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To: CERD Secretariat
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Committee on the Elimination of
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Alternative report on Georgia for the CERD 108th Session

As you know, in 1999, upon joining the Council of Europe, Georgia took the obligation to develop a legal framework allowing repatriation and the integration of the population deported from its territory (for two years from the date of membership); start the repatriation process and integration (within three years from the date of membership); complete the repatriation of the deported population (during twelve years from the date of membership). On April 27, 1999, Georgia became a member of the Council of Europe. The development of the corresponding law dragged on until 2007 and after the law enactment, the deadline for accepting applications from those wishing to repatriate was postponed several times and by January 1, 2010, it was finally closed. The Law of Georgia “On repatriation of persons forcibly resettled from the Georgian SSR in the 40s years of the twentieth century by the authorities of the former USSR” only concerns the Turks, the Kurds, and the Hemshins, those forcibly evicted from the Georgian SSR according to the decree of the USSR State Defense Committee from July 31, 1944 No. 6279ss "On resettlement of Turks, Kurds, and Hemshins from the Georgian SSR border."

1. The Law "On Repatriation of Persons Forcibly Displaced from Georgian SSR in the 40s of the twentieth century by the authorities of the former USSR:" non-return law

According to the ninth and tenth periodic reports submitted by Georgia, the number of applications for repatriation submitted - 5841. This refers only to applications accepted by the Georgian

authorities, whereas the number of prepared and submitted applications according to the data of public Meskhetian Turks organizations [Public Association of Akhaltsikhe Turks, living in Azerbaijan - "Vatan," Interregional public organization of the Meskhetian Turks of the Russian Federation "Vatan"] amounted to more than 15,400 (13400 from the Meskhetian Turks living in Azerbaijan and about 2000 applications from Russia). The submitted application was prepared by the head of the family, which included the spouse and minor children, which amounts this number to 50-60 thousand person who have expressed their desire to repatriate. Of the indicated number of applications, only 5841¹ were accepted, the rest was rejected at the stage of admission to embassies and consulates due to identified shortcomings (including those filled in the Russian language instead of the required Georgian or English), and failure to meet the legal deadline.

This situation is due to strict time constraints and deliberately difficult conditions for filing applications: deadline statements were limited to one year, which subsequently, under pressure The Council of Europe has been extended for a total of one more year, which did not significantly affect the overall process. A full package of documents consisted of more than 14 different certificates, including document/s proving the fact of forced resettlement (Article 4, paragraph 2, a.); the complexity of the application form (mandatory filling Georgian/English languages); extremely low level of awareness among the deportees (scattered throughout the post-Soviet territory and other countries, residing mainly in the rural areas); significant financial costs of collecting the required documents, equal to approximately USD 300.00 – _400.00, while the monthly income of applicants not exceeded USD 100.00.

Thus, these and other circumstances became the reason for a relatively low number of applications accepted by the Georgian authorities. According to Georgia's periodic report, only 1998 individuals were approved repatriate status and only 494 people received "conditional citizenship" which is not even one percent of those willing to relocate. Moreover, not a single person deported from the territory of the Georgian SSR by the former authorities of the USSR, as well their descendants, did not become full citizens of Georgia under the Law on Repatriation. The reason for such an outcome is not what was noted in Georgia's periodic report as "for a person, who has established himself and integrated well into another country, would be difficult to give up homes and lives, despite Georgia's willingness to accept them," but the opposite: the specified law and its complex conditions and artificial administrative barriers demonstrated that people are not welcomed in Georgia. And in Georgia, the human rights defenders named this law "the law of no-return" for the deported population.

Similar situation depicted in the report of the Council of Europe Commissioner for Human Rights, Nils Muižnieks, of 12 May 2014². The report included the European Commission against Racism and Intolerance (ECRI) assessment of the repatriation process and the climate of opinions regarding Meskhetian Turks. In its latest report on Georgia in 2015 (1.4), the ECRI recognizes the activities of the Georgian authorities in conducting an information campaign on the repatriation of

¹ Ninth and tenth periodic reports submitted by Georgia under article 9 of the Convention, due in 2020 *** [Date received: 30 June 2020]

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fGEO%2f9-10%20&%20Lang=ru

² Report by Nils Muižnieks, Commissioner for human rights of the Council of Europe, Following his visit to Georgia from 20 to 25 January 2014., Strasbourg, 12 May 2014, CommDH (2014) 9 URL: <https://rm.coe.int/16806db81a>

the deported population and integration process recommended by ECRI to Georgia in their previous reports³, as unsatisfactory.

Critical comments on the legal mechanisms adopted in Georgia concern not only inherent difficulties in technical details, which seriously complicate the implementation of the law on repatriation. According to Article 7, paragraph 1 of the Law, the Government of Georgia has the right to establish additional requirements in granting repatriate status. Understanding, a repatriate who has collected all the necessary documentation stipulated by legal requirements, may not be sure he would not start collecting another batch of documents. The law provided for a permissive procedure for assigning status to repatriate and unlimited discretion of the authorities in the matter of status: following paragraph 3 of Article 8 "Concerning the administrative act on the assignment of the status of a repatriate or refusal does not apply the effect of article 177 and part 3 of article 178 of the General Administrative Code Georgia," i.e. a person who was refused of repatriate status, may not appeal against this administrative act, as well as go to court in the order established by the Administrative Procedure Code of Georgia. The law does not define the content of the repatriate status, neither it stipulates any obligations the Georgian authorities have towards the repatriates: provision of the financial or material assistance to repatriates, benefits, or lifting tax duties when importing repatriate's property. It is worth noting that no political definition is given to the events of 1944 by the Georgian authorities. The law does not explain whether the deported population be recognized as victims of the political repression. The existing law "On recognition of citizens of Georgia as victims of political repression and on social protection of the repressed" from 11.12.1997 does not apply to persons deported by ethnicity during February 25, 1921, to October 28, 1990; the legislator promises to determine this order separately (Art. 3, item 1). Until present day, no legal acts on rehabilitation of the repressed on ethnic grounds people are adopted in Georgia.

2. Citizenship issues

All 494 persons received conditional Georgian citizenship had the Azerbaijani citizenship, withdrawal from which is a complicated procedure. According to the "Regulation on the consideration of the rules of issues of citizenship of the Republic of Azerbaijan," approved by the decree No. 189 of the President of the Republic of Azerbaijan on August 30, 1999, for renouncing the Azerbaijani citizenship, one should collect an impressive package of certificates and documents, pay USD 400.00 fee, wait long acceptance period (approximately 1 year, provided that the documents were collected in full), and wait for the Republic of Azerbaijan's President decision to renounce the citizenship. However, according to the Law No973-IVQD "On Amendments to the Law of the Republic of Azerbaijan "o_n citizenship of the Republic of Azerbaijan" _f_r_o_m_ May 30, 2014 and considering the provisions of the Convention "On the Reduction of Statelessness" from August 30, 1961, the deliberate acquisition by a citizen of the Republic of Azerbaijan of the citizenship of another state is recognized as the grounds for deprivation of the Azerbaijani citizenship. This provision could have managed the situation for those 494 persons with the conditional Georgian citizenship.

³ ECRI REPORT ON GEORGIA (fifth monitoring cycle) Adopted on 8 December 2015 Published on 1 March 2016
<https://rm.coe.int/fourth-report-on-georgia/16808b5773>

Many experts believe that to resolve such issues the government of Georgia had to sign agreements with the governments those countries, where the deported population lives. However, the Georgian leadership did not enter into any intergovernmental agreements on citizenship. It should be noted that for those who have received conditional citizenship, difficulties with renouncing Azerbaijani citizenship are not the only reason for not joining full-fledged Georgian citizenship. Meskhetian Turks are an ethnic community with traditional compact and communal living with close and distant relatives. This circumstance plays a decisive role in the resettlement of the people. Accordingly, moving to Georgia for "conditional citizens" apart from their relatives and friends, whose applications for citizenship were rejected or not accepted, becomes challenging.

3. State strategy for the repatriation of internally displaced persons by the former USSR from the Georgian SSR in the 1940s of the XX century

Approved by the Government of Georgia in September 2014, the state strategy for repatriation of the internally displaced persons wears exclusively declarative character. There is no action plan or implementation mechanism to ensure and monitor its implementation. Repatriates (living in Georgia) face integration problems, such as misunderstanding by most of the population the historical reasons for people's return, or language barriers when accessing education or employment. Worth mentioning, the text of this document is available only in Georgian language.

The strategy emphasizes the need to maintain the cultural identity of repatriates, at the same time, it indicates the requirement to know the state language of Georgia. Based on this, the government intends to open Georgian language courses for repatriates and provide access to the educational resources. On one hand, the strategy authors should be thanked for Georgian language courses; at the same time, there are serious objections in the matter of preserving cultural identity. Understanding of the cultural identity by the 95 percent of the deported population is directly opposite to that of the Georgian authorities. It should be noted that the remaining 5 percent agree with the position of the Georgian authorities. The deported population, for the most part, perceives it is at least a disrespect for human and cultural dignity.

The self-identity of the returning deported people is the stumbling block for the Georgian authorities. Under the Soviet regime, the Georgian authorities frankly and formally insisted that epy people should return to their "historical roots" before returning to their historical homeland. Under this, they understood the "restoration of the historical Georgian surname" _and acknowledgement of "their Georgian identity." Today, the official position of the authorities does not contain such requirements. However, practical application demonstrates the immutability of the basic settings.

Thus, Georgia's follow-up report on CERD Concluding Observations of 14 December 2017⁴ (para 29) contains objections to the use of the term "Meskhetian Turks" (used in the concluding observations of the committee) because, as the report says, "the term is not mentioned in any Georgian legislation nor in any international document." However, this term is used in

⁴ Concluding observations on the combined sixth to eighth periodic reports of Georgia. Addendum. Information received from Georgia on the follow-up to the concluding observations [Date received: 14 December 2017] https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fGEO%2fCO%20%2f6-8%2fAdd.1&Lang=ru

international documents, such as in the Council of Europe Motion for a recommendation (Doc. 13779) of May 4, 2015 "The situation of the deported Meskhetian Turks⁵;" in the report Council of Europe Commissioner for Human Rights, Nils Muižnieks, of May 12, 2014⁶; and in the others.

In this regard, it is worth paying attention to Art. 27 of the Covenant on Civil and Political Rights, which refers to the right to enjoy and preserve their own culture. This provision obliges the Member States to ensure that these rights are protected from any impact. The Art. 27 right does not carry individual character, but requires the state to fulfill positive obligations collectively concerning an ethnic group⁷.

Besides, the issue of the protection by ethnic minorities of their own identity and culture stipulated by the CoE Framework Convention. Art. 5 of the Framework Convention obliges states to ensure creating conditions that will protect and develop the culture and identity of national minorities. The Framework Convention also provides for an obligation on the part of Member States to refrain from the introduction of policies and practices that promote assimilation national minorities with another nation against their will; also, the Convention imposes positive obligations to protect these individuals from forced assimilation through additional measures (Art. 5.2).

4. Return in the general order

By adopting a formal law on repatriation, making complicated application procedure and repatriation process, the Georgian authorities reduced to zero the efforts of all international organizations and all peoples, forcibly resettled from Georgia, to resolve the issue of repatriation. Today, the Georgian authorities on the international level propose solving this difficult and painful for hundreds of thousands of Meskhetian Turks question by using the Organic Law of Georgia "On Georgian Citizenship," which, in the official opinion, allows them to obtain the citizenship by naturalization and can solve the problem of repatriation for several forcibly resettled peoples.

However, the families of the Meskhetian Turks who returned on their initiative, as "self-repatriates," face greater integration problems, because they are acknowledged as foreign citizens with neither the repatriate status, nor the Georgian citizenship. This creates difficulties in access to education, employment, and housing. These people are forced to leave and return to Georgia once a year to legalize their position in the country. For example, a Meskhetian individual's (b. 1967) family moved to Georgia from Azerbaijan in 2009; was not able to obtain neither the repatriate status, residence permit, nor citizenship for 11 years of residence in Georgia. Moreover, this individual's elderly father, was deported for three years, and his eldest son with his family were forced to return to Azerbaijan. Similar situation with the majority of those Meskhetian Turks returned by their initiative to Georgia for the permanent residence.

In this regard, important to mention the incident with the attack on the family of Meskhetian Turks, which took place in the city of Akhaltsikhe. On the night of August 5, 2020, a group of young

⁵ Motion for a recommendation | Doc. 13779 | 04 May 2015 The situation of the deported Meskhetian Turks <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=21750&lang=en>

⁶ Report by Nils Muižnieks, Commissioner for human rights of the Council of Europe, Following his visit to Georgia from 20 to 25 January 2014., Strasbourg, 12 May 2014, CommDH (2014) 9 URL: <https://rm.coe.int/16806db81a>

⁷ Human Rights Committee General Comment No. 23 on article 27 (minority rights), para. 6.1

people attacked the household of one Meskhetian Turk's family. The attackers, shouting insults on ethnic grounds, smashed the family's car and threatened the life and health of the family members. The family moved to Georgia from Azerbaijan in 2014 in accordance with the general procedure, without falling under the "mechanisms of repatriation." According to the head of the family, they failed to obtain the Georgian citizenship, and had residence permit only. In hot pursuit, several suspects of committing this crime were detained, but all of them were released soon. According to the media reports citing the Ministry of Internal Affairs of the country, a criminal case was initiated under the article on intentional damage to property (Article 187 of the Criminal Code of Georgia).

At the time of writing this report, the investigation is ongoing, the perpetrators have not been found, the nationalist nature of what happened is hushed up. The qualification of this criminal case raises concerns, since it is obvious that the intent of the criminals was not only to damage property, but also the obvious nationalist motivation of the perpetrators. The investigation is being monitored by lawyers from the human rights organization NGO "Human Rights Center." According to the lawyer of the human rights organization, the investigation has not yet been completed, the criminals have not been caught.

5. The practice of denying entry to the country for Meskhetian Turks public activists

Noteworthy, present-day Georgian authorities have resorted to the practice of banning the entry for activists of Meskhetian Turks public organizations from other countries. Thus, for unknown reasons, the chairman of the public association of Akhaltsikhe Turks living in Azerbaijan (ATVIB), together with his assistant, on May 3, 2019 and the chairman of the interregional public association "Vatan," on June 25, 2019 were denied of entry for indefinite period, defining the reasons as "other cases provided for by the legislation of Georgia;" and this interrupted the negotiation process between representatives of public organizations of Meskhetian Turks and the Georgian authorities on repatriation issues.

6. Recommendations

1. Recognize the work of the Georgian authorities in fulfilling their obligations the issue of repatriation and integration of the deported from its territory population as unsatisfactory.
2. Extend the Law on Repatriation for an indefinite period.
3. To amend the Law on Repatriation, considering reasonable, real return procedures and conditions, with the creation of permanent mechanisms and structure responsible for the implementation of the developed rehabilitation and return procedures. As part of this structure necessarily provide for the participation of representatives of the deported peoples, including at least one representative of public organizations of Meskhetian Turks from nine countries of residence (Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Russia, USA, Turkey, Uzbekistan, Ukraine). The composition and operating principles of this structure must be open and controlled by the public.
4. In the Law on Repatriation, provide:
 - a) The right to return home for everyone (and members of his family) who can prove that he is deported or is a direct descendant of a deported citizen. This right should not be

limited in time, should be carried out in a simplified procedure, specially developed for such returnees. This right should be unconditional, for individual self-identification.

b) Exemption of repatriates from customs duties on the property when moving.

c) Give the right of second citizenship to persons applying for citizenship of Georgia under the Law on Repatriation, just as any citizens of Georgia has it, following the adopted amendments to the Constitution, effective December 16, 2018.

5. Recommend the Government of Georgia to take measures for the rehabilitation of persons subjected to repression, forced resettlement, deported from the territory of Georgia on ethnic grounds in the period from February 25, 1921, until October 28, 1990.

In this regard, we propose to start implementing decisions, specified in Article 3, paragraph 1 of the Law "On recognizing Georgian citizens as victims of political repression and social protection of the repressed" of December 11, 1997, and start work on the development, and adopting the Law "On rehabilitation and recognition of the Georgian citizens deported from February 25, 1921, to 28 October 1990 on ethnical grounds as victims of the political repressions."

Based on the foregoing, the undersigned representatives of public the Meskhetian Turks organizations declare: the state of Georgia did not fulfill its obligations on the issue of repatriation and integration of the population deported from its territory; the legal mechanisms created since 2007 have not achieved the stated goals, i.e. dignified and voluntary return of the deported population to the historical homeland did not take place, not a single person from the deported people received the Georgian citizenship during this time within the framework of adopted legislative repatriation measures.