written in only in Georgian, etc). The Court subsequently sends the case back to the MRA. To date, the Court has not taken a substantial decision on an asylum claim even though it has the competence to do so under Georgian legislation.

### 3.3 Fair and efficient first instance procedure

The Department of Refugee and Asylum Seekers (DRAS) determines individual asylum claims under the *Law on Refugees*. The law requires the DRAS to consider cases on the basis of evidence gathered through individual interviews and through country of origin information obtained from national and international governmental and non-governmental organizations. By law, the DRAS should forward its conclusion to the “*Commission Studying Refugee and Asylum Seekers-related Issues*” which makes a first instance decision. In practice, however, the Commission has proven to be ineffective and the MRA has therefore decided to put DRAS in charge of status determination procedures to speed up the process. The DRAS forwards its recommendation to the Minister of the MRA for his final endorsement. As envisaged by the *Law on Refugees* the whole procedure takes no more than 4 months.

The Law provides the right to benefit from the services of a qualified interpreter, but the MRA is only able to provide adequate interpretation for asylum seekers from the Russian Federation. UNHCR has bridged this gap by identifying interpreters and covering their costs. The law specifies that interpreters are bound by the principle of confidentiality and should not disclose any information obtained during the RSD process. The law does not otherwise elaborate on the need for confidentiality with RSD procedures.

All asylum seekers can benefit from free legal advice and court representation provided by UNAG and other NGOs that provide legal assistance to refugees. NGO capacity needs to be strengthened to ensure that all asylum seekers receive adequate counseling

about their claims. UNHCR intends to analyze the *Law on Legal Aid* to explore ways of improving the quality of and access to legal advice for refugees and asylum seekers.

Shortcomings in the determination of refugee claims are manifold, though the statistics indicate a rather generous approach. As the DRAS applies the refugee definition provided for in the *Law on Refugees*, persons who should be granted protection under the 1951 Convention are not always recognized as refugees. MRA decisions tend to focus on past acts of persecution, without taking into account a fear of future persecution or reliable country of origin information.

There is also a lack of consistency in decision-making. Similar cases from the same country of origin have been decided differently. Decisions have at times also been influenced by political considerations.

To date, UNHCR has not had access to RSD procedures, including individual interviews, country of origin information research, decision-making or the maintenance of individual files. To ensure that those in need of international protection receive it, UNHCR communicates its concerns to the MRA and respective courts in writing. As these interventions have not resulted in decisions being reconsidered, UNHCR conducts RSD in accordance with its mandate to ensure that a fair determination of refugee claims are made in cases of concern. Since 2002, UNHCR has recognized 15 mandate refugees and subsequently resettled them.

While some MRA staff have benefited from participation in international refugee law training, so far no systematic MRA training programme has been introduced. In mid-2007 UNHCR and the MRA agreed that UNHCR can observe RSD interviews and provide guidance in decision-making. This agreement is yet to be implemented in practice.

In addition to individual asylum procedures governed by the *Law on Refugees*, the President of Georgia has a discretionary prerogative to grant political asylum by decree to individuals who face persecution in their countries of origin on the basis of their human rights; peace; progressive, public, political, scientific or other creative activities. Aliens may submit an asylum claim to the President while in Georgia or through the diplomatic representations outside of the country.

Such a presidential decree is based on the *Constitution of Georgia* and the *Law on the Status of Aliens*. In these cases, the MRA conducts all the necessary procedures and prepares corresponding materials, including material evidence, for the President. The MRA is obliged to obtain the applicant's criminal records from the competent Ministries in Georgia which undermines the confidentiality of the procedure. An interview with the applicant is not a core element of the status determination procedure.

Persons granted political asylum by the President are protected against *refoulement* and enjoy the rights accorded to aliens. To UNHCR's knowledge, only one person – pending execution of an extradition request - has applied for political asylum in Georgia given the fact that timelines for application for granting of refugee status had passed. He is still awaiting the final decision.

Neither the *Law on Refugees* nor any of the decrees pertaining to it contain specific provisions regulating the special needs of female asylum seekers or asylum seekers who are minors.

### 3.4 Appeal

Appeals of negative decisions on refugee status by the MRA must be lodged before the administrative panel of the Tbilisi City Court within 30 days of receipt of the MRA decision. The appeal period is not stipulated by the *Law on Refugees* but by the *Administrative Code of Georgia*. UNHCR and legal aid NGOs have not documented a single case in which the court granted refugee status on the merits of a case. To date, the court has either confirmed the MRA decision or referred the case back to the MRA for renewed consideration due to violations of administrative procedures (the lack of an interpreter, the decision not reached within the 4 month period as stipulated by the law, etc). Regardless of whether the appeal is granted on the basis of an error in law (including procedure) or for an error in fact, the Court refers the case back to the MRA for the latter to reconsider the decision. The Court has indicated that it is up to the MRA to grant refugee status. The Court does not want to consider the merits of the case even though it has the competence to do so. During the appeal process, appellants are protected against *refoulement* by the *Law on Refugees* and the Administrative Procedural Code.

The capacity of the judiciary to consider asylum appeals is hindered by their limited practice and experience in the field of refugee law and jurisprudence. The small number of asylum appeals coupled with the lack of tailored training means that judges have few opportunities to develop their expertise in this area. UNHCR aims to provide training through the newly established High School of Justice using examples of European best practice and country of origin information.

### 3.5 Full and inclusive interpretation of the refugee definition

As mentioned above, the refugee definition contained in the *Law on Refugees* is not in line with international and European standards, leading to persons in need of international protection not being granted refugee status. One of the main concerns with the definition is that persons originating from Georgia are not eligible for refugee status. This provision was intentionally adopted to exclude from refugee protection members of formerly deported peoples who had been deported to Central Asia during the Stalin era and their descendents (e.g. Meskhetians, Muslim Kurds, etc.). Their access to the territory, irrespective of having a well-founded fear of persecution is now to be governed under the "*Law on Repatriation of Persons Forcibly Deported from Georgia by the Former USSR in the 1940s's of the 20<sup>th</sup> Century*", which was adopted in July 2007.

Another concern relates to the approach taken in determining refugee status. For example, in one status determination decision reviewed by UNHCR, the MRA established past persecution and granted refugee status without forward-looking evidence of fear and future risk. In another case involving an asylum seeker from the same country of origin, the adjudicators elaborated on the lack of the person's request for state protection and subsequently rejected the case on the basis that it was not clear whether the person was being persecuted by the state authorities.

In addition, the exclusion and cessation clauses of the *Law on Refugees* exceed the conclusive norms of the 1951 Convention. As mentioned above, the latter prohibits Meshketians and other peoples deported from Georgia during Soviet times from applying for asylum.

To date, the MRA has not excluded any cases under the full RSD procedure. It has, however, excluded one case in the first instance on the basis of the exclusion clauses. UNHCR does not have additional information about this case, which is currently before the court.

Over a period of three years the refugee status of more than thousand persons originally listed as refugees was cancelled. In 2007, the MoJ in cooperation with the MRA, issued TRPs to refugees and during this process cancelled the refugee status of over 100 refugees. The MRA justified this on the grounds that the persons affected were registered as Georgian citizens or met the conditions for acquiring Georgian citizenship on the basis of their residence in Georgia during the time of Soviet Union. The poor maintenance of registries in Georgia has resulted in a number of these individuals not being able to acquire Georgian citizenship. Due to lack of proper registration, deregistration at places of actual residence as well as the fact that three registries in Grozny burned down, there is a risk that some refugees will be unable to establish citizenship in either country and therefore be stateless refugees.

UNHCR has taken the position that refugee status may only be cancelled if Georgian citizenship is clearly established and the individual will be documented accordingly. Cancellation of refugee status prior to a conclusive decision on Georgian citizenship is not justified. The *Law on Refugees* does not stipulate on particular cancellation procedures. Decisions on cancellations were delivered with delays, leaving insufficient time to appeal under administrative procedures. Those who wished to maintain their refugee status had to submit new refugee applications to the MRA. To address these concerns, the MRA recruited a MoJ citizenship expert for the 2007 refugee re-registration and established a free helpline for issues related to refugee and citizenship status. The refugee status of the over 100 persons was reinstated following extensive discussions between the MRA, the MoJ, legal NGOs and UNHCR.

### **3.6 Country of origin and legal information**

Current MRA staff has not undergone formal training on the country of origin and legal information research. UNHCR will provide on-the-job training on country of origin and legal information research: the MRA has a fairly good internet connection.

### **3.7 Complementary and temporary forms of protection**

The legislative framework in Georgia does not provide for complementary forms of protection. In the past, due to most asylum seekers being granted refugee status on *prima facie* basis, the need for such a mechanism was not evident. However, the new approach of individual processing of all asylum seekers and the slightly heightened influx of asylum seekers from very different countries call for the introduction of complementary forms of protection. This will allow the Government of Georgia to address particular humanitarian cases and to grant a status in cases where *non-refoulement* obligations under international or regional human rights law apply.

## 4. Security from Violence and Exploitation

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### 4.1 Prevention of arbitrary arrest and/or detention

There is no data on the number of asylum seekers detained on the grounds of illegal entry into Georgia. The *Criminal Code of Georgia* exempts non-Georgian citizens who have entered the country illegally for the purpose of seeking asylum from penalization. Neither the *Law on the Border Police* nor the *Law on Refugees* requires border guards to identify asylum seekers and subsequently refer them to the MRA. In the absence of an identification and referral mechanism for asylum cases, asylum seekers face a risk of detention for illegal entry and prosecution with a prison penalty of 3–5 years if found guilty. Although asylum seekers are appointed *ex officio* legal assistance, the lack of expertise on asylum issues and standardized procedures for dealing with refugee claims mean that legal aid is only part of the solution.

In mid-2007, UNHCR and the Prison Department of the MoJ reached an agreement that UNHCR could have access to asylum seekers and refugees in detention and prison facilities following a formal request to visit or deliver assistance. However in the absence of a systematic review process and regular information on all the asylum seekers and refugees in detention and prison facilities of Georgia, it cannot be ruled out that some asylum cases will go unidentified and unassisted.

In 2007, the Anti-Terrorist Department of the Ministry of Interior and the Police continued to sporadically visit refugees in Pankisi Valley inviting some of them for interviews as part of their routine monitoring of the security situation in Pankisi Valley. In the past, Pankisi Valley was deemed a risk area. The UN still categorizes Pankisi Valley as a security phase III, but this status is presently under review. Unlike in the past, refugees in 2007 did not complain about poor treatment or aggressive attitudes and behavior by law enforcement officers.

### 4.2 Mechanisms to prevent and respond to sexual and gender-based violence

In mid-2006, the government of Georgia adopted two important pieces of legislation to protect against forms of sexual and gender based violence (SGBV).

*The Law on Combating Human Trafficking* and the concomitant action plan aim to protect victims of trafficking, including women who were forcibly displaced for the purposes of sexual exploitation and prostitution.



*The Law on the Elimination of Domestic Violence, Protection of and Support to its Victims* empowers police to take on a much stronger role in cases of domestic violence, including issuing restriction orders against alleged perpetrators, removing survivors from violent environments and detaining alleged perpetrators. The law also provides for the rehabilitation of perpetrators. The new policies are slowly being implemented and an action plan for

2007-8 has been adopted. However, the infrastructure needed for its implementation, such as state-run safe houses or referral mechanisms are not yet in place.



The UN Country Team, including UNHCR, is actively lobbying for the full implementation of the *Law on the Elimination of Domestic Violence, Protection of and Support to its Victims*. Until adequate state mechanisms are put in place to assist survivors of violence in refugee and asylum seeker communities, UNHCR provides access to a safe house, legal counseling, medical assistance and psycho-social assistance. UNHCR is unable to provide detailed information on the prevalence of SGBV in refugee communities at present, as its SGBV projects are in the early stages of implementation. In early 2008, the EC-funded project on prevention of and response to SGBV will start rolling out. One of the first goals of this project is to conduct an assessment of the prevalence of SGBV among UNHCR's populations of concern. The survey will focus on Pankisi Valley and regions in Georgia proper where IDPs reside. UNHCR also hopes that it will be possible to carry out the assessment among the displaced populations in the two breakaway regions.

UNHCR activities have focused on the Pankisi Valley, where refugee women and girls are subjected to traditional laws and religious norms. Early marriage persists in Chechen refugee communities. Bride-kidnapping also occurs, although frequently it takes place "with consent" of the bride and her parents to avoid the costs of wedding celebrations. Many restrictions prevent refugee women from effective legal protection in Pankisi Valley. Although Georgian legislation is applicable, social norms mean that women and girls are often unaware of their rights or are reluctant to seek legal redress.

Single woman heads of households are in a particularly vulnerable position, as women without male protection have a lower status in the community. As separation from a husband is considered to be shameful, many refugee women are unwilling to reach out and ask for assistance – including when threatened by other members of the community – for fear of aggravating their weak position in the community.

UNHCR has developed the standard operating procedures for responding to instances of SGBV in the Pankisi Valley as elsewhere. A referral mechanism has been established to ensure that survivors receive adequate assistance. However more needs to be done to raise awareness of SGBV in refugee and local communities and to encourage their participation in prevention and response. Presently UNHCR is actively engaged in fundraising for "empowerment" projects – projects that would rehabilitate survivors as well as provide them with employment opportunities. These projects would naturally complement ongoing prevention and response activities. No SGBV committed by UNHCR staff or any of its implementing partners has been reported: a confidential complaint box has been installed in the GCRT office.

### **4.3 Specific programmes to protect children**

The legal age of maturity in Georgia is 18 for both boys and girls. Children may be held responsible for criminal acts from the age of 14. Recent proposals to reduce the age of criminal responsibility to 12 years were met with strong opposition from the Georgian parliament and the international community.

The *Law on the Elimination of Domestic Violence, Protection of and Support to its Victims* contains measures to protect children from domestic violence, including through the restriction of parental rights and removal of children from their homes. It is difficult to assess whether refugee children can benefit from the national child protection mechanisms, as there is no information about the application of this law, or whether

national mechanisms effectively protect children in practice. In addition, no refugee to date has attempted to benefit from such mechanisms.

Refugee children with mental or physical disabilities, as well as those who are vulnerable due to ill health, are assisted by TAG and GCRT on regular basis. They are, however, not integrated into the limited educational facilities for mentally challenged persons available in Pankisi Valley. A recent profiling exercise revealed a significant number of mentally challenged refugee children who are often kept indoors so as not to bring shame to the family. NRC, UNHCR and the MRA will have to closely look into this issue and, if needed, provide assistance on an individual basis. A small NRC project providing education to handicapped children was discontinued as parents were unwilling to bring their children to the facility where NRC also implemented other activities. UNHCR and its partners are considering whether such a project could be implemented in a more discrete location and provide a meal as an incentive.

UNHCR does not know of any refugee or asylum seeker children who are currently being detained. The government has no RSD policy for asylum applicants who claim to be below 18 years of age.

The *Law on Refugees* does not include any provisions related to separate or unaccompanied minors. Georgia also lacks a national system of care or guardianship. There is little information on separated families among the refugees. The profiling exercise revealed a significant number of separated children in Pankisi Valley. The reasons for separation are manifold; typically the parents have died, disappeared, left the children behind or are working in the Russian Federation or elsewhere to provide for their family.

In most cases, separated children are being cared for by close family members, including grandparents. As a follow up to the fall 2007 profiling exercise which identified a number of such separated children, UNHCR is now, together with legal NGO partners, seeking that these family care providers are officially appointed as guardians. Mechanisms aimed at ensuring the protection of separated and unaccompanied children need to be developed. The new cash allowance payments by UNHCR include consideration of the needs of families hosting unaccompanied and separated children.

#### **4.4 Effective security systems in camps/settlements**

Refugees residing in Tbilisi face no particular security risks over and above instances of crime and violence faced by the general population. Refugees residing in Pankisi Valley have experienced better security since 2003 due to the enhanced security measures that have been put in place to preempt allegations that Chechen militants and/or terrorists reside there.

Security in Pankisi Valley is provided by the police and the Anti-Terrorist Department of the MIA. Law enforcement officers have a basic knowledge of protection principles and are able to distinguish between refugees and other aliens, however they lack training on SGBV and women's and children's rights. The fact that the police and anti-terrorist officers are all male is a concern.



Law enforcement officers continue to visit refugees and to invite them for interviews to gather security-related information. However, unlike in previous years, in 2007 no complaints from the refugee community about police behavior were made.

Security risks, such as limited street lighting, are addressed by community policing activities, regular police patrols and the use of distinctive vehicles and uniforms. An emergency hotline is also available in Pankisi Valley for immediate police assistance. The informal network of contacts that law enforcement structures maintain with the local population is the key to maintaining a safe environment.

The last serious security incident took place in March 2007 when a Chechen refugee was killed in front of the mosque in Jokolo. Police investigations have not yielded any concrete results, as both the refugees and the local community have refused to cooperate. Non-cooperation also limits the scope for police action in cases of blood feuds and the violent settlement of disputes between the refugee and local communities. The scope and prevalence of blood feuds in Pankisi Valley are not known. While blood feuds are an issue and some family members have to hide in their houses, the problem has often been exaggerated as a pretext for resettlement. The refugees expressed less fear when UNHCR and the MRA suggested relocation to another remote area in Georgia as a solution.

#### **4.5 Maintenance of civilian character of camps/settlements**

In 1999 when the main influx of refugees from the Russian Federation occurred, the government and UNHCR used buses and helicopters to transport refugees to safety away from the border. Refugee settlements remain in safe locations. The border between the Russian Federation and Georgia was closed in 2002 and there have been no recent reports of incursions by Russian Federation troops.

In theory there is a risk of infiltration by armed elements using unrecognized border crossings, however the perilous mountain terrain renders such crossings unlikely, particularly during winter. The border police are trained to identify armed persons and combatants, which further minimizes risk.

There is always a suspicion that weapons circulate among the refugee community in Pankisi Valley. The last allegations of armed groups operating in Pankisi Valley date back to 2001. There are no recent reports of forced recruitment, fundraising or other forms of voluntary and involuntary support to armed groups.

There are no identified cases of children associated with the armed groups or reports of the child recruitment within the refugee community.

## 5. Essential Services Assured

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### 5.1 Refugees and asylum-seekers participate

Age, Gender and Diversity Mainstreaming (AGDM) participatory assessments were conducted in the second half of 2006 among the Chechen refugees in Pankisi Valley. The start of the participatory assessments (PAs) coincided with the month of Ramadan when most of refugees fast and this negatively impacted their participation. In addition, the refugees were in general skeptical about the PAs, as the refugees have lost hope that a suitable solution to their plight will be found and are therefore reluctant to participate in yet more meetings. Some women and girls who had been invited to participate were prevented from doing so by their male relatives.

Nevertheless the main problems highlighted by all groups were access to education, particularly unavailability of quality education in Russian; the lack of clothes and footwear for school children; as well as the lack of adequate food and housing.

The refugee profiling exercise in Pankisi Valley and Tbilisi served to involve refugees in the planning process. Individual interviews with heads of households will enable UNHCR to better identify specific protection risks among the refugee population as well as to understand their thoughts on different durable solutions. Data gathered during this exercise includes educational level and needs, reasons for leaving the Russian Federation, income-generating activities refugees would like to be or are involved in, vocational training needs, current living situation, future plans and perceived obstacles to achieving these plans.

The profiling data will complement data gathered during the PA and serve to develop protection and assistance activities based on the concerns of the refugee community itself. Among the key findings were: i) the large number of female headed household situated in most remote parts of the Pankisi Valley and the need to take multi-sectoral reach-out approach; ii) the significant number of school drop outs in particular among girls age 12-16 and iii) the important role WFP and UNHCR assistance played in achieving food security.

Other efforts to secure participation of refugees include regular reception hours at UNHCR's office in Akhmeta, meetings with particular refugee groups; the creation of a refugee NGO (the Coordination Council for Chechen Refugees in Georgia) which has proven a critical but helpful partner in project design; the selection of income generation projects as well as the preparation of the profiling exercise. Refugees' participation in the host communities is largely secured through family relationships and religious activities in the different mosques located in Pankisi Valley.

### 5.2 Identification of urgent protection risks

There is no formal mechanism to identify the urgent protection needs of asylum seekers, including those of new arrivals. The MRA, UNHCR and NRC in particular, but also other partners, identify and respond to protection problems on an *ad hoc* basis. The presence of UNHCR and partners' staff in Pankisi Valley enables potential victims of violence, including SGBV, to seek assistance. Interventions include referrals to psychological support and legal assistance as well as to a safe house for SGBV survivors in Tbilisi.

In Pankisi Valley, some programmes address urgent protection problems but more needs to be done to ensure that the most vulnerable are assisted. The GCRT provides

psychological counseling on an individual, family or group basis. TAG provides urgent medical assistance.

The 2007 profiling exercise revealed higher numbers of separated children and more single female headed households than previously assumed. Without the “protection” of a man, these women are societal outcasts and are not able to voice their needs and those of their children. To overcome their lack of education and employment as well as low self esteem, a long term multi-sectoral outreach program which would include psycho-social support, vocation training and empowerment components, should be developed.

As outlined above, the AGDM PA highlighted that education is the primary issue of concern to the refugees. Lack of appropriate clothing, footwear and school transportation as a prevention tool against school drop outs was highlighted and addressed during months that followed. However, the recent refugee profiling showed that a high number of refugee girls aged between 12 and 16 are not enrolled in school because their parents want them to stay at home, in part because of the reasons listed above.

### **5.3 Nutritional well-being**

Access to adequate food was one of the principal concerns of refugees as highlighted in the PA carried out in 2007. Refugees, in particular refugee children, linked poor nutrition with limited opportunities for employment and income generation. Sadly, refugee children identified child labor as a solution to a repetitive and poor diet.

Rural and urban refugees receive WFP food rations and complementary food items from UNHCR. Following the PA, UNHCR has changed the content of its food packages to replace canned fish with canned beef. TAG tests the quality of the drinking water twice a year and the drinking water meets established safety standards.

Food aid will continue to be needed as the WFP food survey conducted in the fall of 2007 disclosed that without food aid the number of households with inadequate dietary energy intake would almost quadruple for Chechens and increase six-fold for Kist refugees. Even with food assistance, 3.2% of the households were considered to have inadequate dietary energy intake while 20% of the households have borderline dietary energy intake. The planned withdrawal by WFP of their food assistance to refugees is of concern given the limited prospects of most refugee households to meet their own basic food needs. In the present economic climate, it is very difficult for refugees to achieve self reliance, leaving many households – but particularly single female headed households - dependent on food assistance.

### **5.4 Basic domestic and personal items**

TAG distributes sanitary materials to refugees as well as domestic items including firewood and clothing in association with UNHCR.

As UNHCR intends to gradually phase down and reduce its presence in Akhmeta it is important that systematic handover of crucial activities to the MRA and NGO partners will be arranged. The findings of the refugee profiling exercise will assist UNHCR and its partners to develop appropriate interim activities that will expand durable solutions and reduce the refugees’ aid dependency in the mid to long term. Generally the level of assistance is adequate except for the more vulnerable refugees, including female headed households, which barely scrape by. In addition, some families are unable to send their

children to school, as they can not afford to buy adequate clothing or footwear. Special attention will be paid to these groups to ensure that their basic needs are met. The replacement of in-kind assistance by a cash living allowance will allow refugees to address their needs more independently.

## 5.5 Adequate housing

As there is no reception centre for asylum seekers in Georgia, most asylum seekers request a subsistence allowance from UNHCR. The MRA is in the process of identifying a suitable property, which could be made into a reception center with EC funding under their Strengthening Protection Capacity Project (SPCP).

Refugees in Tbilisi face problems accessing adequate housing. Refugees who rent have limited financial means and face difficulty in paying rent over the long term. Many refugees squat in construction sites with or without permission of the owners and are faced with the threat of eviction.

Approximately 80% of refugees in Pankisi Valley live in private accommodation with host families, friends, and relatives or in abandoned private properties, most of which belong to Ossetians who left for South Ossetia or the Russian Federation. About 20% of the refugees in Pankisi Valley live in three collective centers. Despite some investment by UNHCR and the refugees renovating these centers, they still do not yet fully meet minimum housing standards, and continue to lack water and sewage. In 2006, the collective centers were provided with electricity, which enables the refugees to use basic household appliances. The rooms in the collective centers are of sufficient size but also serve as bathrooms and kitchens, which reduce the living space. As gas is not available in Pankisi Valley, the local population and refugees heat their rooms with fire stoves and use firewood as a heating source. Although refugees are interested in shelter rehabilitation projects through renovating structures themselves, the lack of clarity on property limits UNHCR's involvement in such projects for the time being.



Besides NRC's community centre, there are no other recreational/educational facilities for children in Pankisi Valley. As refugees live in different villages throughout Pankisi Valley, it is difficult for some refugees to reach NRC's community center, as they have to pay for transportation. They also have to pay transport to reach other essential services. There are no specific programs or nursing homes for the elderly in Pankisi Valley. The cash assistance programme UNHCR introduced as of February 2008 foresees supplement for elderly refugees. The PA highlighted the different concerns of the Kist and Chechen communities regarding housing and housing solutions. The Kist community favors constructing homes, which would facilitate local integration. Kist men also identified the poor maintenance of sewage and electricity networks and bridge construction as issues that should be addressed by the local administration. The Chechen community favored improvements to collective centers, including the fencing off of land surrounding the centers as the key to improving their living conditions. Following the PA, UNHCR and the MRA worked with refugees to renovate one collective centre. UNHCR also provided basic construction materials (cement, paint) to refugees who wanted to improve the living conditions in their rooms. Refugees have also been

supplied with new doors, door frames and windows through the community assistance component of an income-generating carpentry project.

The long-term use of collective centers is not a durable option for refugees, as the living conditions in the collective centers are very poor. In addition, the lack of adequate property registration increases the risk of evictions.

## 5.6 Primary curative health care and preventative health education

The *Law on Refugees* does not provide refugees with the right to medical care. The law foresees a compulsory health check up for refugees but this is not carried out. UNHCR and TAG therefore supply three walk-in clinics in Pankisi Valley with medicine and other medical equipment in accordance with WHO standards. These clinics serve both the refugees and the local population. Refugees who require more sophisticated medical treatment are referred to clinics in Akhmeta, Telavi or Tbilisi.

Immunizations are available free for all refugee children in Pankisi Valley and are provided by a clinic in Duisi in accordance with the National Vaccination Plan.

Refugees living with HIV/AIDS are covered by the free state healthcare programme. However, those with other chronic diseases (e.g. Hepatitis C) have no access to state programs and rely on TAG's limited assistance.

Health awareness raising activities, covering a wide range of topics, are organized and delivered by TAG in Pankisi Valley in addition to training opportunities provided by the Government.

It should be noted that the health care system is undergoing major reform. Citizens of Georgia are obliged to pay for all medical expenses other than emergency care and thus due to the assistance provided by UNHCR and its partners, refugees are considered to be better protected than nationals due to the free services available to them.

The eventual reduction or withdrawal of UNHCR funded health care is an issue which also requires the joint attention of UNHCR and the Government. To date UNHCR has funded free health care to host communities to improve the reception and integration of refugees in already impoverished areas of Pankisi Valley. The termination of health care programmes may lead not only to the deterioration of the health status of those of concern, but may also result in general dissatisfaction and hostility towards refugees in host communities

Discussions with the relevant Ministries are necessary to ensure that vulnerable refugees are covered by state health care programmes that would at least cover the refugees' essential needs.

## 5.7 Primary and secondary education

Asylum seeker and refugee children have the right to enroll into state kindergartens, primary and secondary schools under the *Law on Refugees*. Presently UNHCR is aware of four minor asylum seekers in Georgia. As they only recently arrived, efforts on their placement to school are on-going.



Most Chechen refugee children attend unofficial refugee schools where Russian language is the language of instruction. These schools were established in existing schools following the first influx of Chechen refugees in 1999 and 2000.

Although Georgian legislation recognizes graduates from registered Russian schools, refugee children are currently not able to obtain high school certificates, as schools in Pankisi Valley are not formally registered as bi-lingual or Russian language schools. This causes problems for students who wish to attend university, as they are unable to apply without a high school certificate. Approximately 103 refugee children have been assimilated in Georgian language schools and are successfully following the Georgian school curriculum in Pankisi Valley. UNHCR and NRC recently initiated talks with the MoE in Tbilisi and its Recourse Education Centre in Akhmeta. It looks like the above-mentioned problem is in the process of being solved, as the MoE estimates that the Russian schools can be registered as part of existing Georgian schools by April 2008. This will enable refugee children to graduate from recognized schools.

To date, UNHCR and NRC have supported the educational needs of refugee children through a number of assistance programmes including the provision of incentives to teachers in refugee schools, small repairs to the classrooms and furniture as well as the provision of school books and basic clothing. As the MoE will take over paying the incentives to teachers, UNHCR and NRC will focus on assisting the schools for the benefit of all the pupils.

There are a total of 163 refugee children of school-going age (6 – 17 years old) of which 74 are girls and 89 are boys attending primary and secondary schools where Russian is the language of instruction in 2007-8. A total of 103 (52 girls and 51 boys) attend local schools. There is no information on completion rates, although the PA and the profiling exercise highlighted the reasons why refugee children drop out of school, which include early marriage, parents deciding to pull their children out of school (particularly girls aged between 12-16) and the lack of funds to buy adequate clothing and other basic items.

The PA highlighted the fact that some refugees have teaching experience. NRC has recruited 17 refugees as teachers, and 9 as kindergarten teachers. NRC has assisted these refugee teachers in upgrading their skills and knowledge so that they can pass the Georgian professional exams and obtain their teaching license. To date, 48 teachers have written the exam and 36 have obtained their teaching licenses. The student-to-teacher ratio is satisfactory. In Duisi, there are 16 teachers for 133 pupils; in Jokolo, 12 teachers for 29 pupils; and in Tsinubani, 8 teachers for 21 pupils.



Extra-curricular activities, such as language courses and a course preparing students to write the national university entry exam are organized in the NRC community centre in Duisi. . More needs to be done to encourage the participation of teenage girls, including through organizing girls-only activities, and to reach out to children living in the more remote parts of Pankisi Valley. The profiling exercise revealed

that some girls do not attend the courses, as traditional norms prohibit them from interacting with teenage boys.

The PA also underscored the need for transportation to school to facilitate access to school and minimize the risk of bride-kidnapping. As school transport is not provided by the state or another organization, it was decided that parents and adult male siblings should escort refugee girls to school. It should be noted that the threat of bride-kidnapping may be exaggerated and an excuse to not send daughters to school, as the only case of bride-kidnapping dates back to 2004.

UNHCR does not know the ratio of refugee children attending primary and secondary school to the total refugee child population but hopes that the new data base will close this gap in information.

The educational needs of disabled children are not met for the time being. The profiling exercise revealed a significant number of physically and mentally disabled refugee children in Pankisi Valley. In 2005, NRC launched a pilot project offering these children special education in a room in the community centre. The room was equipped with the special educational materials and the NRC staff were trained to teach disabled children. 4 children and 5 adults were enrolled in these special classes but unfortunately the project failed for the following two reasons: firstly, parents preferred to keep the children at home as having mentally disabled child is thought to bring shame to the family; secondly, the classes were not provided for the whole day nor was a meal due to lack of funding. UNHCR and NRC will propose the most appropriate solution for covering these educational needs.



## 6. Documents Confirming Protected and Civil Status

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### 6.1 Identity documents for asylum-seekers

The *Law on Refugees* does not provide a clear framework regarding documentation for asylum seekers. The law provides that asylum seekers should be issued a “*Notice for temporary settlement*,” however in practice this document is not issued. UNHCR currently covers the costs of emergency accommodation for asylum seekers. The MRA issues an official document certifying that the holder is undergoing RSD. If the asylum seeker does not possess a valid national passport, a photo of the asylum seeker is attached to this document. The document is issued only in Georgian and has no specific security features or defined validity. Although this document is issued to all registered asylum seekers, it does not amount to a recognized identification document and therefore is not recognized by government bodies (courts, notaries, etc.).

The MRA does not issue certificates to asylum seekers whose registration is refused, resulting in the latter being without official documentation. To bridge this gap UNHCR issues a certificate to protect asylum seekers against *refoulement* which is valid during the appeal process.

### 6.2 Identity documents for refugees (and persons granted complementary and temporary protection)

The recent legislation amendment, which provides for TRPs for refugees, greatly enhances their protection. TRPs grant refugees a document, which is equivalent to a Georgian identity document and is fully recognized by the authorities. TRPs attest to citizenship, identity, residence status and protected status and are issued to all refugees, including newborns. The TRP has a similar format to ID cards issued to Georgian citizens – including a photo of the bearer – and has a validity of three years.

Refugees should apply to the MoJ to obtain a TRP. Before issuing a TRP, the MoJ verifies the citizenship of refugees, as some are eligible for Georgian citizenship on the basis of their residence in Georgia during the Soviet Union era. If they are deemed to be eligible for Georgian citizenship, their refugee status is cancelled. The absence of adequate procedural guarantees during the cancellation process is of concern.

Some 40 refugees have refused to collect their TRPs, as they believe that the latter will hamper their resettlement prospects. As the MRA plans to re-register refugees in the future on the basis of their TRPs, this group could experience difficulties proving their continuing status and accessing rights. To promote collection of TRPs UNHCR has made this a condition for the granting of cash assistance.

### 6.3 Travel documents

Refugees may retain their national travel documents upon arrival in Georgia but currently are not able to obtain CTDs, which would allow them to travel to other countries. The lack of travel documents is a concern the refugees highlighted during the PA, as they are not able to visit family members or find temporary work abroad. CTDs would facilitate the readmission of refugees to Georgia who irregularly moved to a third country.

Amendments to the *Law on Refugees* adopted in April 2007 task the MRA and the MoJ to develop a legal framework and regulate travel outside Georgia and re-entry to the

territory as well as procedures for issuing CTDs. The MRA has indicated that it is drafting a regulation on CTDs.

UNHCR has reached an agreement with the Civil Registry Agency to cover the costs for printing 5000 high quality CTDs that meet international security standards. CTDs will be issued to all existing recognized refugees while the remainder will be for future refugee claimants. The CTDs will be produced by the supplier of Georgian passports to ensure that they have the necessary security features to prevent falsification and to ensure recognition by third States.

In the interim, refugees face difficulties traveling abroad. In the past, the refugee cards of refugees exiting Georgia for the Russian Federation were confiscated and refugees were denied re-entry when returning to Georgia. The MRA intervened with the Mol on an individual basis to minimize these problems. Amendments to the *Law on the Status of Aliens* adopted in mid-2007 provide that refugees in possession of a valid national passport as well as the TRP can legally exit and re-enter Georgia. However, denied re-entry of two Chechen refugees attempting to return to Georgia from Turkey in January 2008 shows that the law is not applied. No other cases have been reported.

#### **6.4 Documents confirming civil status**

Births of refugee children are registered and birth certificates are issued free of charge. A number of persons whose refugee status was cancelled currently face problems registering the birth of their newborns as they have not been granted Georgian citizenship and have no other legal status in Georgia.

Most refugees have common law religious marriages; civil marriages are much less common. Refugees who wish to have a civil wedding face obstacles, as they need to obtain documentation from the authorities in Chechnya (e.g. certificate of a single status in Chechnya). As a result, many refugee men and women have not registered their marriages and do not possess marriage certificates.

In the same vein, refugees who marry Georgian nationals without registering their marriage face difficulties when they seek to naturalize and are unable to acquire Georgian citizenship.

Non-registration of marriages also has an impact on the status of women if the couple separates or if a husband abandons his wife. Chechens' adherence to Sharia law enables men to cut off support from their wives. In the absence of civil marriage registration, women often find themselves without the legal protection and financial support.

Death certificates are issued by the local authorities.

## 7. Equal Benefit and Protection of the Law

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### 7.1 Access to effective remedies in law

According to the *Law on Refugees*, refugees and asylum seekers are equal before the law and entitled to equal protection under the law without discrimination. In principle they are entitled to free access to courts, a trial without a delay in their presence, a fair and public hearing before an independent and impartial body, to be explained the procedures and charges against them in a language they understand, interpretation, the right to appeal and access to legal assistance.

The government does not provide legal aid. The use of the recently introduced *Law on Legal Aid* will still have to be tested in refugee context. UNHCR's implementing partners, UNAG and several other local NGOs, provide free legal assistance to refugees as well as interpreters in Tbilisi and Pankisi Valley.

Refugees and citizens alike are affected by the remaining shortcomings of the Georgian judicial system which is now subject to a comprehensive reform process. Lack of resources will not allow refugees to make use of the extensive plea-bargaining practice applied by criminal courts and if their involvement in crime is established they often face very severe, if not disproportional, sentences.

### 7.2 Other dispute resolution mechanisms that respect international legal principles

Most Chechen refugees prefer traditional dispute mechanisms, including decisions by the Council of Elders and those made by the Imam, to civil and criminal mechanisms. The Council of Elders consists of men usually above the age of 50. Their decisions are informed by long held traditions and practices and do not necessarily respect the human rights of those involved. It is difficult to understand how the Council of Elders works as it operates in a traditional manner and is closed to outsiders. The existence of the Council of Elders will limit the scope of UNHCR interventions or training although UNHCR continues to seek the Council's and the Imam's support to document divorces made under Sharia law.

Women are frequently disproportionately and negatively affected and often have little recourse when they are subjected to domestic violence, forced early marriage, bride-kidnapping and abandonment. A woman cannot separate or divorce from her husband without his consent. A woman who does not consent to her husband taking on a second or third wife can be abandoned without support and her children taken away. When a woman separates from her husband in accordance with Chechen tradition, she is not allowed to take the children who remain with their father. UNHCR will continue to seek involvement of the Council of Elders as well as Imams in the work of the Council on the Prevention and Response to SGBV to strengthen the protection of refugee women.

## 8. Ability to Achieve Self-Reliance

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### 8.1 Wage earning employment

The *Law on Refugees* grants refugees the right to work. In addition, the law imposes a positive obligation on the executive, local self-government and administration bodies to assist refugees in finding employment commensurate with their qualifications and depending on employment opportunities in the given region. Moreover, in the absence of employment opportunities, unemployed refugees are to be registered and assisted in finding jobs. In practice, however, given the remote location of Pankisi Valley and limited job opportunities these provisions are not effectively implemented and the government has not yet developed a job-placement strategy for refugees.

The employment rights of asylum seekers are not legislated, and absent any legal prohibition they are able to work but face many of the same obstacles to securing employment as refugees, including the lack of proper documentation and language barriers. For the majority of refugees residing in Pankisi Valley prospects of finding employment outside of the UNHCR-funded income-generation project are very slim.

### 8.2 Social security and just and favorable conditions of work

Legislation governing employment standards (e.g. hours of work, state insurance, labor disputes, remuneration) exist in Georgia, including specific provisions granting social benefits to specific groups (pregnant women, the disabled etc). The application of these standards to aliens, including refugees, is governed by the *Law on the Status of Aliens*. The latter contains specific provisions granting those with TRPs the same rights as Georgian nationals in terms of the right to invest, to engage in business and labor activities and to rest, etc. In terms of social benefits, however, the law is less clear and reforms made to the *Law on Social Protection* do not envision extending the benefits to refugees.

Legal norms regulating the social security and employment conditions of refugees are contradictory and confusing, which prevents refugees from enjoying their rights. Unfortunately, practice does not import more clarity into the law. The number of refugees opening a small business or looking for employment opportunities within the public sector remains minimal. This will change, *inter alia*, through the integration of refugee teachers into the regular education system and as refugees make a living from the income-generating projects.

### 8.3 Trade and self-employment

Refugees can engage in trade and self-employment activities when they possess a valid TRP. The absence of government assistance to small scale businesses is an obstacle to the refugees' economic development. In the past, refugees were reluctant to become self-reliant, as they feared this would lessen their chances of being resettled. With limited resettlement opportunities, and the negative consequences of being dependant on assistance, UNHCR and partners have invested considerable efforts to support refugee self-reliance. For example, there are currently 37 small projects being implemented in Pankisi Valley with about 150 persons (both refugees and local residents) benefiting from these projects.

Donor support is needed to fund a more robust self-reliance strategy in Pankisi Valley

## 8.4 Recognition of foreign diplomas

The MoE has procedures in place whereby refugees can apply to have their diplomas recognized in Georgia. Refugees have effective access to these procedures and an impartial and competent authority considers their applications. Their applications are reviewed in a fair manner and the refugees are generally treated in the same way as aliens in the same circumstances.

## 8.5 Right to own property

The *Law on the Status of Aliens* guarantees refugees the right to own, inherit or bequeath any property as well as to enjoy personal non-property rights. Agricultural land can be purchased or privatized by aliens, including refugees, only by establishing a legal entity in Georgia.

The *Law on the Status of Aliens* also provides that aliens holding permanent residence permits are subject to taxation in the same manner as Georgian nationals unless otherwise provided by national or international law.

## 8.6 Educational and vocational programmes

In cooperation with its implementing partners, UNHCR provides vocational training in Pankisi Valley for Chechen refugees.

NRC offers computer training, sewing courses and language courses in Georgian and English in its community centre in Duisi. Although priority is given to refugees, the course is open to locals whose employment opportunities are also limited. NRC has also provided training to teachers so that they can acquire a Georgian teaching license as well as to improve the quality of teaching in refugee schools. To date, 17 teachers have benefited. In addition, NRC has organized training for secondary students seeking to write the university entrance examination.

The NGO Kakheti has distributed “professional kits” to entrepreneur refugees who wish to open a small business (e.g. hair dressing, shoe repair, sewing and mechanics). The majority of beneficiaries are women. During the profiling exercise women in particular expressed the need for increased vocational training opportunities beyond those offered in Duisi.

Through the DAFI scholarships, UNHCR has been able to support some successful students, although the demand is higher than the number of scholarships available. Moreover, DAFI scholarships are only available to refugees, and therefore children who have naturalized, or are in the process of becoming naturalized, do not qualify. More scholarships and more education-related projects for women are needed.

## 9. Opportunities for Durable Solutions

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### 9.1 There is a comprehensive and coherent strategy for finding durable solutions

Building on the findings of the profiling exercise that was conducted in late 2007 UNHCR is now drafting a durable solution strategy for refugees from Chechnya which focuses on their integration in Georgia and will address the legal, economical and social/cultural dimensions of a complex integration process.

### 9.2 Voluntary repatriation in safety and dignity

UNHCR does not promote voluntary return to Chechnya, a position that is currently under review at UNHCR HQ. Nevertheless, several return movements have taken place under the auspices of the Russian Federation. They have proven problematic due to the lack of communication and coordination between the Russian Federation, the government and UNHCR; lack of up-to-date, reliable information about the situation in Chechnya; the lack of an appropriate transportation route and follow-up on the whereabouts and situation of those who had already returned. These problems caused unrest among the refugee population, increased the sense of insecurity in Pankisi Valley and therefore led to new requests for resettlement

In two of the most recent returns more than 50% of those seeking to return were not permitted to do so by the Russian Federation who claimed that refugees were Georgian nationals. While there are reportedly Georgian nationals living among the refugees, it is not clear that those who were refused entry to the Russian Federation were Georgian nationals. Many claimed they had been de-registered on the Georgian side and registered on the Chechen side but as the registries on both sides are unreliable it is difficult to prove this. UNHCR is concerned that now a number of persons have been rendered stateless since they are neither recognized as nationals of the Russian Federation nor as Georgians. UNHCR understands from the Russian Federation that in the future only individual returns and not group returns will be permitted.

### 9.3 Reintegration and Rehabilitation

The Russian Federation in principle accepts its obligation to re-admit its citizens. Re-admission is not granted to those, particularly ethnic Kist refugees, who temporarily resided in Chechnya, but were never granted an official "*propiska*" in Chechnya and thus never became citizens of the Russian Federation. "*Propiska*" stamps issued by the *de-facto* Dudayev regime are not recognized by the Russian authorities and therefore do not prove lawful stay in Chechnya, a pre-condition for acquisition of Russian Federation citizenship. As several archives in Groznyy were burned down, refugees find it even harder to document their former residence status in Chechnya. Initially, as the Russian Federation wanted to publicly highlight that the situation in Chechnya has improved, the former admitted several ethnic Kist refugees who would not meet formal citizenship requirements. Since 2007, the authorities of the Russian Federation strictly adhere to their citizenship requirements and carefully review the citizenship of each individual applicant seeking to be repatriated.

Some assistance is available to returnees, but property restitution mechanisms to compensate Russians and Kists for loss and/or damage are only slowly being established. UNHCR Tbilisi had reached an agreement with UNHCR Moscow to monitor housing, land and property rights of returnees in the Northern Caucasus.



The profiling exercise indicated that only a small number of refugees are interested in voluntary repatriation. They will be assisted on an individual basis rather than through organized return movement, as indicated by the Embassy of the Russian Federation in Georgia.

## 9.4 Local Integration

Refugees issued TRPs acquire many of the same rights as Georgian nationals. The TRP is valid for 3 years and can be renewed. After a ten-year uninterrupted stay in Georgia, persons can apply for citizenship. It is legally unclear whether this time starts from the date that the refugee was granted refugee status on a *prima facie* basis, as argued by UNHCR, or from the date that the TRP was granted. This issue is of particular importance to refugees who have been in Georgia since 1999. These refugees would be entitled to apply and qualify for citizenship in two years' time or sooner if the *Citizenship Law* is amended to reduce the waiting period. Refugees will otherwise have to wait another ten years before applying for citizenship.

Local integration remains the preferred durable solution for many refugees who are unable to return to Chechnya. The profiling exercise revealed that over 60% of the refugees already now see their future in Georgia and would therefore embrace projects that promote self-reliance. The success of such projects will positively impact on the readiness of other refugees to integrate.

## 9.5 Resettlement

Only a small number of refugees have been resettled and in recent years the number has fallen dramatically. In 2004, 155 refugees were resettled; in 2005, 107; 2006, 19; and in 2007, 18. Resettlement countries cite reasons ranging from the perceived difficulties Chechen refugees have in integrating to security concerns to explain the declining number of resettlement opportunities.

The desire for resettlement was so strong among the refugee population that some resorted to desperate measures, such as protesting at UNHCR premises and forgoing medical treatment for their children to qualify on protection grounds.

UNHCR has improved its resettlement process to address a number of problems experienced over the years. These included inconsistent decision-making largely due to the relatively high turnover of RST consultants hired. All pending resettlement cases therefore are being reviewed to ensure consistent decisions and applications are evaluated on the basis of transparent criteria. This process will also ensure there is no backlog of cases. The profiling exercise was developed to identify those who would meet resettlement criteria, such as particular women at risk or persons with medical needs. Additional steps have also been taken to ensure that those individuals submitted for resettlement are truly refugees and not in fact *de jure* Georgian nationals, as happened in some rare incidents in the past. Resettlement standard operating procedures should be updated to reflect the changed circumstances.

All pre-departure activities are managed by IOM. Medical clearances which are required by resettlement countries are cumbersome and slow down the speedy departure of resettlement cases on protection grounds.

