

Land, Tenure and Housing Issues for Conflict-Displaced Populations in Georgia

Analysis and Proposals for Post-Conflict Recovery



Acknowledgements

The publication of this report was made possible through the contribution of the GLTN with the support of the Governments of Sweden and Norway.

Copyright © United Nations Human Settlements Programme
(UN-HABITAT), 2008

United Nations Human Settlements Programme (UN-HABITAT)
P.O. Box 30030, Nairobi 00100, Kenya
Tel +254 20 762 3120
Fax +254 20 762 3477
www.unhabitat.org

December 2008
Author: Veljko Mikelic

HS Number: HS/1241/09E
ISBN Number: (Volume) 978-92-1-132203-3

Disclaimer

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area, or of its authorities, or concerning delimitation of its frontiers or boundaries, or regarding its economic system or degree of development. The analysis, conclusions and recommendations of this publication do not necessarily reflect the views of the United Nations Human Settlements Programme, the Governing Council of the United Nations Human Settlements Programme, or its Member States.

Acronyms

APLR	Association for Protection of Landowner Rights
BIT	Bureau of Technical Inventory
CEB	Council of Europe Development Bank
CRA	Civil Registry Agency of Georgia
ECHR	European Court of Human Rights
EUR	Euro
GEL	Georgian lari (national currency)
GTZ	<i>Deutsche Gesellschaft für Technische Zusammenarbeit</i> - German technical cooperation agency
HROAG	Human Rights Office in Abkhazia
ICC	International Code Council
IDP	Internally displaced person
IMF	International Monetary Fund
IT	Information technology
JICA	Japan International Cooperation Agency
MED	Ministry of Economic Development
MoJ	Ministry of Justice
MRA	Ministry of Refugees and Accommodation
OSCE	Organization for Security and Co-operation in Europe
SDC	Swiss Agency for Development and Cooperation
SHSE	Social Housing in a Supportive Environment
SIDA	Swedish International Development Agency
SNIP	Construction standards and rules (<i>stroiteljskih normi i pravi</i>)
UNCT	United Nations Country Team
UNDP	United Nations Development Programme
UNECE	United Nations Economic Commission for Europe
UNEP	United Nations Environment Programme
UN-HABITAT	United Nations Human Settlements Programme
UNHCR	United Nations High Commissioner for Refugees
UNOSAT	United Nations Institute for Training and Research - Operational Satellite Applications Programme
USAID	United States Agency for International Development
USD	United States dollar
WB	World Bank

Contents

Executive Summary	7
Part one – General Housing, Land and Property Issues	10
1. Introduction	11
1.1 Territorial-Administrative Organization	11
1.2 State Structure	13
1.2.1 The President	13
1.2.2 Parliament	13
1.2.3 Government	13
1.3 Economic Conditions, Poverty and Employment.....	13
1.4. The Georgian Population	14
2. Constitutional Provisions on Housing, Land and Property	15
3. Land Administration.....	17
3.1. Housing, Land and Property Legislation	17
3.1.1 The Georgian Civil Code	17
3.1.2 Marital Property in the Civil Code	17
3.1.3 Property Provisions under Inheritance Law	18
3.2 Deficiencies in the Legislative Framework	20
3.2.1 Amendments to the Civil Code	20
3.2.2 Amendments to the <i>Administrative Procedure and Civil Procedure Codes</i>	21
3.2.3 The Law on the Recognition of Ownership Rights of Natural or Legal Persons over Land in their Possession	22
4. Land Management Institutions.....	24
4.1 Property Disputes – The Judiciary	24
4.1.1 District (City) Court – first instance court	24
4.1.2 Magistrate Judges / Single Judge	25
4.1.3 Court of Appeal	25

4.1.4	Court of Cassation	26
4.2	The Land Registration System	26
4.2.1	Land Registration Laws	27
4.2.2	The Registration Agency's Functions	27
4.2.3	Main Features of the Land Registration System	28
5.	Land and the Rural Population	31
5.1	Agricultural Land Reform	31
6.	Land Management Institutions.....	33
6.1	Government Bodies	33
6.1.1	The Department of Urbanisation and Construction	33
6.1.2	The Department of Geodesy and Cartography	34
6.2	Local Institutions	35
6.2.1	The Tbilisi Municipal Urban Development Department.....	35
6.2.2	Tbilisi's Municipal Economic Policy Agency	36
6.2.3	The Tbilisi Corps (Municipal Department of Civil Integration and Participation)	37
7.	The Main Challenges in Georgia's Housing Sector	39
7.1	Condominium Issues	39
7.2	Deficiencies in Urban Development	40
7.3	The Tbilisi Construction Boom	40
7.4	Lack of housing Strategies and Policies	41
7.5	Lack of Affordable Social Housing.....	42
7.6	Banks and Affordable Housing.....	43
7.7	The Unregulated Rental Sector	44
7.8	Disaster Risk Reduction Policies are lacking	44
7.9	Recommendations for UN-HABITAT Action in the Housing Sector	44
7.9.1	A Proposed Strategy for Affordable Social Housing.....	45
7.9.2	Further Practical Recommendations	45
7.9.3	Risk-Mapping for Emergency Response and Sustainable Recovery	45
Part Two: Housing, Land, Property and Displaced Populations		47
1.	Background.....	48
1.1	The Georgian Conflicts.....	48
1.2	Displaced populations	48
2.	Specific housing, land and property issues in Abkhazia	49
3.	An Institutional Mandate to Restore Housing and other Rights in Georgia	53
3.1	Property and the Displaced: Main Challenges	53
3.1.1	Privatisation and the Threat of Eviction	53
3.1.2	Land Purchases and Implications for 'Displaced' status.....	55
3.1.3	Preventing the Displaced from Buying Agricultural Land	56

3.2	Courts and the Restitution of Abandoned Property	56
3.3.	The “Housing Voucher” Purchase Programme in Practice.....	57
4.	Georgia’s Efforts to Restore Displaced Persons’ Rights	58
4.1	Parliamentary Resolutions.....	58
4.2	The Presidential “My House” Programme.....	58
4.2.1	The Dynamics of Registration	59
4.3	Attempts at Property Restitution and Compensation	61
4.3.1	The Substance of the Law.....	61
4.4	A Proposed Strategy for Restitution and Compensation	63
4.4.1	Claimants in the Future Restitution Process.....	63
5.	Preliminary Registration of Displaced Person Property.....	65
5.1	Background	65
5.1.1	The <i>Turkia</i> Case	66
5.2	Displaced Georgians’ Property Rights before the European Court.....	67
5.2.1	The <i>Mekhuzla v. Georgia and Russia</i> Case	68
6.	Towards Durable Housing Solutions	70
6.1	Housing, Land and Property Rights in the <i>State Strategy on Internally Displaced Persons</i>	70
6.2	Durable Housing Solutions – Georgia’s New Approach	72
6.3	Newly Constructed Settlements for Displaced People	72
6.4	The Law on Occupied Territories.....	74
7.	Durable Housing for Displaced Populations: New Strategies.....	75
7.1	Recommendations for Lasting Solutions	75
8.	Final Conclusions.....	78
8.1	General Recommendations for UN-HABITAT	78
8.2	UN-HABITAT and Housing Assistance to the Displaced: Recommendations.....	80
	Appendix: International/Local Bodies Involved in Land/Housing Projects	82

Executive Summary

Housing and property rights in the context of post-conflict rehabilitation are amongst the most complex and sensitive issues affecting displaced populations in Georgia today. This problem stems primarily from a persistent lack of permanent accommodation for those displaced subsequent to intensive conflicts in the country in the 1990s. The more recent (August 2008) conflict has merely exacerbated this already serious situation, as it added to the number of people who cannot return to their homes and places of origin.

The role of UN-HABITAT in the immediate response from the international community to Georgian post-conflict recovery through a *Flash Appeal* involved the quick formulation of proposals towards the restoration of housing, land and property rights to displaced populations. Legal and technical assistance was proposed towards the conversion of collective centres into permanent housing units for Georgia's internally displaced persons (IDPs) as a way of supporting their integration. On top of this, UN-HABITAT also offered expertise to assist in the creation of a comprehensive 'lost property' record (database) for the housing, land and property left behind by displaced Georgian populations.

When profiling proposed solutions for the August 2008 *Flash Appeal*, UN-HABITAT turned to its institutional mandate in order to provide disaster mitigation and post-conflict rehabilitation of human settlements in crisis.

The aim of these activities was to specify and target areas of intervention unaddressed by other international entities.

As a corollary to the *Flash Appeal* activities designed to provide an immediate response to deprivation of housing, land and property rights, UN-HABITAT sought to understand the central challenges in the sector.

Consequently, the institution proposed a comprehensive analysis of housing, land and property issues in Georgia to identify gaps and help address the challenges currently facing Georgia's domestic authorities.

On top of highlighting these concerns, this report summarises Georgia's main housing and property challenges. The first half reviews the housing, land and property issues generally affecting all Georgian citizens, while the second half focuses exclusively on housing, land and property issues faced by the displaced population. Both parts come with specific and practical recommendations to bridge gaps and resolve housing, land and property issues.

The first half of this report provides basic facts on the administrative-territorial organization of Georgia, along with socio-economic data. A general overview of housing, land and property issues starts with an analysis of the Georgian land administration system, focusing on general property legislation as embodied in the Georgian Civil Code. Critical analysis reveals some deficiencies

in the legislative framework, resulting particularly from frequent changes to the Civil Code which have lowered the degree of legal certainty in real estate transactions, as reflected in the growing number property-related legal disputes. Some specific concerns also involve amendments to Georgia's codes of administrative and civil procedure.

The mechanisms in place for the resolution of property-related disputes are analyzed in depth, together with their legal frameworks. The central focus is on land registration and how the Georgian authorities have managed to develop a modern, transparent and efficient system that can serve as a model for other transitional States in the region.

The first half of this report also provides a general overview of all the institutions involved in the management of housing, land and property at both the national and municipal levels, as well as an assessment of their capacities. This assessment focuses on the main challenges in the housing sector, which include condominium issues, deficiencies in urban development, the lack of housing strategies and policies, the unavailability of affordable social housing, the unregulated rental sector and the lack of a disaster risk reduction policy.

In view of the many identified deficiencies, research highlights two phenomena in the housing sector that should be addressed as priorities by UN-HABITAT:

issues in the territory of the breakaway province of Abkhazia. Some of the property challenges facing the displaced population are also addressed.

The second half also analyses the achievements of pilot housing and purchase-by-voucher programmes; these were designed to provide permanent shelter for displaced people from Abkhazia, in the process vacating collective centres for restoration and subsequent community use.

This report examines the main challenges the housing sector is facing in Georgia, especially the absence of social/affordable housing policies and the consequences. It provides an in-depth analysis of Georgian authorities' attempts to restore housing, land and property rights to the displaced populations. This refers primarily to the presidential programme known as "My House," which was the first formal attempt to register the abandoned property of Georgian displaced people. Some legal and technical deficiencies in the programme are highlighted.

The earliest attempt by Georgian authorities to establish a legal mechanism for property restitution and compensation for the displaced population from South Ossetia is also analysed in detail. Considering the current post-war climate between the South Ossetian self-proclaimed authorities and the Georgian government (which makes the enforcement of this law impossible), this report concludes that a more viable approach

预览已结束，完整报告链接和二维码如下：

https://www.yunbaogao.cn/report/index/report?reportId=5_18993

