

Georgia

The Situation of the Kist Community and the Chechens

Joint report by the Danish Immigration
Service and the Danish Refugee Council



Ministry of Immigration
and Integration

The Danish
Immigration Service

**DANISH
REFUGEE
COUNCIL**

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Disclaimer

This report was written in accordance with the European Asylum Support Office's (EASO) Country of Origin Information (COI) report methodology.¹ The report is based on approved notes from meetings with carefully selected interlocutors.

This report is not a detailed or comprehensive survey of all aspects of the issues covered in the terms of reference (ToR) and should be considered alongside other available country of origin information on the situation of the Kist community and Chechens in Georgia.

The information contained in this report has been gathered and presented with utmost care.

The report does not include any policy recommendations or analysis. The information in the report does not necessarily reflect the opinion of the Danish Immigration Service (DIS) or the Danish Refugee Council (DRC).

Furthermore, this report is not conclusive as to the determination or merit of any particular claim for protection. Terminology used should not be regarded as indicative of a particular legal position.

¹ European Union: European Asylum Support Office (EASO) (2012). EASO Country of Origin Information report methodology

Abbreviations

COI	Country of Origin Information
CSO	Civil Society Organisation
DIS	Danish Immigration Service
DRC	Danish Refugee Council
EU	European Union
GYLA	Georgian Young Lawyers Association
HRIDC	The Human Rights Centre
ICC	International Criminal Court
ISIS	Islamic State of Iraq and al-Sham
NGO	Non-governmental organisation
OSCE	Organisation for Security and Co-operation in Europe
PMMG	Public Movement Multinational Georgia
TDI	Tolerance and Democracy Institute
ToR	Terms of Reference
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
USA	United States of America

Introduction and methodology

The present report is the product of a joint mission conducted by the COI Division, DIS and DRC to Georgia from 24 to 29 September 2018. The purpose of the mission was to collect up to date information on the situation of the Kist community and Chechens in Georgia. In addition to a visit to the capital, Tbilisi, a short visit to Duisi, Pankisi Gorge, was made.

The present report focuses on the situation of the Kist community and Chechens in Georgia.

The terms of reference for the mission were drawn up jointly by DIS and DRC in consultation with the Danish Refugee Appeals Board Secretariat as well as a Danish advisory group on COI.² The terms of reference are included in Appendix C to this report. The report draws on methodological guidance from the European Asylum Support Office (EASO) Country of Origin Information report methodology.³

In the process of compiling this report, the delegation interviewed ten sources, comprising representatives from Western embassies, non-governmental organisations (NGOs), national authorities as well as an international organisation. The sources interviewed were selected by the delegation based on their expertise, merit and experience relevant to the mission. In addition to the information gathered from the interviews, the report is also based on available reports as well as articles of relevance for the terms of reference.

The sources consulted are listed in Appendix B. The interviews were conducted in English.

Prior to the interviews, all interlocutors were thoroughly informed about the purpose of the mission and the fact that their statements would be included in a report to be made publically available. The interlocutors were asked how they wished to be introduced and quoted, and all sources are introduced and quoted according to their own wishes. Some sources are referred by the name of their organisation; in accordance with their own request on this matter. One source preferred anonymity.

The meeting notes were validated by the sources. All notes were forwarded to the interlocutors for their approval and amendment, allowing them the opportunity to offer corrections or make comments on their statements. All sources but one responded and approved their statements. The source that did not approve the note, responded that the information provided was only for background. For this reason there are only nine meeting notes included in the report.

The report is a synthesis of the sources' statements supplemented with publications of relevance for the topics of this report. Care has been taken to present the views of the interlocutors as accurately and transparently as possible, and reference is made by number to the specific paragraphs in the meeting notes in foot notes in the report. All sources' approved statements are found in their full extent in Appendix A of this report.

² The group consists of the Danish Refugee Council, Amnesty International in Denmark, Danish Institute for Human Rights, Dignity, representatives of Danish European Mission and Open Doors, the National Commissioner of Police and the Danish Bar and Law Society (representing asylum lawyers)

³ European Union: European Asylum Support Office (EASO) (2012). EASO Country of Origin Information report methodology

The report was finalised in October 2018 and is available on the websites of DIS: <https://www.nyidanmark.dk/en-GB/Words-and-concepts/US/Asylum/Country-reports> and of DRC: www.flygtning.dk. This means that it is equally available to all stakeholders in the refugee status determination process as well as to the general public.

1. Background

The Kists are descendants of Chechen and Ingush people who settled in Pankisi Gorge at the Upper Alazani River in the North-eastern corner of Georgia in the 1830s and 1870s. The Kists make up about 7,100 people (2002)⁴ of Georgia's approximately 5,000,000 inhabitants (2017).⁵

The native language of the Kists is Chechen (Kist dialect). However, most Kists speak Georgian. The Kists' surnames typically have the traditional Georgian ending, "-shvili", such as Kavtarashvili, Margoshvili etc. Most of the Kists are Sunni Muslims, but one could also find Christians among the Kists.⁶

The Kists and the Chechens mainly reside in Pankisi Gorge, Municipality of Akhmeta, Kakheti Region, in six villages. During the Second Chechen War (1999-2000), Georgia received around 9,000 Chechen asylum seekers due to a mass influx of people, who were granted prima facie refugee status.⁷

Two sources noted that there is no conflict between the local Kists and the Chechens in Pankisi; the sense of identity between the two groups is strong, as they speak the same language and belong to the same religion.⁸ One of the sources further elaborated that during the Second Chechen War, when thousands of Chechens came to Pankisi, the local Kists offered them housing and food. In addition, many people in Pankisi have relatives on both sides of the border to Russia.⁹

1.1 Economy and living conditions in Pankisi

Two sources noted that unemployment is one of the main challenges not only in Pankisi but also in other regions of Georgia.¹⁰ Two sources mentioned that the social and economic conditions in Pankisi Gorge are poor.¹¹ This is due to an under-developed industry and an economy primarily based on agricultural production. There is widespread poverty in the region, although Pankisi Gorge is part of a so-called social care program from the state. Due to the poor economy, Pankisi citizens are often forced to seek work outside of the region or outside of the country. This trend is seen among other groups as well.¹²

With regard to education, medical care etc. persons from Pankisi Gorge have access to schools, and some go through higher education and obtain bachelor degrees.¹³

1.2 Foreign fighters from Georgia

According to a report made by Georgian State Security Service in 2016, around 50 Georgian citizens have been fighting in Syria and Iraq and no less than 10 Georgian citizens have died in Syria, all residents from Pankisi Gorge.¹⁴

⁴ Caucasian Knot: Kists, 23 July 2010

⁵ CIA: the World Factbook, Georgia

⁶ Caucasian Knot: Kists, 23 July 2010

⁷ Ombudsman: 25

⁸ An NGO: 74; Roddy Scott Foundation: 115

⁹ Roddy Scott Foundation: 115

¹⁰ Ombudsman: 40, PMMG: 11;

¹¹ PMMG: 7, Roddy Scott Foundation: 116

¹² PMMG: 7 & 11

¹³ PMMG: 8-9

¹⁴ Caucasian Knot: State Security Service: about 50 Georgian citizens are fighting in Syria and Iraq, 29 March, 2016

One of the most high-profiled ISIS fighters in Georgia was the Chechen born Akhmet Chataev who was active in the second Chechen war (1999-2000) against the Russians. Later he became an active member of ISIS in Syria and was allegedly behind the terrorist attack in Istanbul Airport Atatürk in June 2016. In October 2015, the UN declared that Chataev was a terrorist and put him on the sanction list as a participant in IS and Al Qaeda.¹⁵

2. Recent incidents in Pankisi Gorge, which involved clashes between the local community and the Georgian authorities

2.1 Special operation in Pankisi Gorge in August 2012

Asked about incidents in Pankisi involving clashes between the local community and the Georgian authorities, one source referred to a special operation in the Lopota Gorge in 2012, and stated that this case was the latest incident of large scale involving residents from Pankisi.¹⁶

On 28 August 2012 Georgian Special Forces conducted a special operation in the Lopota Gorge in a forest close to the village of Lapankuri in the North-eastern part of Georgia. Three security forces and 11 suspected militants were killed during the operation.

Akhmed Chataev was called in as an intermediary between the Georgian security forces and the militants, but instead of surrendering to the Georgian security forces, he fought against them on the side of the militants, which was why he was subsequently arrested.¹⁷

One of the sources noted that there were serious violations of human rights in the “Lopota incident” in 2012. One year after the incident, the Public Defender published a report, which documented abuse of human rights, but nothing happened afterwards.¹⁸

2.2 Special operation in Tbilisi in November 2017

Georgian Special Forces conducted a special operation on 21-22 November 2017 in Tbilisi, where three suspected terrorists were killed. One of the killed persons was Akhmed Chataev. The incident received a lot of media attention, partly because the militants fought against the Georgian Security Forces for several hours with weapons allegedly delivered from Pankisi Gorge.¹⁹

¹⁵ Caucasian Knot: Natives from the Caucasus in the ranks of the IS (ISIS), 21 May, 2018

¹⁶ Roddy Scott Foundation: 109

¹⁷ Caucasian Knot: Chataev Akhmed Radzhapovich. 2 December 2017 + Caucasian Knot: Events in Lopota Gorge in August 2012, 23 October 2013

¹⁸ HRIDC: 85

¹⁹ Kommersant: Ministry of Internal Affairs of Georgia arrested three residents of Pankisi Gorge suspected of terrorism. 26 December 2017 + Caucasian Knot: Chataev Akhmed Radzhapovich. 2 December 2017

2.3 Special operation in Pankisi Gorge in December 2017

On 26 December 2017, the Georgian security forces launched a special operation in Pankisi Gorge. During the operation a local teenager, Temirlan Machalikashvili, was shot in his parents' house.²⁰ According to one source, he was only taken to a hospital after three hours.²¹

People in Pankisi Gorge knew Temirlan well, as it is a small community where everybody knows each other.²² Four sources emphasised that the authorities did not behave correctly, and the local people in Pankisi Gorge did not understand why the forces had to shoot Temirlan, even if he was guilty, as they could have arrested him.²³

The police claim that they found a grenade in Temirlan's room. One source elaborated that the police planted the grenade, as Temirlan's fingerprints were not found on the grenade, according to his lawyer.²⁴ Another source corroborated, referring to information from Pankisi residents and the organisation representing interests of Machalikashvili's family that the grenade that was found by the security forces in the room where Temirlan was shot, had no fingerprints or DNA from Temirlan – and now the grenade has disappeared.²⁵

Six people were arrested in Pankisi on the day Temirlan was shot.²⁶ According to Human Rights Centre (HRIDC), there had been new detentions related to the incident in January 2018 where two persons were detained, and a third person was detained in August 2018. All detained people were ethnic Georgians. These persons are still detained in Tbilisi, and investigations related to allegedly connections to terrorist networks are ongoing.²⁷

Two sources explained that Temirlan had been seen walking in Tbilisi with some people with connection to Akhmed Chataev and the Tbilisi shootings in November 2017. The authorities were in possession of a photo of Temirlan with these people.²⁸

2.4 Support by the local community

On 22 September 2018 a local festival, Pankisoba, was planned in Duisi by the local government. The festival is a yearly event in Pankisi Gorge, but many locals were against this year's celebration and wanted to protest. They claimed to feel unsafe, and that the authorities' treatment of the people in Pankisi to be unfair.²⁹

The mother of Temirlan Machalikashvili threatened to put herself on fire at the festival, for which reason the local authorities decided to stop this year's festival.³⁰

²⁰ An NGO: 67, Roddy Scott Foundation: 101, EU: 156

²¹ Roddy Scott Foundation: 101

²² Roddy Scott Foundation: 103; NGO: 70

²³ Roddy Scott Foundation: 104; NGO: 67, HRIDC: 86, GYLA: 127

²⁴ Roddy Scott Foundation: 102

²⁵ GYLA: 129

²⁶ Roddy Scott Foundation: 102

²⁷ HRIDC: 82

²⁸ Roddy Scott Foundation: 103, TI: 54

²⁹ An NGO: 69, Roddy Scott Foundation: 106

³⁰ An NGO: 69

Several sources stated that the case of Temirlan Machalikashvili enjoyed support from the local community.³¹ The support is seen through protests in Tbilisi, where there is a separate movement protesting the murder of two schoolboys in Khorava Street.³² The father of one of the dead boys, Mr. Saralidze, is leading his own protest rallies, and the father of Temirlan and his supporters have then attached themselves to these rallies.³³ In both cases, the parents are calling for a proper investigation of the death of their children. The authorities are justifying the use of power by linking Temirlan to terrorists. The father is claiming that the authorities used excessive power, and he is calling for a proper investigation of the case.³⁴

Public Movement Multinational Georgia (PMMG) further elaborated that the Temirlan-case has gained moral support from the general Georgian community, because the case is seen as a fight against an unjust system, and an unjust conduct of the law enforcement. The source mentioned that there were similar cases under president Saakashvili, but the Temirlan Machalikashvili-case is the only case after the rule of Saakashvili that has gained national attention on a larger scale.³⁵

2.5 The authorities' investigation of the Temirlan-case

According to several interlocutors, the investigations of the Temirlan Machalikashvili-case are still ongoing.³⁶ A number of sources indicated that the effectiveness of the investigations could be questioned.³⁷ Two sources noted that such investigations could go on for a long time.³⁸

The investigations could be questioned, due to the fact that the State Security Service is perceived to be a closed unit within the government. The Security Forces are not accountable to anyone, and hence oversight of how the investigation is conducted is not accessible.³⁹ HRIDC also stated that the problem with the prosecutor's investigation is its lack of independence.⁴⁰

The representative from the Public Defender's Office explained that the death of Temirlan Machalikashvili, brought back the issue of effective protection of the rights to life as a matter of concern for the Public Defender. The Public Defender used all available leverages to establish whether the cause of death was the use of excessive force by the state agencies, or the delayed and ineffective medical assistance. The Public Defender's Office has already appealed to the Prosecutor's Office, the Ministry of Internal Affairs, the State Security Service, and the Samkharauli Forensics Bureau to obtain detailed information about the criminal investigation into the alleged crime committed against Temirlan Machalikashvili.⁴¹

³¹ PMMG: 3, GYLA:129, Ombudsman 33, TI: 52, EU: 157

³² Giorgi Lomsadze: Georgian protests draw other bereaved parents, Eurasianet.org., June 2018

³³ GYLA:129, Ombudsman 33, TI: 52, EU: 157

³⁴ EU: 155; PMMG: 1

³⁵ PMMG:3

³⁶ PMMG: 1, GYLA:129, Ombudsman 33, TI: 52, EU: 157

³⁷ TI: 52, Roddy Scott Foundation: 105, HRIDC 84, GYLA:129; EU: 157

³⁸ EU: 157, HRC 84

³⁹ Roddy Scott Foundation: 105

⁴⁰ HRIDC: 84,

⁴¹ Ombudsman: 34

According to the Roddy Scott Foundation, the Public Defender's Office made a visit to Pankisi, when Temirlan was shot.⁴²

2.6 The situation in Pankisi Gorge after the Temirlan-incident

The situation in Pankisi is relatively calm, but the problem is that residents of Pankisi have a feeling of insecurity from the state, more than from potential terrorists. According to Georgian Young Lawyers Association (GYLA), the problems in Pankisi started in 2014, when several people left Pankisi and joined various terrorist organisations in Syria. At that time, the presence of Kist people fighting for ISIS was well known. After this, the general perception in the Georgian information environment was that people from Pankisi in general pose a threat to national security. The media plays a big role in the painting of this picture of Pankisi residents. The Georgian authorities have reacted with more surveillance and presence in Pankisi, which leads to frustration among the local residents. GYLA stated that the overall problem in Pankisi is the miscommunication between the Georgian authorities, and the residents in Pankisi. This problem goes both ways and causes frustration on both sides.⁴³

Roddy Scott Foundation mentioned that residents in Pankisi do not feel safe in Duisi after the incident with Temirlan Machalikashcili. Even if Temirlan was guilty, the authorities did not behave correctly.⁴⁴

On the other hand, an NGO noted that the incident did not cause reason for people to leave Pankisi. The source pointed at the fact that all Temirlan's family members still live in Pankisi.⁴⁵

Another source stated that the Temirlan-case should be seen as an isolated criminal case. The father of Temirlan and his supporters want a proper and impartial investigation of what happened. According to the sources, the case is a fight for human rights for the father, and has nothing to do with politics or security considerations in general.⁴⁶

One source stated that a Chechen refugee was arrested during a demonstration in Tbilisi and subsequently deported to Russia. The source had gathered information about the incident from a network of Chechens in Georgia and apparently, the deported refugee has now been arrested in Moscow by the Russian authorities.⁴⁷

⁴² Roddy Scott Foundation: 117

⁴³ GYLA: 126; 130-131

⁴⁴ Roddy Scott Foundation: 104

⁴⁵ An NGO: 68

⁴⁶ PMMG: 1;

⁴⁷ Roddy Scott Foundation: 107

3. Abuse of power by the authorities against the Kist community/Chechens

3.1 Abuse of power in general

A number of sources stated that there were no incidents of abuse of power committed against the Chechen or Kist communities in the past year.⁴⁸ One of the sources further elaborated that the Georgian authorities did not use excessive force in general.⁴⁹

One source noted that the “Lopota-incident” in 2012 was an example of serious violations of human rights by the authorities.⁵⁰

The general picture is that there is no abuse of power in Pankisi, but after the Temirlan incident in December 2017, the Georgian authorities has increased the control and surveillance in Pankisi, which has led to some frustration and protest among the residents of Pankisi.⁵¹

3.1.1. Abuse of power by the security forces

Two sources emphasised that during recent times the Public Defender has not raised a single case or incident regarding abuse of power committed against Chechens or Kists.⁵² One source stated that security forces are considered to have free hands and to do what they want without responsibility.⁵³ GYLA mentioned that the Georgian security apparatus in some cases reportedly had threatened participants in protests or demonstrations that they would lose their jobs if they did not leave the demonstration/protest, some of the participants were working at public schools or NGOs. However, the source did not know of any cases where a person had lost their job.⁵⁴

Transparency International stated that there is no prejudgement linking the Pankisi people to terrorism. As regards the State Security Service’s abuse of power, the source stated that the Service cooperates with the US relevant agencies; and there is a very low likelihood of such an occurrence.⁵⁵

3.1.2. Abuse of power by the police

If a person would pose a threat to national security, there is a general presumption that the authorities would use disproportionate power in the name of state security.⁵⁶ For example the person could be called in to answer questions at the Telavi Police Station, detained, or the person’s right to movement would be restricted.⁵⁷

However, one source noted that there were rumours saying that police officers were frequently abusing their power. The source emphasised that there were rumours that the police in Tbilisi had planted evidence

⁴⁸ Ombudsman: 39, TI: 53, An NGO: 71, PMMG: 7, GYLA: 131

⁴⁹ TI: 54

⁵⁰ HRIDC: 85

⁵¹ GYLA: 131

⁵² Ombudsman: 39, EU: 159

⁵³ Roddy Scott Foundation: 108

⁵⁴ GYLA: 135

⁵⁵ TI: 53-54

⁵⁶ PMMG: 6

⁵⁷ HRIDC: 87, Roddy Scott Foundation: 110

in a few cases. Furthermore, there were some alleged cases of abuse of force by the police to pressure or intimidate citizens to work or vote for the ruling party. However, the source was not aware of any concrete cases or cases in this regard.⁵⁸

The Delegation of the European Union noted that before 2012, there were grave problems with abuse of power by law enforcement officers, irrespective of minority status. The Department for Investigation of Crimes Committed in the Course of Legal Proceedings of the Chief Prosecutor's Office, operational since 2015, has worked on cases taking place before 2012, but there still remains a huge backlog.⁵⁹

3.2 Abuse of power in Temirlan-case

With regard to the case of Temirlan Machalikashvili, GYLA noted that the case could have been handled differently by the Georgian authorities. The source opined that the local police could have handled the situation without the involvement of the security forces. The whole counter terrorist operation left an impression that the government wanted to demonstrate power towards Pankisi residents. As Pankisi residents mentioned themselves, local police would be enough to conduct the entire operation of detention of alleged terrorist sympathisers. However, there are many rumours about what happened when Temirlan was shot.⁶⁰

HRIDC mentioned that the case of Temirlan Machalikashvili was a recent example of abuse of power. The source is questioning the ongoing investigation.⁶¹

According to an NGO, there is no evidence to suggest that the authorities have abused their power in the case linked to Temirlan Machalikashvili.⁶² Other sources indicated that it was difficult to determine, whether the authorities abused their power in the Temirlan-case.⁶³ Two sources noted that due to lack of information, there were speculations in the general public that there was abuse of power in the case of Temirlan.⁶⁴

3.3 Use of torture

According to several sources, there is no reason to believe that torture is being used in Pankisi Gorge.⁶⁵ Roddy Scott Foundation further elaborated that if a person from Pankisi is suspected of being involved in criminal activities, this person will most likely be called in to answer questions at the Telavi Police Station. The source opined that the police would never use violence or torture against a person from Pankisi.⁶⁶

However, under president Saakashvili the use of torture and intimidation in penitentiary institutions was widespread.⁶⁷

⁵⁸ PMMG: 5

⁵⁹ EU: 168

⁶⁰ GYLA: 127-129

⁶¹ HRIDC: 86

⁶² An NGO: 70

⁶³ PMMG: 4, EU: 160

⁶⁴ HRIDC: 86, PMMG:4

⁶⁵ HRIDC: 88, Roddy Scott Foundation: 110, GYLA 132, EU: 161, PMMG: 6

⁶⁶ Roddy Scott Foundation: 110

⁶⁷ PMMG: 6

4. Discriminatory treatment by the authorities

Several sources stated that in general there is no discrimination from the authorities against the people living in Pankisi Gorge.⁶⁸ Two sources stated that there are NGOs working to promote human rights in the region.⁶⁹ UNHCR elaborated that any person who considers him/herself discriminated against, may address a complaint to the Ombudsman's Office.⁷⁰ The representative of the Ombudsman noted that Kists are working in the police in Pankisi, and the mayor of Duisi is an ethnic Kist.⁷¹

One source found that the government pays more attention to Pankisi villages than to any other village in Georgia. The villages in Pankisi have a status as mountain villages, which means that the inhabitants do not pay taxes, they receive social assistance and enjoy other privileges.⁷² The reason behind this positive discrimination by the government is a concern about the spread of radical Islam. The source mentioned the Chataev-case,⁷³ and explained that Chataev was from Chechnya and had links to Pankisi. Some people in Pankisi had been linked to him and had left Pankisi Gorge (for Germany). The Georgian government wants to engage the youth in Pankisi Gorge in various projects and activities to avoid radicalisation.⁷⁴

PMMG advised that there could be indirect discrimination, as there might be some stigma attached to persons from Pankisi Gorge, because there is a track record of certain people living in Pankisi affiliated with ISIS. There are well known cases of Pankisi residents, who left the gorge and joined ISIS in Syria.⁷⁵ The source further explained that after the Chataev-incident in Tbilisi last year, the Chechens and Kists have faced difficulties buying apartments in Tbilisi. However, the same source opined that they could still rent apartments in Tbilisi.⁷⁶

The Roddy Scott Foundation mentioned that if a person from Pankisi is involved in a car accident outside Pankisi, the person from Pankisi will be deemed responsible. Furthermore, in the buses and trains in Tbilisi, residents from Pankisi are being harassed by other people. The residents of Pankisi feel very isolated and there is a definite split between them and the Georgians.⁷⁷ On the other hand, an NGO noted that the police will interfere, if people break the law, and sometimes the Kist and Chechen community feel they are harassed, if for instance they are stopped for breaking the traffic rules.⁷⁸

According to HRIDC, discrimination in Pankisi Gorge is more related to the lack of will from the Georgian authorities to investigate and keep law and order in the region. The source mentioned a case were

⁶⁸ Ombudsman: 40, UNHCR: 142, IT: 56, an NGO: 72, EU: 164- 165

⁶⁹ TI: 56, EU:167

⁷⁰ UNHCR: 142

⁷¹ Ombudsman: 31

⁷² An NGO: 72

⁷³ See paragraph 2.2

⁷⁴ An NGO: 73

⁷⁵ PMMG:8-9

⁷⁶ PMMG: 13

⁷⁷ Roddy Scott Foundation: 112+114

⁷⁸ An NGO: 71

supporters of the Chechen leader, Ramzan Kadyrov, came from Chechnya to Pankisi, which ended in fights between local Kists and Chechen Kadyrov supporters. The police never reacted to this incident.⁷⁹

GYLA stated that in some cases the miscommunication between the Georgian authorities and the residents of Pankisi leads to discrimination. As an example GYLA mentioned that the Georgian authorities have a selective approach to the locals, as they communicate through the Council of Elders. This might lead to alienation and mistrust of some groups, as the Council of Elders is more loyal to the so-called ‘traditionalists’ in Pankisi Gorge.⁸⁰

4.1 Discrimination due to religion

The Delegation of the EU pointed out that there are allegations of discrimination against the Muslim community in Georgia. Specifically the Muslim communities are facing difficulties in obtaining building permits for new mosques and some tax laws favours the Georgian Orthodox Church. The source referred to the Muslim community in Batumi, where building permits were denied. The source also referred to two cases from the Constitutional Court of Georgia on July 3, 2018.⁸¹

The Roddy Scott Foundation stated that it is more difficult for people from Pankisi to get employment outside of Pankisi, for example if a woman was seen wearing a headscarf. Because of their religious background, they would be discriminated.⁸² However, two sources did not think that a woman with a headscarf would be subjected to discrimination and found no reason to believe that there is any discrimination on religious grounds towards the Kists/Chechens in Pankisi.⁸³

4.2 Scrutiny of Pankisi residents at the border control

According to a number of sources, residents of Pankisi often have to wait for a long time at the Georgian border control, because the authorities will check their documents⁸⁴. One of the sources elaborated that as a result, residents of Pankisi have to leave for the airport two or three hours before departure, just to avoid any problems.⁸⁵

GYLA explained that due to the number of persons leaving for Syria, a person from Pankisi could face problems with the border control. There are examples of people, who were not allowed to board their plane. However, this is not a problem anymore, according to GYLA.⁸⁶

When asked what happens, if Pankisi residents are detained at the borders, HRIDC advised that the border authorities often asked a number of questions and waited for an approval from the central headquarters, where they are checking if everything is in order. Detentions at the border of Pankisi residents have been going on for many years. The source noted that there is surveillance, and in some cases the security

⁷⁹ HRIDC: 89

⁸⁰ GYLA: 134

⁸¹ EU: 163

⁸² Roddy Scott Foundation: 113

⁸³ PMMG: 12, GYLA 134

⁸⁴ Roddy Scott Foundation: 111, HRIDC: 90-91, GYLA: 136

⁸⁵ HRIDC: 91

⁸⁶ GYLA: 136

services are just performing their jobs. HRIDC also noted that these detentions do not take place in Pankisi itself.⁸⁷

4.3 Discrimination due to language problems

Several sources indicated that residents from Pankisi Gorge do not have a problem in understanding the Georgian language.⁸⁸ In most cases it is even hard to tell the difference between a Kist and a Georgian native. However, one source mentioned that there could be some problems with the Chechen refugees, who mostly speak Russian.⁸⁹

Another source explained that there is a group of elder people originating from Chechnya, who have a problem integrating in Georgia, as they do not speak the Georgian language, and they cannot go back to Russia. The source stated that this group of people is not being discriminated by the Georgian authorities.⁹⁰

5. Complaint mechanisms and access to seek redress

According to several sources, the Kists and Chechens have the same access as people in other Georgian regions to file a case.⁹¹ Three of the sources emphasised the presence of NGOs providing free legal assistance to the residents in Pankisi Gorge.⁹² One of the sources added that Pankisi gets more attention from the Public Defender than other regions.⁹³

There are both female and male lawyers, if for instance women prefer to have a female lawyer. Legal assistance is provided mainly to obtain documents from the government, for property related issues, if people want to change their name or surname etc. When it comes to family related matters, the Kists and Chechens tend to use informal structures and courts.⁹⁴

One interlocutor noted that local Kists and Chechens have access to file a case against the authorities in some cases. However, it would depend on the concrete case, and the person's access to lawyer and resources. Not all locals speak Georgian, which also could pose a problem in this regard.⁹⁵ The same source stated that the Kists and Chechens have the same possibility as other Georgian nationals to seek protection of the authorities in a private conflict.⁹⁶ Representatives of the Public Defender's Office travel periodically to Pankisi Gorge to meet with the community and look at the situation on the ground.⁹⁷

⁸⁷ HRIDC: 92

⁸⁸ PMMG: 10, an NGO: 74, EU: 165, Ombudsman: 42

⁸⁹ PMMG: 10

⁹⁰ An NGO: 74

⁹¹ TI: 57, UNHCR: 141, Ombudsman: 42, PMMG: 14, An NGO: 75, GYLA 137, EU: 167

⁹² TI: 57, An NGO: 75, EU: 167

⁹³ TI:57

⁹⁴ An NGO: 75

⁹⁵ HRIDC: 94

⁹⁶ HRIDC: 95

⁹⁷ Ombudsman: 39

Finally, one source indicated that although it may not be difficult to file a complaint, it would in most cases be without any results. Furthermore, it could also be more problematic to file a case in small communities, when everyone knows each other because of the existing social networks.⁹⁸

5.1 Local conflict solution

According to a number of sources, internal conflicts in Pankisi are often solved by either the Council of Elders or the Imams in the mosques, without involving the local authorities.⁹⁹

The Council of Elders is a traditional system, which by one interlocutor is perceived as a constraint for the young generation and for women. As for the women, it is particularly hard in case of divorces, as the local court is based on traditional Islamic law, which will always favour the father in relation to the child. Also in other cases, the source found that women and youth do not enjoy the same freedom as in other Georgian communities, due to this traditional system. The source distinguished between traditional Islamic laws and radical Islamic laws, and mentioned that there are also groups of people in Pankisi who solve their conflicts through the Imams.¹⁰⁰

One source opined that the Imams were getting more influential and received money in the area. More locals in Pankisi are turning to the mosques instead of going to the Council of Elders. The locals have a lack of trust in the Council of Elders, which is rumoured to share information with the Georgian authorities. This again might lead to alienation and mistrust of some groups, as the Council of Elders is more loyal to the so-called ‘traditionalists’ in Pankisi Gorge.¹⁰¹

Furthermore, the police would try to play a mediating role for example by involving local actors, such as elders in the community, to resolve the problems at hand in Pankisi. This approach posed a problem, because Pankisi Gorge in this regard does not abide by Georgian national law, but uses traditional customary law or Islamic rule.¹⁰²

The mosques have taken advantage of the current situation where the Georgian authorities are not present in Pankisi. According to the Roddy Scott Foundation, the Imams are modern and attract the young generation in Pankisi. In Pankisi there is a need for positive male role models, and this is one of the reasons that the youth turns to the Imams.¹⁰³

However, if a conflict cannot be solved locally by the Council of Elders or the Imams, one source stated that people might solve the conflict by engaging with the relevant authorities.¹⁰⁴

5.2 Access to the Public Defender (Ombudsman)

The Ombudsman has a regional office in Telavi Municipality, which is in the same region as Pankisi (Kakheti Region). The Ombudsman can also be reached by phone 24/7 on a hotline. In addition, the Office of the

⁹⁸ GYLA: 137

⁹⁹ Roddy Scott Foundation: 119+121-122, An NGO: 77, HRIDC: 93, GYLA: 134

¹⁰⁰ An NGO: 77

¹⁰¹ GYLA: 134, Roddy Scott Foundation: 119

¹⁰² HRIDC: 93

¹⁰³ Roddy Scott Foundation: 120

¹⁰⁴ An NGO: 79

Ombudsman makes periodic visits to Pankisi.¹⁰⁵ In previous years, the Ombudsman received complaints from Chechens and Kists, but currently, the Ombudsman receives no complaints from people in this area.¹⁰⁶

This information was corroborated by the Delegation of the European Union, which advised that in 2017 there has not been a single case about mistreatment by the police, or abuse of power by the authorities forwarded by the Public Defender's Office to the Prosecutor's Office.¹⁰⁷

Three sources indicated that it is possible to file a case with the Public Defender.¹⁰⁸ However, two interlocutors mentioned that the Public Defender's Office did not have sufficient impact in the country.¹⁰⁹

On the other hand, two sources advised that the Public Defender's Office does have an impact, and most of the recommendations made by the Public Defender are adopted as binding recommendations of the Parliament.¹¹⁰

6. Level of corruption

Some years ago it seemed that corruption was eradicated in Georgia. However, in the last few years, problems with corruption surfaced again, especially high level or elite corruption is a concern. On the other hand, Georgia has very few cases of corruption in the lower ranks. These were exceptions rather than the rule. In general, the country is quite free of corruption, and there is no police corruption.¹¹¹ Georgia is currently ranked as number 46 in the corruption perception index 2017, which means that Georgia ranks above seven EU members.¹¹² Two sources indicated that Georgia is performing well compared to other countries in the region, but the country is still far from being a liberal institutional democracy.¹¹³

6.1 Low level corruption

According to several sources, the prevalence of low level or petty corruption remains low in Georgia.¹¹⁴ From the middle of 2000, the government started implementing a number of anti-corruption reforms, and today the level of corruption at lower levels is almost zero.¹¹⁵

Three sources stated that there was no corruption within the police force.¹¹⁶ In cases against ordinary police men with no connection to the elite, a free and fair trial can be expected.¹¹⁷

¹⁰⁵ Ombudsman: 28, EU: 167, An NGO: 76, HRIDC: 96

¹⁰⁶ Ombudsman: 42-43

¹⁰⁷ EU: 170

¹⁰⁸ HRIDC: 96, PMMG: 21, Roddy Scott Foundation: 117

¹⁰⁹ PMMG: 21, Roddy Scott Foundation: 117

¹¹⁰ EU: 169, Ombudsman 45

¹¹¹ PMMG: 15, TI: 58+ 63, HRIDC: 97,

¹¹² Georgia is ranking above the following EU countries: Italy (54), Slovakia (54), Croatia (57), Greece (59), Romania (59), Hungary (66) and Bulgaria (71): Transparency International: Corruption perception index 2017

¹¹³ TI: 62, EU: 172

¹¹⁴ Roddy Scott Foundation: 123, TI: 58, PMMG: 16, HRIDC: 97

¹¹⁵ TI: 58

¹¹⁶ PMMG: 16, TI: 63, HRIDC: 97

¹¹⁷ TI: 65, PMMG: 19

However, one source noted that there have been cases reported involving the judiciary, where the system of appointment and promotion, and disciplinary measures affecting the judges at all levels, remains an issue.¹¹⁸

Furthermore, two sources mentioned that there had been some isolated cases of corruption in the lower ranks, although it is not seen as a general trend.¹¹⁹

6.2 High level corruption

Several sources indicated that high level or elite corruption is a concern¹²⁰. Furthermore, a number of sources noted that the level of elite corruption has been getting worse over the past few years.¹²¹ There are many well-known cases, where profiled persons have been found guilty of corruption. The worst area of corruption in Georgia would be within business, government tenders, and state procurement.¹²²

Three sources noted that Georgia has problems with corruption within the court system.¹²³

Transparency International noted that before 2012 it was impossible to win a case against the government. When there is an interest in cases from either members of the ruling party or the judges themselves, this might influence the decisions. There is a ‘mafia-type’ clan of judges, who are very powerful, and who might rule against the ruling party from time to time. These judges were allowed by the ruling party to get life serving positions, which also increased their power.¹²⁴

Furthermore, the European Court of Human Rights has made decisions on unjust ruling in court cases from Georgia.¹²⁵

Corruption could also be found in political cases related to the ruling party, Georgian Dream.¹²⁶ There are several incidents involving top government officials, including the Minister of Culture and a former Minister of Sports. The main concern is the influence of the founder of the ruling party, Georgian Dream, Bidzina Ivanishvili. He no longer has a formal position in Georgia, but never the less he still exercises a big influence on prime ministers and other top officials. The corruption-related stories are out in the media, but there has been no effective response from the law-enforcement agencies.¹²⁷

The law enforcement agencies in Georgia are also loyal to Ivanishvili, according to Transparency International. The State Security Service is the most closed institution, and the head of the Security Service is not a minister, which means that the Parliament has to oversee the work of the Security Service. However, the Members of Parliament do not have the necessary security clearance to conduct control of

¹¹⁸ EU: 171

¹¹⁹ PMMG:15, HRIDC: 97

¹²⁰ PMMG: 15, HRIDC: 97, EU: 171, TI: 59

¹²¹ PMMG: 15, HRIDC: 97, EU: 171

¹²² PMMG:20, HRIDC: 97, TI: 64

¹²³ PMMG: 17, TI: 64, EU: 171

¹²⁴ TI: 64

¹²⁵ TI: 64

¹²⁶ PMMG: 17, TI: 59

¹²⁷ TI: 59

the security, as it is by law limited to budgetary issues. Furthermore, the head of the Security Service is a former security guard of Ivanishvili, and he is perceived to be loyal to him.¹²⁸

7. Impunity for state actors

According to two sources, there is no impunity for police officers or other law enforcement officers at the lower level.¹²⁹ The police officers are quite popular, and the approval ratings of the police are on the rise. However, there were cases where police officers were dismissed, and there might be cases of impunity, according to one source.¹³⁰

According to HRIDC, impunity is a problem in Georgia, but there has been a huge change to the better with regard to impunity.¹³¹ According to the two sources, the problem is a very high backlog of pending cases. A large number of cases brought under investigation from earlier, and more systemic violations, have not yet been resolved.¹³²

During the last four years, the Public Defender's office has documented more than 60 cases, where they had obtained evidence, medical statements, and testimonies from persons. In 90 percent of them, the case is still pending, because the investigation is still ongoing. These cases also regard petty level officials, according to HRIDC.¹³³

Transparency International indicated that at a higher level, officials who are connected to influential people enjoy impunity.¹³⁴ As an example, the source mentioned the case of a former Auditor General, who was beaten up in Tbilisi while he was investigating a case related to transfer of land. The case involved a former Chief Prosecutor (Mr. Partskhaladze), who was close to Ivanishvili. The Auditor was beaten up by him and his security staff. Though, there is video footage of the incident, the investigation has not yet been completed. Moreover, no results have been presented to the public, and Mr. Partskhaladze has not yet been interrogated.¹³⁵

Impunity could also occur due to a lack of oversight of the security sector, according to HRIDC. The investigation of the case of Temirlan Machalikashvili is conducted by the State Security Service themselves, and could therefore pose a problem in terms of impunity.¹³⁶

¹²⁸ TI: 61

¹²⁹ TI: 53, PMMG: 22

¹³⁰ PMMG: 22

¹³¹ HRIDC: 98+100

¹³² EU: 174, HRIDC: 100

¹³³ HRIDC: 99

¹³⁴ TI: 66

¹³⁵ TI: 66

¹³⁶ HRIDC: 98

8. Legislation and practices for granting of Georgian citizenship to Chechen refugees and ethnic Chechens from Russia

According to the Organic Law of Georgia on Citizenship, recognised refugees in Georgia have the right to apply for Georgian citizenship.¹³⁷ Applicants have to live up to certain requirements in order to be granted citizenship. The formal requirements for acquisition of Georgian citizenship include knowledge of the Georgian language, and knowledge about Georgian history, geography, society, Constitution, etc.¹³⁸

Furthermore, the new amended law on citizenship stipulates that in order to obtain citizenship, one has to have lived in Georgia for ten years rather than five years as per the previous law.¹³⁹

Children of applicants, who acquired Georgian citizenship, will automatically be granted citizenship. Children born in Georgia of Russian and Chechen parents will have to renounce their Russian citizenship, should they wish to acquire Georgian citizenship. Children of mixed families will also have to renounce their Russian citizenship to acquire Georgian citizenship.¹⁴⁰ However, there were cases regarding children, where they were rejected due to security reasons, even though the parents had obtained Georgian citizenship.¹⁴¹

Two sources indicated that previously under president Saakashvili, it was easier to obtain a dual citizenship (Russian and Georgian), but after 2012 one has to renounce their citizenship.¹⁴² However, it is possible to keep the previous citizenship for foreigners, who invest in Georgia.¹⁴³

8.1 Georgian citizenship for Chechen refugees

Out of some 1,000 persons who remained in Georgia after the Second Chechen war in 1999-2000, at the end of August 2018, there were 211 Russians of Chechen origin holding refugee status in Georgia. Until 2013, 536 persons of Chechen origin had been granted Georgian citizenship as a result of, inter alia, a favourable governmental policy towards granting the Georgian citizenship.¹⁴⁴

Until 2017, UNHCR provided legal support through a partner organisation in Pankisi. Although UNHCR is no longer present in Pankisi Gorge, legal assistance and representation is still available to Chechens who wish to acquire Georgian citizenship.¹⁴⁵

Between 2013 and 2016, the number of Chechen refugees who were granted Georgian citizenship was low (19 persons). This was due to larger numbers of rejections based on, inter alia, lack of knowledge of Georgian language at a level that would allow the individuals to pass the citizenship exam, reluctance to renounce Russian citizenship, not meeting the requirements of residence in Georgia, or rejection on

¹³⁷ Ombudsman: 47

¹³⁸ UNHCR: 146, Ombudsman: 47

¹³⁹ UNHCR: 148, Ombudsman: 47, An NGO: 81

¹⁴⁰ UNHCR: 149

¹⁴¹ Ombudsman: 48

¹⁴² An NGO: 81, PMMG: 24

¹⁴³ An NGO: 81

¹⁴⁴ UNHCR: 150

¹⁴⁵ UNHCR: 153

national security grounds. In 2017, while UNHCR was still supporting the naturalisation of Chechen refugees with legal assistance, counselling and representation, another 10 Chechens were granted Georgian citizenship.¹⁴⁶

With regard to refugees, the number of applications denied on grounds of state security has increased. At the same time, the lack of justification for such decisions remains a problem, according to the Public Defender. In 30 percent of 82 denial cases, in the individual administrative-legal acts issued for each denial, the Ministry cites reasonable doubt that the individual in question will compromise Georgia's state security, territorial integrity, or public order.¹⁴⁷

The Ombudsman is monitoring cases where refugees are rejected Georgian citizenship, because they are considered to be a threat to national security. The Ombudsman gets access to these cases, which includes confidential information, and, if considered necessary, the Ombudsman makes recommendations to the Ministry of Internal Affairs, which is responsible for granting citizenship.¹⁴⁸

Chechens, who are refused citizenship, maintain their refugee status. Refugee status protects against refoulement, and the validity of the residence permit is extended accordingly.¹⁴⁹ As per the amended citizenship legislation, a decision denying the grant of Georgian citizenship may be appealed up to the Supreme Court, before a final decision is reached.¹⁵⁰

¹⁴⁶ UNHCR: 151

¹⁴⁷ Ombudsman: 51

¹⁴⁸ Ombudsman: 49

¹⁴⁹ UNHCR: 154

¹⁵⁰ UNHCR: 152

Appendix A: Meeting notes

Public Movement Multinational Georgia (PMMG)

Tbilisi, 28 September 2018

About the source

PMMG is working with ethnic minorities Armenians, Azeris and to some extent people from Pankisi Gorge. PMMG is implementing various projects in the eradication of societal abuses and discrimination based on religious affiliation, belief or practice in various regions, among others in Kakheti. The organisation also worked in Pankisi with election monitoring programmes. The NGO is funded by various donors, including Council of Europe, OSCE and western embassies.

Recent incidents in Pankisi Gorge, which involved clashes between the local community and the Georgian authorities

1. According to this interlocutor, the Temirlan Machalikashvili case should be seen as an isolated criminal case where the father of Temirlan and his supporters want a proper and impartial investigation of what happened. The case is a fight for human rights for the father and has nothing to do with politics or security considerations.
2. When asked about the status of the ongoing investigation, the source had no information in this regard. This was mainly because the operation was conducted by the security service. The security service is investigating the incident, and they argue that there were no excess of power used in the case of Temirlan Machalikashvili. On the other hand Temirlan's father believes that Temirlan was killed without posing a threat during the arrest.
3. The Temirlan case has gained emotional support from the general Georgian community, because the case is seen as a fight against an unjust system and an unjust conduct of the law enforcement. The source mentioned that there were similar cases under president Saakashvili, but the Temirlan Machalikashvili case is the only case after the rule of Saakashvili that gained national attention on a larger scale.

Abuse of power by the authorities against the Kist community/Chechens

4. According to the source, it is hard to say, whether the authorities abused their power in the Temirlan case. The source mentioned that there were speculations in the general public due to lack of information that there was abuse of power in the case of Temirlan.
5. In general, there are rumours saying that police officers are frequently abusing their power. However, these rumours were not aimed at Pankisi Gorge. The source emphasised that there were rumours that the police in Tbilisi had planted evidence in a few cases. Furthermore, there were some alleged cases

of abuse of force by the police to pressure or intimidate citizens to work or vote for the ruling party. However, the source was not aware of any concrete cases in this regard.

6. If a person would pose a threat to national security there is a general presumption that the authorities would use disproportionate power in the name of state security. The source advised that this was also a problem one could see in USA. Under Saakashvili the use of torture and intimidation in penitentiary institutions was widespread. However, the source was not aware of such cases after Saakashvili left office.

Discriminatory treatment by the authorities

7. On the one hand, the social and economic conditions are poor in Pankisi Gorge, due to an under-developed industry. The economy in Pankisi Gorge is basically based on agricultural production, which is a contributing factor to the widespread poverty in the region, although the Gorge is part of a so-called social care program from the state. Due to their bad economy, Pankisi citizens are forced to seek work outside the region or outside of the country. Bad economy is the primary reason forcing people to travel abroad.
8. On the other hand, there is no discrimination with regard to education. Persons from Pankisi Gorge have access to schools, and many go through higher education and obtain bachelor degrees. The source opined that in general residents of Pankisi Gorge are more integrated into the Georgian national community than other ethnic minorities such as Armenians and Azeris, because the Kists do not have language problems, which is one of the most hampering factors for social integration.
9. The interlocutor advised that there is no explicit discrimination when it comes to access to education, medical care etc. However, there could be implicit discrimination. For example there might be some stigma attached to persons from Pankisi Gorge, because there is a track record of some people living in Pankisi affiliated with ISIS. There are well known cases of Pankisi residents who left the Gorge and joined ISIS in Syria.
10. The source emphasised that a person from Pankisi Gorge does not have a problem with the Georgian language. In most cases it is even hard to tell the difference between a Kist and a Georgian native. However, there could be some problems with the Chechen refugees, who mostly speak Russian.
11. Due to the bad economy in Georgia as a whole, people from Pankisi has left for Europe as tourist travellers, but they are not returning home to Pankisi Gorge afterwards. This trend is seen among other groups as well. One would also see Azeris in Georgia moving to Azerbaijan or Turkey to find temporary employment.
12. The source did not think that a person with a headscarf would be subjected to discrimination.
13. According to the source a number of Chechens and Kists lived at the Isani district in Tbilisi. But after the Chataev incident in the Isani district last year, the Chechens and Kists have faced difficulties buying apartments in Tbilisi. However, the source opined that they could still rent apartments in Tbilisi.

Complaint mechanisms and access to seek redress

14. Although the source was not an expert on the subject the source opined that people from Pankisi have the same access to file a complaint as other Georgians.

Level of corruption

15. The level of corruption is worse now than it was 10 years ago. According to different relevant CSOs the problem with corruption is the so-called elite corruption, which poses a problem. Furthermore, there were some isolated cases with the involvement of lower ranking government officials which also pose a problem, although it is not seen as a general trend (e.g. state servants at the Mayor's office (2015 case)).
16. The source stated that there was no corruption within the police force.
17. However, the judiciary system is not independent. The problem in this regard is that cases sometimes cannot be properly investigated if political groups are involved, especially in cases related to the ruling party Georgian Dream.
18. The judiciary system has problems with persons who have worked in the court system for many years and therefore have kept an old culture of corruption from the past.
19. However, in regards to private cases there will be no problem in terms of getting justice by the courts as long as no political interests are involved.
20. Furthermore, there are many famous cases, where profiled persons have been found guilty in corruption. The worst area of corruption in Georgia would be within business, government tenders, and state procurement.
21. It was the opinion of this interlocutor that the Public Defender's Office did not have sufficient impact in the country.

Impunity for state actors

22. Police officers are quite popular, and the approval ratings of the police are on the rise. However, there were isolated cases where police officers were dismissed, and there might be cases of impunity, but the general trend is, that there would be no impunity within the police force, according to the source.
23. Pankisi is seen as a high risk security region. The police may be behaving less gentle. However, it is also a region with a strong civil society.

Legislation and practices for granting of Georgian citizenship to Chechen refugees/ethnic Chechens from Russia

24. During president Saakashvili it was easier to obtain Georgian citizenship, but now it is not in the top of interest of the Government. Furthermore, there are basically no Chechens coming to Georgia anymore.

Ombudsman/ the Office of the Public Defender of Georgia

Ms. Tamta Papuashvili, senior advisor on Migration, Repatriation and Human Rights Issues of Persons with International Protection

Tbilisi, 25. September 2018

About the source

Ombudsman/the Office of the Public Defender of Georgia (PDO)

The Ombudsman Institution works as a public defender and oversees the observance of human rights and freedoms in Georgia and its jurisdiction. The Ombudsman advises the government on human rights issues, analyses the laws (assesses whether the national law complies with international standards) and makes relevant recommendations for the government.

According to the Organic Law on Public Defender of Georgia, the Ombudsman annually presents a report to the Parliament on the situation of human rights and freedoms in Georgia. The report presents challenges and progress in terms of protection of constitutional rights and freedoms in the relevant year.

The Public Defender is the only institution in Georgia, which annually assesses the human rights situation of asylum seekers, refugees and humanitarian status holders and presents recommendations to relevant bodies.

A joint project of the Office of the Public Defender and UNHCR: “Support to the Office of Public Defender (Ombudsman) to enhance its capacity to address the situation of asylum seekers and persons granted international protection in Georgia” has been implemented since 2015. The project staff (in some areas together with PDO Tbilisi and regions) conducted monitoring in order to analyse the human rights situation of persons of concern based on individual visits/interviews/meetings and systematic monitoring of the overall situation in each respective area (and refer to other PDO departments or other relevant authorities, whenever necessary).

Ms Tamta Papuashvili is in charge of refugee issues and migration.

Pankisi

25. The Kists and Chechens mainly reside in Pankisi Gorge, Municipality of Akhmeta, Kakheti Region, in six villages. During the second Chechen war (1999), Georgia received around 9,000 Chechen asylum seekers due to mass influx of people who were granted prima facie refugee status (so-called group determination).
26. Later, from 2002 the government of Georgia conducted several registrations of Chechen refugees in Pankisi Gorge. As a result of these registrations, the number of refugees decreased – turned out that the majority of refugees were citizens of Georgia, some refugees did not register as they left the country. According to the statistics, the number of Chechen refugees has decreased to 2,860 persons for the period of 2004-2006.

27. According to the reports of the Public Defender, the granting of Georgian citizenship to the Chechen refugees is a very good solution. Especially for the Kist population whose earlier generations were born in Georgia and presently live in Pankisi. For today, more than 500 refugees from Chechnya have been granted Georgian citizenship, and 250 live in Georgia as recognised refugees.
28. The Ombudsman has a regional office in Telavi Municipality, which is in the same region as Pankisi (Kakheti Region). The Ombudsman can also be reached by phone 24/7 on a hotline. The office of the Ombudsman makes periodic visits to Pankisi.
29. The representatives of the Public Defender have unhindered access to closed institutions such as police, pre-trial detention centres, penitentiary establishments, and temporary accommodation centres of the Migration Department run by the Ministry of Internal Affairs.
30. There have not been asylum seekers in Georgia from Chechnya since the second Chechen war in 1999-2000. Refugees (about 10 persons) appeared in Georgia from 1994.
31. In Pankisi, Kists are working in the police, and the mayor of Duisi is an ethnic Kist.
32. Previously, the Public Defender was being addressed by Chechen refugees residing in Pankisi who pointed out social problems faced by refugees, including the problem related to access to education, healthcare etc. but recently, the Office is not working on any application from the Chechens or Kists.

Recent incidents in Pankisi Gorge, which involved clashes between the local community and the Georgian authorities

33. The case of Temirlan Machalikashvili is described in the latest report (2017) of the Ombudsman. Particularly, the Public defender scrutinised thoroughly the rights to life, namely its procedural limb that implies effective investigation of incidents of deprivation of life, and assessment of proportionality of the use of force.
34. The death of Temirlan Machalikashvili, during a special operation conducted regarding an act of terrorism in December 2017 in Pankisi Gorge, brought back the issue of effective protection of the rights to life as a matter of concern for the Public Defender. The Public Defender used all available leverages to establish whether the cause of death was the use of excessive force by the state agencies or delayed and ineffective medical assistance. The Public Defender's Office has already appealed to the Prosecutor's Office, the Ministry of Internal Affairs, the State Security Service and the Samkharauli Forensics Bureau to obtain detailed information about the criminal investigation ongoing into the alleged crime committed against Temirlan Machalikashvili.
35. In addition, within the framework of studying the case, the Public Defender's Office appealed to the Ministry of Labour, Health and Social Affairs to get information about the measures taken for

protecting the health of the citizen Temirlan Machalikashvili and the talks held with clinics abroad, as well as the reasons for alleged delayed transfer of the patient. In addition, the Public Defender's Office addressed the Medical Practitioner Regulation Agency to get information about to quality and timeliness of the medical services provided.

36. The Public Defender of Georgia calls on the Prosecutor's Office of Georgia to conduct an effective, thorough and objective investigation into the case. The Public Defender is continuing to monitor the case within the authority granted by the Organic Law of Georgia.
37. The report describes the criminal incident on Khorava Street in Tbilisi in December 2017, which ended in the killing of two minors. The Public Defender has been studying the criminal incident and detected several flaws in the investigation, which resulted in failure of the investigative bodies to obtain and adduce enough evidence to convict all persons involved in the murder of one of the victims. The Public Defender appealed to the Chief Prosecutor and demanded the launch of an investigation into alleged malfeasance, as she considered that the questioning of persons, who were responsible for the investigation, by the commission (fact-finding commission of the Parliament) proved that the investigative actions, which had been delayed or not conducted at all, did not serve specific investigation tactics. The Public Defender also addresses Parliament with recommendation that its resolution, which was adopted in connection with the fact-finding commission's recommendations concerning the case, reflect, among other issues, the fact-finding commission's recommendations regarding: 1. the launch of an investigation into alleged malfeasance and against the persons who improperly influenced the investigation; 2. the launch of criminal proceedings against one of the minors for his involvement in the murder.
38. The Public Defender considers that the Parliament of Georgia should obligate the investigative bodies to investigate the factual circumstances identified by the commission.

Abuse of power by the authorities against the Kist community/Chechens

39. The Ombudsman considers Pankisi to be a safe place to live. Though compared to the previous years, abuses against Chechen refugees were on decline. There are no cases or reported incidents committed against Chechens or Kists at the Public Defender. Representatives of the Public Defender travel periodically to Pankisi Gorge to meet with the community and look at the situation on the ground.

Discriminatory treatment by the authorities

40. In general, there is no discrimination against the people living in Pankisi Gorge. The people in Pankisi have a high rate of unemployment as in the rest of Georgia. Generally, unemployment is the biggest challenge not only in Pankisi but also in other regions of Georgia.
41. Protection of the rights to equality remains a challenge in Georgia. In 2017, the Public Defender examined 162 new cases of discrimination. The following groups remain to be the most vulnerable: women, persons with disabilities (including children), representatives of LGBT + community and

religious minorities. The scale of violence against women and challenges in terms of exercise of the right to equality is negatively reflected on the women's legal status and gender equality indicators.

Complaint mechanisms and access to seek redress

42. It is possible for Kists and Chechens to file a complaint, but currently, the Ombudsman does not work on any complaints from Pankisi Gorge. In previous years, the Ombudsman studied applications from Chechens and Kists. The Chechens are considered to be well integrated in the community in Pankisi. 500 have obtained citizenship, which is a high number for Georgia. They speak the same language and are well integrated with the local Kist community.
43. Currently, the Ombudsman receives no complaints from people in this area.
44. Pankisi is not a developed region, but according to the Ombudsman's Office, a person living in Pankisi has the same access to file a complaint as other Georgians. The Office has undertaken awareness campaigns and monitors the region.
45. When the Ombudsman receives a complaint in a case concerning abuse of power by the Georgian authorities, the Ombudsman starts examining the case, and these investigations do have impact as the recommendations of the Ombudsman is often listened to and followed by the authorities.

Level of Corruption

46. The source had no specific information on which sectors were involved in corruption as the Ombudsman's Office does not work on the issue.

Legislation and practices for granting of Georgian citizenship to Chechen refugees/ethnic Chechens from Russia

47. According to the Organic law of Georgia on Citizenship, recognised refugees in Georgia have the right to apply to the legal entity of public law: Public Service Development Agency of the Ministry of Justice of Georgia for citizenship of Georgia. Applicants have to live up to certain requirements in order to be granted citizenship. Furthermore, applicants need to pass a language test and a cultural/history test. Previously, according to the requirements, 5 years of living in Georgia was necessary to be eligible for applying for citizenship, but according to the new law that came into force this summer (2018), persons, including refugees, must live in Georgia for 10 years in order to apply for Georgian citizenship.
48. In regard to refugee children of parents who have obtained citizenship, they would also get Georgian citizenship with their families. However, there were cases regarding children, where they were rejected due to security reasons even though the parents had obtained Georgian citizenship.
49. A person can be rejected refugee status if they are considered a threat to national security. The Ombudsman is monitoring these cases and has access to the case, including confidential information.

If necessary, the Ombudsman makes recommendations to the Ministry of Internal Affairs, which is responsible for granting status.

50. The Ombudsman is involved in cases where applicants are rejected Georgian citizenship based on national security reasons. It has been established that the authorities failed to provide valid justification for denial of citizenship and legal residence on grounds of state security and/or public order considerations on numerous occasions.
51. With regard to refugees, the number of applications denied on grounds of state security has increased. At the same time, the lack of justification for such decisions remains a problem. In 30 percent of 82 denial cases, in the individual administrative-legal acts issued for each denial, the Ministry cites reasonable doubt that the individual in question will compromise Georgia's state security, territorial integrity, or public order.

Transparency International

Giorgi Oniani, Deputy Executive Director

Tbilisi, 27 September 2018

About the source

The organisation monitors the level of corruption in Georgia, as well as the works in the fields of judiciary, media freedom and elections. The organisation does not work with environmental issues and minorities, although there are some crosscutting issues to these two areas.

Recent incidents in Pankisi Gorge, which involved clashes between the local community and the Georgian authorities

52. There is an ongoing investigation in relation to the killing of Temirlan Machalikashvili and the use of excessive force, but according to the source the effectiveness of the ongoing investigation can be questioned.

Abuse of power by the authorities against the Kist community/Chechens

53. Asked if there is any evidence to suggest that the Georgian police or other authorities have abused their power against the Kist or Chechens, the source explained that Pankisi is a difficult region, but this has not been observed so far, and since the Georgian State Security Service cooperates with the US relevant agencies in this regard, there is a very low likelihood of such an occurrence. At a lower level there is no impunity for police officers or other law enforcement officers.
54. The source found that there is no prejudgement as terrorist linked to the Pankisi people, and there is no excessive force used in general. There were proves of radicalism and reason for the use of excessive force in the Temirlan Machalikashvili case, as the authorities had presented photos and videos of Temirlan Machalikashvili together with terrorists linked to ISIS, as well as his radical statements on his Facebook page.
55. Regarding investigations related to police behaviour, there is an internal audit in the police and other internal mechanisms. Exceptions are high profile cases involving ministers or politicians. In such cases there is no systematic investigation and a lack of effective control. A few high profile cases were investigated two or three years back and the results have been published. One of the most prominent cases happened in November 2015, when a defence attorney Giorgi Mdinaradze was physically assaulted at the police precinct by a policeman. The case has been investigated by the Prosecutor's Office, offenders have been identified and prosecuted.

Discriminatory treatment by the authorities

56. According to Giorgi Oniani, there is no discrimination against the people in Pankisi from the government. In addition, there are NGOs working with human rights in the region.

Complaint mechanisms and access to seek redress

57. In Pankisi, the Kists/Chechens do not have less access than people in other Georgian regions to file a case. On the contrary, Pankisi gets more attention of the Public Defender than other regions. There are also NGOs providing legal assistance to the residents in Pankisi Gorge.

Level of Corruption

58. The source explained that from the middle of 2000, the government started implementing a number of anti-corruption reforms, and today the level of corruption at lower levels is almost zero.
59. However, elite corruption is a concern. As an example, the source mentioned an ongoing case concerning the former Minister of Economy, Dimitry Kumsishvili, who is being investigated regarding misuse of funds. There are several incidents involving top government officials, including the Minister of Culture and a former Minister of Sports. The main concern is the influence of the founder of the ruling party Georgian Dream, Bidzina Ivanishvili. He no longer has a formal position in Georgia, but never the less a big influence on prime ministers and other top officials. All the corruption-related stories are out in the media, but there has been no effective response from the law-enforcement agencies.
60. The Prime Minister's resignation in June 2018 was not linked to the Khorava street demonstrations as mentioned in the press, and was not even close to these protests. His resignation was related to a quarrel with Ivanishvili for whom he worked in the past.
61. The law enforcement agencies in Georgia are also dependent on Ivanishvili. The State Security Service is the most closed institution and the head of the security is not even a minister, so officially the parliament has to oversee the work of the service. However, the MPs do not have the necessary security clearance to conduct control of the security, which is by law limited to budgetary issues. Furthermore, the head of the State Security Service is a former bodyguard of Ivanishvili, and he is perceived to be very loyal to him.
62. Compared to other countries in the region, Georgia is performing well, but the country is still far from being a liberal institutional democracy.
63. In the police, petty corruption is not an issue.
64. According to the source, Georgia has had problems with corruption within the court system for a long time. Before 2012 it was impossible to win a case against the government. Now things have changed to the better and generally in ordinary court cases people can enjoy a fair trial. However, when there

is an interest in cases from either members of the ruling party or the judges themselves, this might influence the decisions. Corruption in the judiciary is also a concern in business to business cases. In certain high value business disputes there have been allegations of possible bias due to the possible corruption. There is a 'mafia-type' clan of judges, who are very powerful, and who might rule against the ruling party from time to time. Furthermore, these judges were allowed by the ruling party to get life serving positions, which also increased their power. The source noted that the European Court of Human Rights has made decisions on unjust ruling in court cases from Georgia.

65. If a case involves ethnic minorities or cases against ordinary police men with no connection to the elite, a free and fair trial can be expected. If no government officials or other powerful people are involved in the case, the judiciary is well functioning.

Impunity for state actors

66. High level officials who are connected to influential people enjoy impunity. As an example, the source mentioned the case of a former Auditor General, who was beaten up in Tbilisi while he was investigating a case related to transfer of land. The case involved a former Chief Prosecutor (Mr. Partskhaladze), who was close to Ivanishvili. The Auditor was beaten up by him and some of his security personnel. Though, there is a video footage of the incident, the investigation has not yet been completed and no results have been presented to the public, not to mention that Mr. Partskhaladze has not even been interrogated.

An NGO

26 September 2018

About the source

The source is an NGO working to improve the economic situation for vulnerable groups, women and youth in Pankisi Gorge. The NGO is also providing legal assistance. The activities are funded by various donors, but lately mainly by the EU. The delegation met with the director and two other staff members.

Recent incidents in Pankisi Gorge, which involved clashes between the local community and the Georgian authorities

67. The incident in Pankisi in December 2017 where a local teenager, Temirlan Machalikashvili, was shot in his parents' house is still a chock for the local people. Although, people might support the authorities, they are still shocked by the way the authorities performed, and the fact that somebody from the community had been killed in his home while sleeping.
68. On the question of whether this has caused a reason for people to leave Pankisi, the source pointed at the fact that all Temirlan's family members are still staying in Pankisi.
69. On 22 September 2018 a local festival, Pankisoba, was planned in Duisi by the local government. The festival is a yearly event in the gorge. The mother of Temirlan threatened to put herself on fire at the festival for which reason the local government decided to stop the festival this year in spite of the fact that a long planning had taken place.

Abuse of power by the authorities against the Kist community/Chechens

70. According to the source, there is no evidence to suggest that the authorities have abused their power in other cases linked to Temirlan. Pankisi is a small community where everybody knows each other, and many people in Pankisi know Temirlan. No one has been targeted or arrested until now because of this incident.
71. Regarding the possible abuse of power by the authorities against the ethnic community on more general terms, the source found that the police will interfere, if people break the law, but sometimes the Kist and Chechen community feel they are harassed, if for instance they are stopped for breaking the traffic rules.

Discriminatory treatment by the authorities

72. The people of Pankisi are not discriminated by the authorities because of their ethnicity. On the opposite, the NGO found that the government pays more attention to Pankisi villages than to any other villages in Georgia. The villages in Pankisi have a status as mountain villages, which mean that the inhabitants do not pay taxes, receive social assistance and enjoy many other privileges.
73. The reason behind this positive discrimination by the government is a concern about the spread of radical Islam which politically is a very sensitive issue. The source mentioned the Chataev case, and

explained that Chataev was from Chechnya and had links to Pankisi. Some people in Pankisi had been linked to him and had left the gorge (for Germany). The Georgian government wants to engage the youth in the region in various projects and activities to avoid radicalisation.

74. There is a group of elder people originating from Chechnya who have a problem integrating in Georgia as they do not speak the Georgian language, and they cannot go back to Russia. The source stated that this group of people are not being discriminated by the Georgian authorities. All the young people in Pankisi speak Georgian. There is no problem or any discrimination between the original Kist community and the Chechen community. They all speak the same language and belong to the same religion.

Complaint mechanisms and access to seek redress

75. Kist and Chechens have the same access to file a case as other Georgian citizens. There are a lot of NGOs in the area working to protect human rights and providing free legal assistance. There are both female and male lawyers, if for instance women prefer to have a female lawyer. Legal assistance is provided mainly to obtain documents from the government, for property related issues, if people want to change their name or surname etc. When it comes to family related matters, the Kists and Chechens tend to use informal structures and courts.
76. The Public Defender has a representative in the region, and the NGO found that representatives from the Tbilisi office sometimes travel to Pankisi to meet with people in the gorge.
77. When it comes to private conflicts and family related matters in Pankisi Gorge, there is a local traditional court in place to solve conflicts. This system is based on a Council of Elders. According to the source, this traditional system is a constraint for the young generation and for women, as the system does not allow them to progress in their lives. As for the women, it is particularly hard in case of divorces, as the local court is based on traditional Islamic law, which will always favour the father in relation to the child. Also in other cases, the NGO found that the women and the youth do not enjoy the same freedom as in other Georgian communities due to this traditional system. The source distinguished between traditional Islamic laws and radical Islamic laws, and mentioned that there are also groups of people in Pankisi who solve their conflicts through the Imam.
78. The source could not assess how many would prefer the traditional courts and how many would prefer a conflict solution from the Imam. The final decision would be taken by the head of the clan.
79. If a conflict cannot be solved locally by the Council of Elders or the Imams, the locals might solve the conflict by engaging the relevant authorities.

Legislation and practices for granting of Georgian citizenship to Chechen refugees/ethnic Chechens from Russia

80. According to the NGO there were about 12,000 refugees from Chechnya in Pankisi in 1999-2000. About 2,000 of them got refugee status, and more than 760 later obtained citizenship.

81. The requirements are that you should have lived for 10 years in Georgia, have knowledge of Georgian language and wish to have the citizenship. Previously, (under president Saakashvili) it was easier to obtain a dual citizenship (Russian and Georgian), but after 2012 it is an exception to obtain and mainly for foreigners who invest in Georgia. Children who are below 18 years will obtain the same citizenship as their parents.

Human Rights Centre (HRIDC)

Ucha Nanuashvili, Project Director

Tbilisi, 27 September 2018

About the source

The Human Rights Centre (HRIDC) is a Georgia based NGO working with the protection and promotion of human rights. The Centre is monitoring and documenting human rights violations in Georgia, reporting on human rights situation in Georgia to the EU, Council of Europe, OSCE, UN, ICC and other international bodies, lobbying and advocacy of legislative and policy reforms before national and international institutions, litigating cases on human rights violations through Legal Aid Centre free of charge, public awareness raising on human rights situation in Georgia, and networking among human rights organisations on national and regional level. The NGO is funded by Council of Europe, The World Bank, UN organisations, a number of embassies and other international organisations. The Human Rights Centre has had a branch office in Pankisi for several years.

Recent incidents in Pankisi Gorge, which involved clashes between the local community and the Georgian authorities

82. The source noted that there had been new detentions related to the incident in Pankisi Gorge in December 2017. All detained people were ethnic Georgians. Two persons were detained in January 2018 and a third person in August 2018. An investigation related to allegedly connection to terrorist networks. These persons are still detained in Tbilisi.
83. Temirlan Machakilashvili's case has gained support among the local community in Pankisi, who believes that Temirlan Machakilashvili was wrongly killed by the Security Forces.
84. Asked about the status of the prosecutor's investigation of the incident regarding Temirlan Machakilashvili, the source explained that the problem with the investigation is that it is not independent, and it may take ten years or more to complete. When the Special Forces conduct special operations, they should also be obliged to conduct an effective and independent investigation.

Abuse of power by the authorities against the Kist community/Chechens

85. There were serious violations of human rights in the "Lopota incident" in 2012. One year after the incident, the Public Defender published a report with documented abuse of human rights, but nothing happened afterwards. The source stated that this case was the latest incident of a large scale in Pankisi.
86. The source mentioned the case of Temirlan Machalikashvili as a recent example of abuse of power. Ucha Nanuashvili is questioning the ongoing investigation of the case where the Security Forces are investigating themselves. No one has trust in the ongoing investigation.

87. If a person is suspected of being connected to terrorism, the source opined that it would be possible that the person could be detained or the person's right to movement would be restricted. In general the picture has changed after the special operation in 2017, which has led the residents of Pankisi to feel more insecure.
88. According to the source, torture does not occur in Pankisi Gorge.

Discriminatory treatment by the authorities

89. According to Ucha Nanuashvili, there were a few cases from Pankisi Gorge, where the police never reacted. The source mentioned a case where supporters of the Chechen leader, Ramzan Kadyrov, came from Chechnya to Pankisi, which ended in fights between local Kists and Chechen Kadyrov supporters. The police never reacted to this incident. In this regard the problem in Pankisi is the lack of action from the authorities and the lack of will to instigate and keep law and order in the region.
90. The interlocutor mentioned that there had been other incidents relating to Pankisi after the special operation in December 2017. For example there have been detentions of Pankisi residents without explanations at the border between Russia and Georgia, and as a result some Pankisi citizens could not leave the country. In some cases, persons were stopped for several hours at the border to Russia and also to Azerbaijan.
91. There are Kists who have to go to the airport two or three hours before departure just to avoid any problems. This is not only a problem for Georgian citizens like Kists, but this also poses a problem for Russian citizens from Chechnya and Dagestan, who are coming to Georgia.
92. When asked what happens when Pankisi residents are detained at the borders, Ucha Nanuashvili advised that the border authorities often asked a number of questions and waited for an approval from the central headquarters where they are checking if everything is in order. Detentions at the border of Pankisi residents have been ongoing for many years. Ucha Nanuashvili noted that there is surveillance and in some cases the security services are just performing their jobs. He also noted that these detentions do not take place in Pankisi itself.

Complaint mechanisms and access to seek redress

93. The source noted that there had also been incidents between ethnic Georgians and Kists in Pankisi Gorge. In such cases the police would try to play a mediating force for example by involving local actors such as elders in the community to resolve the problems at hand in Pankisi. The source opined that this posed a problem, because the Gorge in this regard does not abide by Georgian national law but uses more traditional customary law or Islamic rule.

94. The interlocutor noted that local Kists and Chechens have access to file a case against the authorities in some cases. It would depend on the concrete case and the person's access to lawyer and resources. Not all locals speak Georgian, which also could pose a problem in this regard.
95. Asked if Chechens/Kists have the same possibility as other Georgian nationals to seek protection of the authorities in a private conflict, the source replied that this is definitely possible.
96. It was the opinion of this interlocutor that it is possible for residents of Pankisi to file a case at the Public Defender's Office. The Public Defender has an office in Telavi and also a contact person in Akhmeta. The source added that he worked with human rights for 22 years, and the Human Rights Centre also has had a branch office in Pankisi in all these years.

Level of corruption

97. Some years ago it was as if corruption was eradicated in Georgia. However, in the last few years problems with corruption surfaced again, especially in business cases and cases related to tenders at high level cases. Although the source noted that Georgia has some cases in the lower ranks, these were rather exceptions than the rule. In general, the country is quite free of corruption, and there is no police corruption.

Impunity for state actors

98. Impunity is a problem in Georgia. In general there is a lack of oversight of the security sector, which could lead to impunity for service men. The investigation of the case of Temirlan Machalikashvili was conducted by the security service themselves and would therefore pose a problem in terms of impunity, according to the source.
99. During the last four years the Public Defender's Office has documented more than 60 cases, where they had obtained evidence, medical statements, and testimonies from persons. In 90 percent of them, the case is still pending because the investigation is still ongoing. These cases also regard petty level officials.
100. In general the source advised that there has been a huge change to the better with regard to impunity. The problem is a very high backlog of pending cases. Ucha Nanuashvili was aware of one case where a police man got acquitted. It was a case with a young lawyer who was beaten by a police man. The police man was first arrested but later released on bail.

The Roddy Scott Foundation in Duisi, Pankisi Gorge

Duisi, Pankisi Gorge, 26 September 2018

About the source

The foundation was set up in the name of Roddy Scott, a war journalist killed in the 2nd Chechen war. He was killed in late 2002, and the foundation has been started by his parents, Robin and Stina Scott in 2008. The Roddy Scott Foundation gives English and computer classes to children, aged 10-16, in five villages of the valley. All teachers are local Chechens with degrees in English and teacher training, and experienced. Over the years, the NGO has had various donors. Presently, most of the activities are funded by the McLaine Foundation.

Vladimir Lozinski is a freelance journalist, who is a Trustee of the organisation has been living in Georgia (now based in France) and travels frequently to Pankisi Gorge to monitor developments.

The delegation met with him and five (female) teachers from the organisation.

Recent incidents in Pankisi Gorge, which involved clashes between the local community and the Georgian authorities

101. In December 2017, the Georgian Special Security Forces came to Duisi at night, broke into the house of Temirlan Machalikashvili and his family and shot Temirlan with two bullets. On the first day, the family of Temirlan did not receive any information from the Georgian authorities, but on the second day the family was informed that Temirlan had been shot under the operation and was badly injured. According to the source, he was only taken to a hospital after three hours.
102. Six people were arrested in Pankisi on the day Temirlan was shot (including Temirlan), but the local people did not understand why the forces had to shoot Temirlan, as they could have arrested him. The police claim that they found a grenade in Temirlan's room, but the foundation believed that the police planted the grenade, as Temirlan's fingerprints were not found on the grenade, according to his lawyer.
103. People in Pankisi Gorge knew Temirlan well and to the knowledge of the foundation, he had done nothing wrong. However, Temirlan had been seen walking in Tbilisi with some people with connection to Akhmed Chataev and the Tbilisi shootings in November 2017. The authorities were in possession of a photo of Temirlan and these people.
104. According to the foundation, residents in Pankisi do not feel safe in Duisi after the incident with Temirlan. Even if he was guilty, the authorities did not behave correctly.
105. Asked about the status of the authorities' investigation of the case regarding Temirlan, the foundation replied that they were not sure that an investigation was ongoing. The government initiates investigations, and the investigations 'disappear' without a result. The security forces are a closed unit, who are not answerable to anyone, according to the foundation.

106. There was a recent incident in Pankisi during the celebration of the Pankisoba. The Pankisoba had been arranged by the authorities in Georgia, but many locals were against the celebration and wanted to protest, that they feel unsafe, and that the authorities' treatment of the people in Pankisi is unfair.
107. Another recent incident happened during a demonstration in Tbilisi where a Chechen refugee who had lived in Georgia for seven years were arrested and afterwards deported to Russia. The foundation has this information from a network of Chechens in Georgia and apparently, he has now been arrested in Moscow by Russian authorities. The foundation feels like the police made this arrest to scare of other Kist/Chechens to not participate in future demonstrations.

Abuse of power by the authorities against the Kist community/Chechens

108. The Georgian Special Security Forces has bad intelligence about Pankisi and made a mistake in December 2017 when they shot Temirlan. The Security Forces are considered to have free hands and to do what they want without responsibility. The people in Pankisi do not feel safe after the incident where the Special Security Forces killed Temirlan.
109. Asked about other incidents in Pankisi involving clashes between the local community and the Georgian authorities, the foundation replied that there had been no such incidents since December 2017, and that the Special Security Forces had not been present in Pankisi since then. Generally, there are less operations in Pankisi involving the security forces after the political party, Georgian Dream, came to power. The source referred to the latest operation in Pankisi as the 2012 "Lopota incident" in the woods.
110. If a person from Pankisi is suspected of being involved in some criminal activities, this person will most likely be called in to answer some questions at the Telavi Police Station. The police would never use violence or torture against a person from Pankisi.

Discriminatory treatment by the authorities

111. In the airport, people from Pankisi often have to wait for very long (3-4 hours) on arrival and departure, because the authorities have to check their documents.
112. If a person from Pankisi is involved in a car accident outside Pankisi, the person from Pankisi will be deemed responsible.
113. It is more difficult for people from Pankisi to get employment outside of Pankisi, if it is known that they are from Pankisi, for example when they see women wearing a headscarf. Because of their religious background, they are discriminated.
114. In the buses and trains in Tbilisi people from Pankisi are being harassed. They feel very isolated and there is a definite split between them and the Georgians.

115. Asked if there is a conflict between the local Kists and the Chechens in Pankisi, the source explained that the sense of identity between the two groups is strong. During the Second Chechen War, thousands of Chechens came to Pankisi. The local Kists offered them housing and food. In addition, many people in Pankisi have relatives on both sides of the border to Russia.

116. The biggest challenge in Pankisi is the economic situation.

Complaint mechanisms and access to seek redress

117. It is possible to approach the Public Defender, but the source considered that no one listens to the Public Defender in the government. The Public Defender's Office made a visit to Pankisi when Temirlan was shot. However, according to the source no one came to see the family of Temirlan, except some members of the Wahhabi group based in the main mosque in Duisi.

118. There are a couple of NGOs working in Pankisi, but most of them are in it for the money and are not offering any real help to the people in Pankisi.

119. Internal conflicts in Pankisi are often solved by the Imams in the mosques, because the mosques are influential and have the money in the area. More locals in Pankisi are turning to the mosques instead of going to the Council of Elders. The locals have a lack of trust in the Council of Elders which is rumoured to share information with the Georgian authorities. As an example, the foundation mentioned that the Council of Elders had maintained that Temirlan was killed due to his connections with terrorists. According to the source, Chataev had links to Pankisi because his wife was from Pankisi.

120. The mosques have taken advantage of the current situation where the Georgian authorities are not present in Pankisi. The Imams are modern and attract the young generation in Pankisi. In Pankisi there is a need for positive male role models and this is one of the reasons that the youth turns to the Imams.

121. Conflicts in Pankisi are often solved internally – most often by Imams, but also by the Council of Elders.

122. Internal conflicts are dealt with without involvement of local police.

Level of corruption

123. Corruption is not a problem in Pankisi Gorge. There is no money and hence no corruption. The local police are doing good and they know the people living in Pankisi. The local police have not been involved in the Temirlan case. The local police are more integrated with the local people.

Legislation and practices for granting of Georgian citizenship to Chechen refugees/ethnic Chechens from Russia

124. UNHCR used to be present in Pankisi, but not anymore. Before leaving they assisted many Chechens with refugee status in applying for citizenship in order to get them “out of the refugee register”, and most of them obtained a citizenship.
125. One of the requirements for Georgian citizenship is that the applicant has to give up his foreign citizenship. This is one reason why some Chechens (Russian citizens) choose to give up their application. The applicant also has to pass a test in Georgian language and knowledge about Georgian history/culture.

Georgian Young Lawyers Association (GYLA)

Giorgi Gobronidze, Research Analyst

Tbilisi, 27 September 2018

About the source

Giorgi Gobronidze, research analyst and visiting professor at the Georgian American University (GAU), School of Law, Social Sciences and Diplomacy. Giorgi's field of study is security and migration. Giorgi Gobronidze started working in Pankisi Gorge in 2012 with focus on terrorist studies and studies of violent extremism and radicalisation.

GYLA offers legal representation in Pankisi where they receive various types of complaints, for example regarding repression and surveillance from the State Security Service. In some cases GYLA is representing people in the court, but GYLA can also assist in finding an adequate lawyer.

Recent incidents in Pankisi Gorge, which involved clashes between the local community and the Georgian authorities

126. According to the source, the problems in Pankisi started in 2014 when several people left Pankisi and joined various terrorist organisations in Syria. At that time, the presence of Kist people fighting for ISIS was very clear. After this, the general perception in the Georgian information environment was that people from Pankisi in general pose a threat to national security. The media plays a big role in the painting of this picture of Pankisi residents. The Georgian authorities react with more surveillance and presence in Pankisi, which leads to frustration among the local residents.
127. With regard to the case of Temirlan Machalikashvili, the source noted that the case could have been handled differently by the Georgian authorities. The source opined that the local police could have handled the situation without the involvement of the security forces.
128. The whole counter terrorist operation left an impression that the government wanted to demonstrate power towards Pankisi residents. As Pankisi residents mentioned themselves, local police would be enough to conduct the entire operation of detention of alleged terrorist sympathisers.
129. There are many rumours about what happened when Temirlan was shot. There is an ongoing investigation about this incident, but the source has little trust in this investigation. Furthermore, the source referred to information from Pankisi residents and the organisation, representing interests of Machalikashvili's family, that the grenade that was found by the security forces in the room where Temirlan was shot, had no fingerprints or DNA from Temirlan – and now the grenade has disappeared.
130. According to the source, the overall problem in Pankisi is the miscommunication between the Georgian authorities and the residents in Pankisi. This problem goes both ways and leaves frustration on both sides.

Abuse of power by the authorities against the Kist community/Chechens

131. The general picture is that there is no abuse of power in Pankisi, but after the Temirlan incident in December 2017, the Georgian authorities have increased the control and surveillance in Pankisi, which has led to some frustration and protest among the residents of Pankisi.
132. According to the source, the situation in Pankisi is relatively calm, but the problem is, that residents of Pankisi, who are not linked to terrorism have a feeling of insecurity from the state, more than from potential terrorists. There is no reason to believe that torture or harassment is being used by the security forces. These kinds of complaints are not coming from Pankisi.
133. When asked the source assessed that nobody from Pankisi live up to the conditions to be granted refugee status under the Geneva Convention.

Discrimination towards the Kist/Chechen population in Pankisi

134. The source found no reason to believe that there is any discrimination on religious grounds towards the Kists/Chechens in Pankisi. As mentioned above the main problem is the miscommunication between the Georgian authorities and the residents of Pankisi. In some cases the miscommunication leads to discrimination. As an example the interlocutor mentioned that the Georgian authorities have a selective approach to the locals, as they communicate for example through the Council of Elders, which might lead to alienation and mistrust of some groups, as the Council of Elders is more loyal to the so-called 'traditionalists' in the Gorge.
135. The source also mentions that the Georgian security apparatus in some cases reportedly had threatened representatives of young activists, some of them working at public schools or NGOs, who participated in protests or demonstrations, that they would lose their jobs. However, the source did not know of any cases where a person had lost their job.
136. Due to the number of persons leaving for Syria, a person from Pankisi could face problems with the border control where there are some examples of people who were not allowed to board their plane. However, this was not a problem anymore.

Complaint mechanisms and access to seek redress

137. According to Giorgi Gobronidze, it is not difficult to file a complaint, but in most cases this brings no results. It is, however, more problematic in small communities, when everyone knows each other because of existing social constructions.

Legislation and practices for granting of Georgian citizenship to Chechen refugees/ethnic Chechens from Russia

138. The source had no information regarding problems relating to citizenship, but mentioned that the government does not create any obstacles for the Chechen refugees.

UNHCR

Tbilisi, 28 September 2018

Recent incidents in Pankisi Gorge, which involved clashes between the local community and the Georgian authorities

139. UNHCR does not have first-hand information about the incidents in Pankisi Gorge.

Abuse of power by the authorities against the Kist community/Chechens

140. UNHCR does not have first-hand information about abuse of power by the authorities against the Kist community/Chechens.

Complaint mechanisms and access to seek redress

141. From the information available to UNHCR both Georgian citizens, as well non-Georgians have access to the complaint mechanism offered by the justice system as well as the Ombudsman's Office.

Discriminatory treatment by the authorities

142. From the information available to UNHCR, Chechens and the Kist community are not particularly discriminated against by the authorities. Any person who considers him/herself discriminated against may address a complaint to the Ombudsman's Office.

Level of Corruption

143. UNHCR is not in the position to comment on this point.

Impunity for state actors

144. UNHCR is not in the position to comment on this point.

Legislation and practices for granting of Georgian citizenship to Chechen refugees/ethnic Chechens from Russia

145. Until end of 2016, UNHCR was present in Pankisi Gorge where the organisation was providing assistance, through a local NGO partner, to Chechen refugees and the host Kist community. The group of Chechens is now quite well integrated in the community.

146. Georgia changed its citizenship law in 2014 and most recently in 2018. The formal requirements for acquisition of Georgian citizenship include, inter alia, knowledge of the Georgian language and knowledge about Georgian history, geography, society, Constitution, etc.
147. Previously, the Chechen refugees were offered language training in Pankisi, but now they have to rely on self-learning programs.
148. According to the amended law on citizenship, which came into effect in 2018, in order to obtain citizenship one has to have lived in Georgia for ten years rather than five years as per the previous law.
149. Children of applicants who acquired Georgian citizenship will automatically be granted citizenship. Children born in Georgia of Russian/Chechen parents will have to renounce their Russian citizenship should they wish to acquire Georgian citizenship. Children of mixed families will also have to renounce their Russian citizenship to acquire Georgian citizenship.
150. From the information available to UNHCR, out of some 1,000 persons who remained in Georgia after the Second Chechen war in 1999-2000, at the end of August 2018, there were 211 Russians of Chechen origin holding refugee status in Georgia. Until 2013, 536 persons of Chechen origin had been granted Georgian citizenship as a result of, inter alia, a favourable governmental policy towards granting the Georgian citizenship.
151. Between 2013 and 2016, the number of Chechen refugees who were granted Georgian citizenship was low (19 persons), due to larger numbers of rejections based on, inter alia, lack of knowledge of Georgian language at a level that would allow the individuals to pass the citizenship exam¹⁵¹, reluctance to renounce Russian citizenship¹⁵², not meeting the requirements of residence in Georgia¹⁵³ or rejection on national security grounds¹⁵⁴. In 2017, while UNHCR was still supporting the naturalisation of Chechen refugees with legal assistance, counselling and representation, another 10 Chechens were granted Georgian citizenship.
152. As per the amended citizenship legislation, a decision denying the grant of Georgian citizenship may be appealed up to the Supreme Court before a final decision is reached.
153. Until 2017, UNHCR provided legal support through a partner organisation in Pankisi. Although UNHCR is no longer active in the Pankisi Gorge, legal assistance and representation is still available to Chechens who wish to acquire Georgian citizenship.
154. Chechens, who are refused citizenship, maintain their refugee status. Refugee status protects against refoulement and the validity of the residence permit is extended accordingly. According to Chapter VI

¹⁵¹ That also includes checking the knowledge of History, Geography or Constitution

¹⁵² According to the adoption of new citizenship legislation, since 2014 dual citizenship is no longer allowed

¹⁵³ 5 years till the recent legislative changes in 2018 of the Law on Citizenship that increased the period of residence to 10 years

¹⁵⁴ Based on classified information that is not accessible to the applicant, his/her legal counsel or UNHCR

of the 2016 Law of Georgia on International protection¹⁵⁵ the refugee status or humanitarian protection may be ceased, cancelled or revoked in a fully-fledged procedure that involves, inter alia, interviewing of the applicants and a court procedure. However, in case the applicants cannot be contacted, the decision may be taken based on available information.

Resource materials:

Law of Georgia on Citizenship adopted in 1993 and declared as void after adoption of the new law in 2014: <https://matsne.gov.ge/ka/document/view/32596?publication=20> (Georgian version, consolidated, including amendments until 2014)

Law of Georgia on Citizenship as adopted in 2014: <http://migration.commission.ge/files/matsne-2343650.pdf> - 30 April 2014

Law of Georgia on Citizenship with amendments introduced in 2016: <https://matsne.gov.ge/en/document/view/2342552?publication=2>.

Law of Georgia on Citizenship with amendments introduced in 2018: <https://matsne.gov.ge/document/view/2342552?publication=4> (Georgian version)

¹⁵⁵ Available at <http://migration.commission.ge/files/ltolvilebi.pdf>.

The Delegation of the European Union to Georgia

Yvonne Gogoll, Attaché, Human Rights, Justice and Home Affairs

Tbilisi, 27 September 2018

Recent incidents in Pankisi Gorge, which involved clashes between the local community and the Georgian authorities

155. As regards the special operation in December 2017 in Pankisi Gorge, where Temirlan Machalikashvili was shot by the Special Forces, the source referred to the demonstrations still going on in front of the Parliament in Tbilisi. The father of Temirlan has joined forces with a father of a teenager, who was murdered in a fight between schoolboys in Tbilisi. The latter case is also known as the Khorava Street murders. In both cases, the parents are calling for a proper investigation of the death of their children. The authorities are justifying the use of power by linking Temirlan to terrorists. The father is claiming that the authorities used excessive power, and he is calling for a proper investigation of the case.
156. Asked if there are any results of the prosecutor's investigation of the incident in Pankisi, the source explained that such investigations usually last long, and the present status is unknown.
157. Regarding the Khorava case, a special Parliamentary Commission has been established to look into the case, and the chief prosecutor resigned, because the investigations were considered flawed.
158. There is a public support for the demonstrations in Tbilisi regarding the two boys in the Khorava street case, and more support for them than for Temirlan.

Alleged abuse of power by the authorities against the Kist community/Chechens

159. According to the source, there has not been a single case raised by the Public Defender in 2017 regarding the allegations of authorities' abuse of power in general, or against people in Pankisi.
160. As regards the Temirlan case, the operation was led by the SSSG as the body mandated in fighting terrorism. Concerns have been voiced by various civil society and international commentators over the need to further enhance oversight over the SSSG.
161. There is no evidence that any torture was committed by the police.

Allegations of discriminatory treatment by the authorities against the Kist community/Chechens

162. There are no figures on specific cases regarding discrimination against the Kists/Chechens.

163. There are allegations of discrimination against the Muslim community; specifically the Muslim communities are facing difficulties in obtaining building permits for new mosques and some tax laws favours the Georgian Orthodox Church. The source referred to the Muslim community in Batumi, where building permits were denied. The source also referred to two cases from the Constitutional Court of Georgia on July 3, 2018.¹⁵⁶
164. The source did not have any information about discriminatory problems related to the Kists/Chechens in Pankisi.
165. EU has funded projects for minorities to improve the knowledge of the state language. However, in Pankisi the language is not a problem. In Pankisi, the Muslim community is running their own educational facilities with religious teaching.
166. The government lacks a comprehensive strategy to deal with minority community leaving the population not fully integrated. Pankisi residents have been invited to join the armed forces.

Complaint mechanisms and access to seek redress

167. Kists and Chechens are assessed to have the same access to file a case as Georgian citizens according to the law. There are NGOs working in Pankisi, which are reaching out to the community. In addition, the Public Defender has an office in Telavi, relatively close to Pankisi.
168. Before 2012, there were grave problems with abuse of power of law enforcement officers irrespective of minority status. The Department for Investigation of Crimes Committed in the Course of Legal Proceedings of the Chief Prosecutor's Office, operational since 2015, has worked on cases taking place before 2012, but there remains a huge backlog still. An independent investigation institution – the State Inspectorate Service - has been established by a new law in July 2018; it will operate from January 2019. From January 2018, new reforms related to training of officers in the Ministry of Internal Affairs in human rights are being implemented.
169. The Parliamentary oversight role is being strengthened. The Public Defender's Office/Ombudsman is contributing to the Parliamentary monitoring of abuse of power and police mistreatment. The Public Defender's Office does have an impact, and most of the recommendations made by the Public Defender are adopted as binding recommendations of the Parliament.
170. In 2017 there has not been a single case on mistreatment by the police or abuse of power by the authorities forwarded by the PDO to the prosecutor's office.

¹⁵⁶ <http://www.tdi.ge/en/news/602-constitutional-court-granted-two-complaints-religious-organizations> and <http://www.constcourt.ge/en/news/judgements-on-the-constitutional-complaints-n671-and-n811-of-the-constitutional-court-of-georgia.page>

Level of corruption

171. Georgia ranks high in international indexes, with better performance than many EU member states. However, reporting on cases of complex forms of corruption is increasing in Georgia including allegations of ministerial level. There have been cases reported involving the judiciary. As for the judiciary, the system of appointment and promotion and disciplinary measures affecting of judges at all levels remains an issue.
172. Deals with prosecutors sometimes occur where detainees are offered a negotiation.
173. Plea bargaining is allowed under the criminal law and extensively used.

Impunity for state actors

174. A large number of cases brought under investigation from earlier and more systemic violations have not yet been resolved. This situation has contributed to the public perception of underserved impunity.

Appendix B: Sources consulted

1. Public Movement Multinational Georgia (PMMG)
2. Ombudsman/The Office of the Public Defender
3. Transparency international (TI)
4. An NGO
5. Human Rights Centre (HRIDC)
6. UNHCR
7. The Roddy Scott Foundation
8. Georgian Young Lawyers Association (GYLA)
9. EU

Appendix C: Terms of Reference

Situation of the Kist community and Chechens in Georgia

- Recent incidents in Pankisi Gorge, which involved clashes between the local community and the Georgian authorities
- Abuse of power by the authorities against the Kist community/Chechens
- Complaint mechanisms and access to seek redress
- Discriminatory treatment by the authorities
- Level of corruption
- Impunity for state actors
- Legislation and practices for granting of Georgian citizenship to Chechen refugees/ethnic Chechens from Russia.

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Appendix E: Map of Georgia and Pankisi Gorge

