



ARTICLE 19

GLOBAL CAMPAIGN FOR FREE EXPRESSION

A Survey of Access to Information in Abkhazia and its Impact on People's Lives

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ARTICLE 19 has worked in Abkhazia since 2003 in partnership with the Sukhum Media Club, a local journalists association. ARTICLE 19 has conducted training of young legal and media professionals on freedom of expression concepts and their application in practice; provided legal commentary to the NGOs in Abkhazia on draft laws on the mass media and access to information. ARTICLE 19 also participated in public and media events in Abkhazia whose purpose was to stimulate debate on freedom of expression concerns, and supported local partners carrying out public awareness and advocacy campaigns.

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LIST OF ACRONYMS

AIS	Association Inva-Support
ALIR	Abkhazia Livelihood Improvement and Recovery Programme
AWA	Association of Women of Abkhazia
CEDAW	Convention on the Elimination of all forms of Discrimination against Women
CIS	Commonwealth of Independent States
ECHR	European Convention on Human Rights (Convention for the Protection of Human Rights and Fundamental Freedoms)
FOI	Freedom of Information
GDP	Gross Domestic Product
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRC	International Committee of the Red Cross
MFA	Ministry of Foreign Affairs
NGO	Non-governmental organisation
OAS	Organisation of African States
OSCE	Organisation for Security and Co-operation in Europe
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCHR	UN Commission on Human Rights
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
UNOMIG	United Nations Observer Mission in Georgia
UNCESCR	UN Committee on Economic, Social and Cultural Rights
UNHCR	United Nations High Commissioner for Refugees
UNIFEM	United Nations Development Fund for Women
UNV	United Nations Volunteers

1. INTRODUCTION

Abkhazia, a subtropical territory on the Black Sea coast, broke away from Georgia after an armed conflict in the early 90s. However, its self-declared independence has never been recognised internationally and the conflict, which ended with a ceasefire in 1993, has not been resolved politically.¹

In Abkhazia the resumption of conflict is a constant threat. More than a decade after the war, society still faces the multiple challenges – political, economic, and psychosocial – of post-war rehabilitation which are further complicated by the absence of a final settlement of the conflict.

Information is vital in all societies, but this is particularly so in conflict and post-conflict situations. A number of people interviewed for this report emphasised that having access to comprehensive and accurate information increases people's sense of security whilst the lack of reliable information fuels insecurity. Information is also fundamental to resolving key concerns in the aftermath of conflict, such as ensuring respect for human rights, government accountability and achieving sustainable development.

Since the ceasefire, Abkhazia has been under an economic blockade imposed by the Commonwealth of Independent States (CIS). Although Russia – Abkhazia's direct neighbour to the north – has loosened this embargo over the past few years, Abkhazia has been subject to great isolation for more than a decade. Communication with and access to information from the outside world has been severely restricted. For instance, for several years after the war, it was very difficult to make phone calls to and from Abkhazia; the first Internet access was established in the capital Sukhum/ⁱ² only in 2001; and the first mobile telephone network started operating only in 2003. The isolation was exacerbated for many residents of Abkhazia by the impossibility of travelling outside Abkhazia since they had no passports.³ The lack of information and means of communication has highlighted for many the fundamental value of information for human dignity, as well as for political stability and development.

¹ Key disputed issues are Abkhazia's future political status (independence vs. autonomy within Georgia) and the return of a large number of ethnic Georgians who were displaced during the conflict.

² 'Sukhum' is the Abkhazian version of the town's name, 'Sukhumi' the Georgian version. This report refers to the town as 'Sukhum/ⁱ'. The same rule has been applied to other locations that differ in Abkhazian and Georgian languages, such as Tkvarcheli/Tkuarchal and Gulripsh/ⁱ.

³ In the meantime, many Abkhazians have been given Russian citizenship and passports.

Since the ceasefire, Abkhazia has undertaken considerable efforts to build up democratic institutions, but these are still weak. Transparency and public accountability – key features of good governance – are still in their infancy. The development of institutions is hampered by the fact that many international donors and inter-governmental organisations do not provide support for democratic institution-building because they do not recognise Abkhazia’s independence or the legitimacy of its government.⁴ As a result, international assistance programmes in Abkhazia have been mainly humanitarian in character, rather than developmental. In addition, membership of international watchdog mechanisms for human rights and democracy, such as the Council of Europe system,⁵ is not a possibility at present because membership is reserved to recognised States.

This report presents the findings of a qualitative survey looking at what impact access to information – particularly access to information held by public bodies – or the denial of such information has on people’s lives in Abkhazia. A key recommendation is that Abkhazian institutions should adopt rules for greater transparency that will help them share information more effectively with the public, and that they should also find ways to consult more with the public and incorporate people’s views and opinions in decision-making.

One might ask whether a comprehensive ‘access to information’ regime, which enables such practices, is not something reserved for well-established democracies, requiring highly developed institutions and considerable financial resources – conditions which Abkhazia clearly does not satisfy. However, one would argue that the quality of the relationship between the population and its institutions is of utmost importance, and that the current complex situation can *only* be tackled with public participation in decision-making, together with transparency and public accountability of institutions.

This study shows that the concerns people in Abkhazia are most preoccupied with in their every-day lives are related to the fulfilment of pressing socio-economic needs, such as health,

⁴ For instance, the elections Abkhazia held have always been condemned as illegitimate by multi-lateral organisations such as the Organisation for Security and Co-operation in Europe. Since it does not recognise Abkhazia’s statehood the OSCE does not provide any monitoring of the electoral process as it would do in other parts of the former Soviet Union. See for instance: “OSCE Chairman concerned at holding of Abkhaz ‘presidential election’”, <http://www.osce.org/item/8628.html>

⁵ This includes the Council of Europe and the European Court of Human Rights.

education, employment, and housing. The quality and delivery of public services in these fields were of vital interest to the people interviewed. They wanted to have a greater understanding of the way public institutions function and how their performance could be improved. The need for trust in public authorities was discussed extensively by them. Most thought that greater transparency and access to information would help build more confidence as well as making institutions more effective. Several respondents pointed out that poor communication and public information from public bodies have sometimes led to confusion and instability as in the example of the relocation of a city market, where lack of transparency about the decision and its implementation has caused social unrest.⁶ People pointed out that lack of consultation in decision-making can make authorities appear arbitrary in the eyes of the public. Corruption was also identified as a factor diverting resources away from their use for the benefit of the public. Greater transparency is one of the most powerful tools for ensuring that public resources are not misappropriated.

In particular people from remote areas felt that lack of information and a lack of opportunities to communicate constitute for them a serious obstacle to the fulfilment of essential needs, for instance by preventing them from accessing information vital to their health or economic development, or by excluding them from public debate.

The lack of availability of the latest knowledge on illnesses such as HIV/AIDS or infant care reduces the quality of services that health workers are able to provide to their patients.⁷ As a result, people often do not have the information necessary to allow them to take appropriate precautions to avoid infection or to react adequately in case of illness. Similar problems affect other areas, such as, for instance, the education sector, where every school has to rely largely on the informational and material resources it happens to have at its disposal. The quality of schooling, accordingly, is low and not really standardised.

Existing taboos in some subject areas also diminish the society's ability to tackle important problems. For instance, women or young persons know little about their rights in areas such as reproductive health or domestic violence, preventing many from enjoying or defending their rights in these fields.

⁶ See page 90.

⁷ See also: Report of UNDP-led *Feasibility Study to Gali District and Adjacent Areas of Abkhazia, Georgia*, UNDP Bureau for Crisis Prevention and Recovery, April 2004., 17–18, <http://www.undp.org.ge/news/feasibrepeng.pdf>

The almost complete lack of statistical information on social, economic and development indicators makes it impossible for public institutions, NGOs, and international organisations to thoroughly assess needs and gaps, and effectively prevents the development of adequate programmes to improve the situation.

Personal contact and hearsay are important sources of information for many Abkhazians. This is due to a poor communications infrastructure, the inadequacy of the information available from the authorities, and a weak media sector. The main problem with information obtained through hearsay and personal relations is that it can be unreliable. Sometimes hearsay is a source of misinformation, and can cause or exacerbate problems and insecurity.

The research undertaken also contained a focus on gender issues to explore whether and to what extent there are any gender-specific dimensions when it comes to access to information, and to ensure that our assessment and recommendations take the needs of both men and women into account. We found that lack of access to information is an issue that is strongly felt by both men and women. Nevertheless, the disadvantaged position of women in society as a whole, and the fact that they possess little political influence whilst being responsible for the survival and wellbeing of families, results in them being particularly affected by the various disadvantages of poor access to information. In addition, the overall lack of gender analysis and gender policies in public administration and the media means that there is little factual information available about the real situation of women, preventing coordinated measures to strengthen their position and address their needs.

The study shows that public officials themselves suffer from lack of information too, making it difficult for them to perform well. Some officials mentioned that even they do not have easy access to the current legislation in Abkhazia or recent central government decisions. Many officials are aware that the information flow between institutions and the public could be improved. Limited resources and capacities were mentioned as important obstacles in this context. At the same time, there exist examples of institutions attempting to improve their information services and seeking dialogue with the public.

Abkhazia also has a rather vibrant civil society as well as a degree of diversity within the media (mainly in the print media). Both civil society organisations and some journalists are endeavouring to make public institutions more conscious of public needs and concerns and more people-centred in their performance. There are a number of positive initiatives and potentials that can be built upon.

Overview of the report

Chapter 2 of this report gives some background on the governance system and the socio-economic situation in Abkhazia today. It describes the backdrop against which people's concerns about access to information are examined. It also includes a section on gender issues and the situation of women in Abkhazia.

Chapter 3 presents the conceptual background for this study. It introduces the notion of freedom of information, and internationally established standards on the right to information. It explores, on the conceptual level, the link between information rights and matters that are of vital concern in Abkhazia today: development, poverty, security, equality, and democracy.

Chapter 4 gives a short overview of the existing legal framework governing access to information from public institutions in Abkhazia today.

Chapter 5 contains the results of the qualitative empirical survey that was carried out for this report. In total, 108 persons were questioned in three districts of Abkhazia – either as part of focus group discussions or in-depth interviews – about their information needs, experiences with seeking information, and how the availability or denial of information affect people's lives in practice. The chapter starts with a list of key findings and ends with a set of conclusions drawn from the survey.

The last chapter (Chapter 6) provides practical recommendations and suggestions to a variety of stakeholders on what can be done to improve access to information in Abkhazia.

The report is intended to give some new insights to those working in Abkhazia to tackle humanitarian, developmental and governance challenges, be they Abkhazian institutions, local NGOs, or international actors. The findings and recommendations are meant to help

stakeholders appreciate the practical role of public access to information in the democratisation process, improved protection of human rights, and greater stability in the region.

2. COUNTRY BACKGROUND: GOVERNANCE AND LIVING CONDITIONS IN ABKHAZIA TODAY

2.1. Introduction

Abkhazia lies on the Black Sea coast and declared independence from Georgia following a military conflict in 1992 and 1993, after the break-up of the Soviet Union. The war ended with a formal ceasefire agreement signed between the Abkhazian and Georgian sides in May 1994. Russian peacekeeping troops, under the auspices of the Commonwealth of Independent States (CIS) were deployed along the ceasefire line, and a UN Observer Mission (UNOMIG) was set up to monitor respect of the ceasefire. Despite many rounds of talks between former and present Georgian and Abkhazian leaderships, hosted by the ‘Group of Friends’ (consisting of Britain, Germany, France, Russia and the US) and a UN-led Coordination Council, no political settlement of the conflict has been achieved to date.

Abkhazia has a common border with Russia to the North. It covers a territory of approximately 8,600 km². According to a Soviet census of 1989, the population before the war was 535,000, and it is now estimated at 250,000. The majority of the approximately 240,000 ethnic Georgians who lived in Abkhazia before the war were forced to leave as a result of the conflict. Around 60,000 of them have returned to the volatile Gal/i region, along the ceasefire line with Georgia.⁸ The population in Abkhazia today includes ethnic Abkhazians, Armenians, Russians, Georgians, as well as some other, smaller minorities.

The conflict over Abkhazia is protracted and has become institutionalised. As International Alert put it: Once institutionalised, “the conflict can, ironically, be maintained without any violence but by a range of social structures and norms that preserve the ‘side-effect’ of a conflict, such as insecurity, poverty, denial of needs and rights.”⁹

⁸ See for instance: <http://www.refugeesinternational.org/content/article/detail/5674/?PHPSESSID=5cfliegen3C>

⁹ N Mirimanova, D Klein: *Corruption and Conflict in the South Caucasus*, London: International Alert, January 2006, 38.

2.2. Governance

Democracy

Since 1993, Abkhazia has attempted to build democratic State institutions against a backdrop of very difficult conditions. The threat of military conflict, coupled with political, economic and psychological difficulties common to many within the Abkhazian society (economic sanctions, the feeling of isolation from the rest of the world, non-recognition of the political status of the country by the international community, etc.) have substantially contributed to a strong sense of solidarity. This unity was severely tested during the 2004–05 presidential elections, which almost resulted in serious clashes. The events of that period became a test for its emergent democratic institutions and a lesson in civic education for thousands of Abkhazians.

Abkhazia is headed by a president given strong powers by the Constitution. In the 1999 elections, the first in which the President was directly elected,¹⁰ the incumbent Vladislav Ardzinba was the only candidate and, accordingly, was confirmed in office. In October 2004, five candidates ran for presidency, and the election turned into a close race for two of them, Sergey Bagapsh, the candidate supported by opposition forces, and Prime Minister Raul Khajimba, the candidate supported by the outgoing President Ardzinba. According to data provided by the Central Election Commission, Bagapsh won, a victory which Khajimba and Ardzinba were reluctant to concede. As a result, the Supreme Court issued two contradicting verdicts in the course of one day, first declaring Bagapsh the winner, and later, under pressure of Khajimba's supporters, declaring the poll invalid and recommending a repeat election. Amidst political tensions, Bagapsh and Khajimba agreed on a re-run of the election in January 2005. This time, they presented themselves on a joint ticket and won a large majority of the votes. Bagapsh became President, and Khajimba Vice-President. This was the first time that a transfer of power by democratic means was achieved in a non-recognised State. Civil society and media organisations also played an important role. They had formed a platform under the name 'League of Voters for Fair Elections', which carried out a domestic election monitoring operation, including media monitoring and monitoring of the polling process. Despite the fact that members of the League were not given any official monitoring status by the authorities, their activities contributed to the fact that the democratic will of the population was ultimately

¹⁰ In 1994, Vladislav Ardzinba was elected President indirectly by Parliament.

recognised by those in power. For many Abkhazians, it was a very significant achievement that the elections resulted in a change of government within a democratic framework.

Government structures

The President is elected for a five-year term. He appoints the heads of the cabinet ministries and the prime minister. In all regions (also referred to as districts) and in the capital city Sukhum/i, there are elected assemblies (Gagra, Gudauta, Sukhum/i, Gulripsh/i, Ochamchira, Tkvarcheli/Tkuarchal, and Gal/i). From amongst the assembly members the President appoints the heads of regional administration and the head of town administration in Sukhum/i.

The structure of power is distinctly top-down and highly centralised. People have little awareness of the significance of de-centralisation, and local authorities are very much dependent on the central authorities. The local administration, which could potentially be a strong force for modernisation and democracy-building, does not sufficiently use its rights and potential.

The Abkhazian Parliament consists of 35 members who are elected according to a majority system, every five years in single-seat constituencies. There are several political parties and movements in Abkhazia. The most active are Amtshara (the political movement of the veterans of the 1992–93 war), United Abkhazia, Aytayra, the People's Party, the Forum of National Unity (FNE) and the Federation of Independent Trade Unions of Abkhazia. Political parties, however, are mainly formed during electoral campaigns, and remain inactive in the interval between elections. Furthermore, the majority voting system does not favour the development of strong political parties. In March 2007, a new parliament was elected, in which opposition parties are represented with 8 deputies.

A topic of ongoing political discussion is the considerable power that rests with the executive branch of government at the expense of the legislative. Some, in particular opposition MPs, advocate in favour of strengthening parliamentary powers. They suggest giving Parliament the authority to approve the prime minister and the right to participate in the formation of the government, as well as the right to dismiss ministers. Today, except for casting a vote of no confidence on individual government members, the Parliament has no real levers of influence over the government.

Rule of Law

Some of the existing laws in Abkhazia are Soviet laws that are still in place, while others have been developed by the Abkhazian institutions over the past decade, often taking laws of the Russian Federation as a basis. Unfortunately, laws are not always implemented fairly or correctly.

In a UNIFEM-supported legal aid project for women carried out by the Abkhazian NGO ‘Civic Initiative and People of the Future’ Foundation, the implementing NGO came to the conclusion that, “in spite of their gender-neutral character” on the surface, “it became evident that many branches of law, especially, civic-, labour-, family- and social security law need a serious gender expertise and reform.” They also stated that in practice the law is often applied in a discriminatory way by the judiciary.¹¹

There is a lack of independence of the judiciary. This problem stems partly from the Soviet past, and partly from the immaturity and weakness of the institutions. People speak about the “Telephone Law” that is in place in Abkhazia, meaning that judges act according to telephone calls received from ‘above’. Poor implementation of court decisions, a high degree of corruption, and a general lack of professionalism amongst the judiciary impede the protection of human rights in Abkhazia. While judges previously were appointed for life, since 1999, they have been appointed by Parliament for a term of five years, based on nominations by the President,. This is seen by many to undermine the independence of the judiciary.

The poor rule of law means lack of control, creating a situation where corruption can thrive in Abkhazia and other types of criminal activities, such as the transportation of narcotics and smuggling (including with Georgia) can take place.¹²

Corruption

Corruption is a serious problem. For example, an MP and NGO activist told ARTICLE 19 that, before the last elections, funds were allocated for the improvement of schools but the

¹¹ *Final report to UNIFEM on project "Social and Legal support for women in the Post-conflict Peace-Building in Abkhazia"*, Civic Initiative and People of the Future Foundation, Dec. 2006, 9–10.

¹² International Alert, note 9 above, at 35.

funds never reached the beneficiaries. The use of funds was not effectively monitored, so they could be easily pocketed. The same has reportedly happened with money allocated to improve the conditions of prisons: people do not know how the funds have been used. In other cases it is believed that 30–50 per cent of the funds allocated for public works disappear through corruption. Corruption is present in all sectors of the administration; small bribes are often paid to low-ranking public officials.

In some cases corruption is very visible. The salaries of MPs are approximately 100 USD a month, yet there are ostentatious demonstrations of wealth in the form of big cars and other possessions. The public is well aware of corruption, particularly in small towns, where people know each other and a lot of information is disseminated through hearsay.

Although people are frustrated with corruption, and sometimes express this frustration (as happened during the protests surrounding the last presidential elections), according to a study carried out by International Alert on corruption in the South Caucasus: “[people] from ... non-recognised entities ... seemed to be more tolerant towards top-level corruption because the cause of self-determination is believed to be the highest national interest. All other social issues were measured against it and were automatically less of a priority”.¹³

Corruption not only causes inefficient government, it also appears sometimes as the only way out when inefficient government makes it very difficult to get things done. As one businessman put it: “... [corruption] is a useful thing for businesses working under our conditions. It is convenient for me. I pay money and quickly solve many problems. If I were to do everything officially, then it would take a lot of time, red tape, nerves and the like”.¹⁴

There is a need to mobilise civil society in the struggle against corruption, and to establish effective monitoring mechanisms to better scrutinise how public funds are used. A freedom of information regime would be a useful instrument for this.

¹³ Ibid.

¹⁴ Ibid., at 14.

2.3. The socio-economic situation in Abkhazia

Abkhazia with its subtropical climate and seaside resorts was a popular holiday destination in Soviet times and one of the richest places in the Soviet Union. It also produced tea, tobacco and citrus fruits on an industrial scale which were traded across the Soviet Union. It had some mining industry in mountainous areas, including Tkvarcheli/Tkuarchal, a focus region of our study.

However, conflict has crippled the Abkhazian economy and resulted in persistent economic instability. Since the end of the armed conflict, Abkhazia has remained under an economic blockade imposed by the CIS. The blockade was loosened to a degree when Russia began to allow trade and freedom of movement across its border with Abkhazia and reopened a railway connection from Sochi on the Russian Black Sea coast to the Abkhazian capital Sukhum/i a few years ago. Some trade also takes place with Turkish entrepreneurs who bring ships across the Black Sea. The most significant branch of the Abkhazian economy, tourism, came to a virtual halt as a result of the conflict. It has experienced a moderate regeneration in recent years but is still at a fraction of its pre-war levels. Overall, the embargo and the undefined political status of Abkhazia continue to keep away larger foreign investments and have seriously hampered rehabilitation and reconstruction for the past 15 years, and the recovery of the economy. Abkhazia is gradually becoming less isolated but isolation remains a major problem for its economic and social development. The economic conditions are better in the urban areas where all business activity is concentrated.

Infrastructure and industry have for the most part collapsed due to the conflict and its aftermath. Most of the population now survives on a subsistence economy. There is no lack of food since the territory is fertile. But the decline of infrastructure means roads are constantly deteriorating, and water and electricity supplies are unreliable.

A UNDP-led feasibility mission to three districts of Abkhazia in the vicinity of the ceasefire line (one of them, Tkvarcheli/Tkuarchal, also being a focus region of the research carried out for this report) found in December 2003 that “in less than fifteen years the economy and the basis for both urban and rural livelihoods in Abkhazia have been transformed dramatically. The GDP has fallen by 80–90 per cent, unemployment is around 95 per cent and per capita

incomes have decreased by 90 per cent. All industries and State farms, with a few exceptions, are severely damaged or destroyed.”¹⁵

With regard to health and education, the UNDP mission found that “both the health care and the education systems in the three districts does [sic] not meet the needs of the local population for accessible and sound basic health services nor for reasonable education.”¹⁶

Several international organisations are working in Abkhazia to deliver humanitarian assistance. They include amongst others UNHCR, UNICEF, UNDP, Mediciens sans Frontières, Acción contra la Hambre, ICRC, HALO trust and the EU’s humanitarian aid department ECHO. Activities range from food aid and food for work programmes, rehabilitation of infrastructure for water and power supplies, rehabilitation of schools and health facilities, provision of basic health care and training for health care providers, shelter for vulnerable populations, mine clearance, to human rights counselling and monitoring, psychosocial rehabilitation, and support for returnees and IDPs.¹⁷

2.4. Civil society

Abkhazia has a rather vibrant civil society which has developed despite the adverse conditions, such as many years of restricted communication with the outside world and extreme limitation of resources.¹⁸ Reportedly, there are now about a hundred civil society organisations registered in Abkhazia. Their activities include but are not limited to humanitarian and educational initiatives, dialogue and confidence-building activities with Georgian counterparts, legal advice, counselling, research, human rights work, awareness-raising and advocacy. Freedom of expression issues are predominantly taken up by the Sukhum/i Media Club, a journalists’ association.

Only about half of the registered NGOs are working on a continuous basis. The majority of the active non-commercial organisations are based in Sukhum/i, although a process of

¹⁵ *Report of UNDP-Led Feasibility Mission to Gali District and Adjacent Areas of Abkhazia, and Georgia*, Bureau for Crisis Prevention and Recovery, April 2004, 10.

¹⁶ *Ibid.*, page v.

¹⁷ Abkhazia Briefing Note, UNDP, January 2005, <http://www.undp.org/news/UNDPBriefNoteAbkhaziaJan2005.pdf>

¹⁸ The number of funds and foreign donors working in Abkhazia is very small and, related to the fact that Abkhazia is internationally considered a part of Georgia, some of them sometimes put forward requirements which Abkhazia’s non-commercial organisations are reluctant to accept. Local businessmen and official bodies rarely finance any projects.

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mobilisation of civil society has begun in the regions as well, and a number of Sukhum/i-based NGOs have opened branches in the regions.¹⁹ There is still a strong need to strengthen civil society, particularly in the regions.

NGO leaders increasingly wish to establish dialogue with the power structures, build relationships with local government and to participate in the development of laws and discussion of decisions aimed at addressing complex social problems.²⁰ The crucial role civil society played in securing the peaceful hand-over of power in the presidential elections of 2004–05 is a sign of its maturity.

Abkhazian society does not always positively perceive the activities of the Abkhazian NGOs, who are able to operate mainly thanks to various European and, less often, American, grants. There are fears amongst the population that the grants may be conditional upon the fulfillment of certain political conditions that could run against Abkhazia's interests, i.e. undermine its current independent status. In practice, however, most of the Abkhazian NGO sector is as dedicated to the aim of independence as the majority of citizens.

Various international organisations, the main ones being Conciliation Resources and International Alert, but also ARTICLE 19 have been working for years with local partners on civil society development, civic education, as well as conflict resolution and confidence-building between Georgians and Abkhazians.²¹

¹⁹ October 2005 saw the second exhibition of NGOs and presentation of the first directory of non-commercial organisations. The 2005 directory included information on 71 Abkhazian and 14 international organisations (missions) having offices and carrying out humanitarian activities in Abkhazia. According to the directory, 11 per cent of all organisations help women, 46 per cent of them work with children and youth, 19 per cent render free-of-charge services to people with physical disabilities, 29 per cent are engaged in various charitable activities (distribution of clothes and medicines, assistance to elderly people in their homes, etc.). 13 per cent of non-commercial organisations are constantly or periodically engaged in research activities in different areas and publishing, 21 per cent support culture, organising exhibitions and other cultural events, 6 per cent of them are engaged in rendering legal services, 3 per cent provide assistance in setting up small businesses and more than half of all organisations (54 per cent) are engaged in educational activities. More than half of all organisations, 55 per cent, are located in the Sukhum/i area, and 1 per cent - in Gulripsh/i region. *Register of non-commercial organisations of Abkhazia*, Sukhum/i: 2005.

²⁰ A. Gogoryan, A. Adleiba, "Development of non-commercial organisations of Abkhazia: achievements, problems, perspectives", *South-Caucasian Integration: Alternative Start*, <http://southcaucasus.com/index.php?page=current&id=581>

²¹ For more information see their websites: www.c-r.org, www.international-alert.org

2.5. Media and communications

The most important sources of information for the majority of the population are Russian television and the Abkhazian 'State TV'. Georgian channels can be received mainly in Eastern Abkhazia. There is one information agency, the government-owned 'Apsnypress'.

Broadcast media

The broadcast media in Abkhazia are firmly in the hands of the authorities, which operate a television and radio network. The governmental channels usually do not cover topics that are challenging to the authorities. Regular live broadcast TV debates were discontinued by the Abkhaz television at the time of the 2004 elections. The reasons for their abolition were not explained. At the beginning of 2007, a few live programmes were held again, one with the President and journalists, and some with electoral candidates in the run-up to the 4 March parliamentary elections.

Television broadcasting time is limited to three to four hours in the evening, with 15 minutes of Abkhazian-language news and 15 minutes (of the same news) in Russian. The same news is broadcasted the following morning between 10.00 and 10.30 am. There are no broadcasts on Sundays.

There is only one programme that involves debates: Argama ('Evident'), which is broadcasted one evening a week for approximately two hours. The debates are on a range of issues. On one occasion, Abkhazia's information policy was also discussed.

There is one private television station - Abaza-TV previously called Inter-TV - but it is not operating currently as it only recently resolved issues related to licensing. It planned to resume broadcasting in March 2007. It does not broadcast news or current affairs programmes and its coverage is limited to the surroundings of the capital city of Sukhum/i. The station was recently taken over by a businessman who is said to have political ambitions. The Sukhum/i population also has access to TV-Sukhum, which broadcasts only films and advertising, and no news.

There are local television stations in a few towns, for instance in Tkvarcheli/Tkuarchal and Gagra. They provide some local news items but no comprehensive coverage. The station in Tkvarcheli/Tkuarchal, for instance, only broadcasts once a week for a couple of hours.

Villages, especially in the winter, often suffer from a lack of electricity due to the bad condition of the electricity infrastructure. When this happens, people have no access to television. This is a particularly acute problem in those villages where there is also no access to newspapers or the Internet.

In addition to Abkhazian television, all households have access to Russian television (1st Channel, Kanal Rossiya and NTV), which constitutes an important source of information. The information it includes about Abkhazia itself is limited, but has increased since relations with Georgia have deteriorated over the past few years. However, Russian television itself is not independent and reflects mainly President Putin's policies.

Recently, people who want to have a greater choice of channels have also started getting satellite dishes. However, they are rather expensive and few can afford them.

Radio Soma is the only private radio station, broadcasting 24 hours a day, primarily music, but also carrying some news and, at times, live talk shows with invited guests. It is a very popular station.

Newspapers

As television provides only short news slots, people get more in-depth information from the print media.

There are five private newspapers (*Nuzhnaya Gazeta*, *Chegemskaya Pravda*, *Ekho Abkhazii*, *Forum*, *Novyi Den*) and two governmental ones (*Respublika Abkhazia*, *Apsny*). Most are weeklies; Abkhazia has no daily paper.²² Some of the papers are more independent, while others support either the Vice-President or the President. Overall, there is a degree of diversity

²² *Respublika Abkhazia* is published three times a week and has a circulation of 1,500; *Apsny* (weekly, 1,000); *Ekho Abkhazii* (weekly, 3,000); *Nuzhnaya Gazeta* (weekly, 5,000); *Chegemskaya Pravda* (weekly, 5,000); *Novyi Den* (weekly, 1,000); *Bzib* (bi-monthly, in Gudauta, 500), *Gal* (monthly, in Gal, 500). Data compiled by the Sukhum Media Club.

among them. Newspapers are printed in both Russian and Abkhazian languages, although Russian is predominant.

The opposition print media display overt criticism of the authorities, but their output is sometimes considered to be unethical, unprofessional and non-constructive.

Both the private and State media have limited finances, but the private media in particular suffer from a lack of resources. This is due to the fact that the advertising market is very small, and people's purchasing power very low. The economy is stagnant, and in 2006 the costs of printing were raised twice. To augment their meagre salaries, journalists often work in more than one newspaper or agency. *Chegemskaya Pravda*, which employs 6–8 people, receives 20–30 per cent of its revenue from advertising. This is just sufficient for the newspaper to continue operating.

Although private newspapers are relatively popular compared to State newspapers, the overall circulation of the print media is low. Among the factors contributing to this are distribution difficulties. Abkhazian television therefore reaches far more people than the print media. There is also a scarcity of paper and printing facilities.

Other regular publications include *Panorama*, a bi-monthly newspaper supported by the Institute for War and Peace Reporting in London, which contains news from across the Caucasus region but with a particular focus on Abkhazia (it has a Georgian, an Abkhazian and a British co-editor); and *Grazhdanskoe Obshestvo* ('Civil Society'), a regular publication produced by civil society activists reporting on the activities of Abkhazian NGOs.

There are also some local newspapers, produced by the local administration and with a small circulation: *Bzib'* (Gudauta), *Gagrski Vestnik* (Gagra), *Dal-Tsabal* (Gulripsh/i), *Gal* (Gal/i), *Ertsakhu* (Ochamchira). Other districts have no local newspapers.

The central papers are mainly available in Sukhum/i. Due to poor transport links and the lack of a distribution network they arrive in small towns only after a delay of several days, and often they do not reach rural areas at all. For example, *Chegemskaya Pravda* succeeds in distributing only 5 per cent of its output through the post. The rest has to be distributed through private arrangements (arranging transport by car, finding private sellers etc.). This

takes a lot of effort, thus reducing the time available for the preparation of newspapers. In the regions of the North, near the Russian border, it is mostly Russian newspapers that are available.

Communications and the Internet

Although Abkhazia had an extensive telephone network before the war, many villages today do not have telephone connections because the lines were damaged and never repaired. People make calls from public phones whenever they travel to the district towns, often on market days.

A significant improvement in communications occurred when Abkhazia's first mobile phone network started operating in 2003, and a second one was launched in the autumn of 2006.

Internet access is slow and unreliable because the landline telephone network is in very bad condition. Use of the internet is mainly restricted to privileged sections of the population in urban areas. In Sukhum/i and Gagra there are also public Internet cafes, and reportedly one is due to open in Gudauta in the near future. Schools in the districts are not usually equipped with computers or internet access.

2.6. Gender issues

Information scarcity

Little gender-specific information or data is available on the socio-economic situation of women and men in Abkhazia – a fact that constitutes one of the biggest obstacles to assessing women's needs. Without information on women's health, their economic or legal circumstances it is impossible to analyse problems and develop the necessary responses to them.

The effects of the conflict

Before the collapse of the Soviet Union, the proportion of women with higher education was high. For parents it was usually important that both sons and daughters enjoyed a good education.²³ Women often worked in education, medicine or social sciences.

²³ According to surveys conducted in Abkhazia in 1999 by the Association of Women of Abkhazia, virtually all men wish their daughters to be educated.

During the 1992–93 war both women and men suffered physical and psychological traumas. They lost children on the battlefields; many sons have disappeared without trace. Women participated actively in the war effort by working as nurses, undertaking heavy work in military hospitals, or working as correspondents on the front, employees of press services, cooks, waitresses, or helping families to survive as refugees; some were also combatants. Many women have been awarded honours and medals.

The war, as with any war, has also had gender-specific effects: women on both sides of the conflict have become victims of gender-based violence; it is also widely thought that domestic violence has increased. At the same time, the war has also contributed to reaffirming women's importance in society. As a result of the conflict the number of households headed by women due to the absence or loss of male family members has grown. Many ex-combatant husbands also suffered from post-traumatic stress disorder, and the abuse of drugs or alcohol increased. Women in this situation were forced to take on more responsibilities and in many cases had to single-handedly secure the survival of children and other family members under very difficult circumstances. These experiences changed the fabric of society and challenged traditional gender roles.

Women's position in the post-conflict situation

Abkhazian society has been subject to a process of profound and fundamental changes in all spheres – economic, social and political – over the past 15–20 years, partly due to the conflict, and partly as a result of societal changes relating to the collapse of the Soviet Union. These changes are affecting women and men differently.

When peace was restored, it seemed as if women had been forgotten and the formation of power structures after the war happened almost without the participation of women. Political representation of women in Abkhazia today is generally poor. In the Parliament of 1996-2002, five deputies out of 35 were women. In the next Parliament their number had decreased to two. At the parliamentary elections in March 2007, of the 108 candidates who ran for a seat, 13 were women (12.03 per cent). Three of these women succeeded in winning a seat (thus representing 8.57 per cent of the 35 deputies). Within government, female representation is somewhat better: Of 11 government ministers, four are women. In the Sukhum/i city assembly 6 (or 24 per cent) out of 25 members are currently female. There are few women in

the local authorities, whose chief executives, in particular, tend to be men. Of the State departments (building and architecture; statistics; information agency ‘Apsnypress’ etc.) 15 are headed by men, and three by women. Of State funds (for the development of Abkhazian language; medical insurance etc.) eight are under male and two under female leadership.

However, it is also a fact that in Abkhazia women themselves rarely aspired to get into the ‘corridors of power’. Instead, they worked to create the basic conditions for economic survival for their relatives. The collapse of State institutions meant that, after the war, many women were unable to work in the field of their original training, and in both urban and rural areas they began to set up their own small businesses, including shops and cafes, in an attempt to secure a livelihood. Women started to operate within a new subsistence economy: highly educated women could easily find themselves working in markets. In the rural areas, women are particularly active in the autumn, the season of the mandarin harvest, when they trade fruits across the Russian border. Unlike some of the men, they were ready to accept the sudden drop in status for the well-being of the family.

As a result, many women today are financially more independent than men. Although they might not have high status or prestigious professions, they often do have some money. Women’s ability to earn money – possibly more money than men – was pointed out by a number of respondents during the interviews done for this study. Yet real figures on men and women’s salaries are, to our knowledge, not available, and none of the respondents had seen concrete data on this issue. It is therefore difficult to assess the women’s real financial situation.

Professions that see among their adherents more women than men are journalism, teaching (both schools and university) and medicine (there are more female than male doctors, although surgeons tend to be men). In the villages, most jobs are in agricultural business. However, few women in rural areas have paid employment. There are some cases, particularly in villages, in which men forbid their wives to work.

Key problems facing women

Amongst the key problems women face today are: limited social assistance from the authorities; little attention to their health; domestic violence and ineffective remedies to address it; discrimination in the judicial process.

Whereas in cities there is some access to medical care, in villages there is very little attention to women's health. Villages are also, generally, badly connected to hospitals, with poor ambulance infrastructure. The medical centres that were located in all villages during the Soviet Union no longer exist. Clearly these issues affect both women and men, but women's reliance on, and needs for, medical facilities, are greater for themselves and their children.

Although the Abkhazian Constitution prohibits discrimination, there are no laws or governmental initiatives that actively protect and promote women's rights. The legislation is usually neutral to gender issues and there are no provisions that disadvantage women. However, the way that laws are applied, and court practices, can be discriminatory. For example, single women often have problems obtaining housing. When matters are taken to court, decisions frequently favour men. This is the case, for example, in relation to divorce and division of property. Sometimes, this is also a result of corruption in courts. There are some projects by local organisations to provide defence in court for women. The work of the NGO 'Civic Initiative and People of the Future' Foundation is an example.

Women and leadership

An area where women have become particularly active is in civil society. Many of them have founded civil society organisations providing leadership to tackle a variety of pressing needs and problems they have identified, ranging from the provision of humanitarian assistance, creating livelihoods, to advocating for democratic and political reforms. Women also founded the first non-government newspaper, *Nuzhnaya Gazeta* ('Necessary Newspaper').

A consequence of these dynamics is that, within civil society, many vigorous, educated and independent women emerged, while the female presence in Parliament and in government has steadily diminished.

Probably due to old stereotypes, the weakness of the female movement, various divisions and the small number of women in power structures, the 'female question' in Abkhazia is not uppermost in the society's concerns. Local women's organisations point out that there seems to be little sense of solidarity and sisterhood. Women often are harsh critics of other women in power, although overall they support the idea that there should be more women politicians.

They say that in some cases women underestimate themselves and their potential, and this contributes to their participating little in the political life of the country.

There are a number of organisations tackling women's issues: The Association of Women of Abkhazia is the largest NGO in this sphere in Abkhazia. It works to increase women's participation in social and political life, provides advice, resource material and leadership training for women. 'Avangard' (Gal/i) and 'Alashara' (Ochamchira) give psychosocial assistance to women, while the 'Union of Business Women of Abkhazia' supports women's business initiatives. The NGO 'Civic Initiative and People of the Future' Foundation, in 2006, has implemented a project providing legal advice and legal defence to women.

Public awareness

Amongst the wider public, the opinion prevails that in Abkhazian society discrimination of women does not exist, and access to power for women is no more complicated than for men. Many men and some women sincerely believe that if women only wanted they could achieve success in politics but that women simply do not aspire to this.

However, there is a slowly growing awareness among women, as well as in broader society, about the necessity for gender-specific analyses when it comes to development, politics, health, or education in order to ensure programmes and projects begin to address the specific needs of women and girls where these exist. Women are actively interested in politics, economics and social problems, and could take responsibility in the public sphere, if it were not for discrimination.

International support for women

UNIFEM, in the framework of its regional project on 'Women for Conflict Prevention and Peace-Building in the Southern Caucasus', which has now come to an end, offered courses for University students on conflict resolution, peace-building and gender, and supported a women's information network in Abkhazia, which compiled and made available information on the situation of women. UNIFEM has also facilitated some dialogue meetings between women living in the volatile security zone along the ceasefire line (Gal/i region) and local authorities, as well as between Abkhazian and Georgian women.²⁴ The Swedish organisation

²⁴ Interviews with UNIFEM staff, June/July 2006.

Kvinna till Kvinna is supporting a number of Abkhazian women's groups by giving advice on reproductive health and psycho-social rehabilitation, and providing business and gender awareness training.²⁵

3. THE RIGHT TO ACCESS INFORMATION: A FUNDAMENTAL AND ENABLING HUMAN RIGHT²⁶

3.1. Introduction

The Abkhazian authorities have made a commitment to respect international standards of democratic governance and human rights. This chapter gives some information on the global trend towards freedom of information before explaining in detail the meaning of this right according to international standards, as well as its importance for areas that are of particular concern to us in the context of this report: good governance and human rights, development, health, and women's equality.

3.2. The global trend of 'freedom of information'

The first freedom of information law was passed in Sweden as early as 1776. However, it is only over the past twenty-five years that freedom of information has become a global trend and dozens of countries around the world have adopted laws that give the general public a right to access government-held information, many of them former Communist countries in Eastern Europe.²⁷ Indeed, research has shown that some of the transitional democracies in South East Europe perform better in this field than established democracies.²⁸ Within the former Soviet Union, Azerbaijan, Armenia, Georgia, Moldova, as well as the Baltic States, have freedom of information laws. In all other States there are efforts under way to enact such legislation. Whilst Russia has no federal law on access to information yet, several provinces (oblasts) have them.²⁹

Some countries, including some without specific FOI laws, have guarantees for access to information in their constitutions. Often these are States that have recently undergone a

²⁵ http://www.iktk.se/English/country_info/georgia/georgia.html

²⁶ Parts of this section were adapted from the publication *Time for Change: Promoting and Protecting Access to Information and Reproductive and Sexual Health Rights in Peru*, London: ARTICLE 19, January 2006.

²⁷ As of summer 2006, 68 countries world wide had access to information laws. See the latest global survey of FOI laws produced by Privacy International: http://www.freedominfo.org/documents/global_survey2006.pdf

²⁸ *Transparency & Silence – A Survey of Access to Information Laws and Practices in 14 Countries*, Open Society Justice Initiative (Sept. 2006) <http://www.justiceinitiative.org/>

transition from one form of governance to another, and in the course of reforming their constitutions they incorporated explicitly the human right to information.³⁰ Countries with older constitutions often guarantee the right to freedom of expression without specific reference to access to information. However, it is widely and increasingly acknowledged that freedom of expression does include the right to information. In a recent landmark judgment of September 2006, the Inter-American Court of Human Rights ruled that the right to freedom of expression (Article 13 of the Inter-American Convention on Human Rights) implies a general right of access to government-held information.³¹ This view is also shared by authoritative international bodies such as the Organization for Security and Co-operation in Europe's (OSCE) Representative on the Freedom of Media or the UN Special Rapporteur on Freedom of Opinion and Expression.

It is, however, not sufficient that the constitution guarantees the right to information. Unless a specific law sets out the rules, including the steps to be taken to request and receive information, and the nature of the obligations placed upon the public bodies to provide this information, individuals will not be able to exercise the right in practice. The law should also create an appeals mechanism in case the right to access information is violated.

3.3. The right to information

The importance of freedom of information was acknowledged by the United Nations General Assembly in its very first session in 1946 when it adopted Resolution 59(I) which states:

Freedom of information is a fundamental human right and ... the touchstone of all the freedoms to which the UN is consecrated.

The right to information, also referred to as 'freedom of information', is, in all major human rights treaties and declarations, included in the human right to freedom of expression. At the global level, it is guaranteed through Article 19 of the Universal Declaration of Human Rights³² and Article 19 of the International Covenant on Civil and Political Rights (ICCPR).³³

³⁰ For instance Albania, Georgia, Russia.

³¹ *Marcel Claude Reyes and Others v. Chile* The case began in 1998 when a Chilean environmental NGO, the Terram Foundation, requested information from the government on a massive logging project, known as the Condor River project, being undertaken by a US company, Trillium Ltd. The environmental NGO requested information on Trillium's environmental record from a government body that assesses foreign investment proposals in Chile. They did not receive the information and the Inter-American Court has now found a violation of the fundamental right to freedom of expression and information.

³² UN General Assembly Resolution 217A(III), 10 December 1948.

The latter, which Abkhazia has committed to respect through Article 11 of its ‘Constitution’, states:

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any media of his choice.

A similar wording can be found in all the regional human rights treaties, such as the European Convention on Human Rights (ECHR).³⁴

Treaties such as the ICCPR and ECHR constitute ‘hard law’ – States that have ratified them are legally required to implement them in their national laws and practices. Abkhazia, not being an internationally recognised State, is unable to become a party to these treaties. Of course, this does not prevent the country from unilaterally taking it upon itself to adhere to international law and, indeed, the ‘Constitution of Abkhazia’ recognises and guarantees “the human rights and freedoms fixed in the Universal Declaration of Human Rights, the International covenants of economic, social, cultural, civil and political rights, or in other universally recognized international legal acts.”³⁵

The language used in international human rights treaties is general in nature. In order to establish the precise content and meaning of the rights guaranteed by these treaties, it is necessary to turn to the various bodies that have been set up to monitor their implementation, such as the UN Human Rights Committee, the UN Special Rapporteur on Freedom of Opinion and Expression, or the European Court of Human Rights.

It has become clear from statements made by these bodies and judgments handed down by international courts that the right to freedom of expression has a number of distinct components. In this section, we will discuss three aspects:

³³ The International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by UN General Assembly Resolution 2200A(XXI) of 16 December 1966, entered into force 23 March 1976.

³⁴ Adopted 4 November 1950, entered into force 3 September 1953.

³⁵ Article 11 of the ‘Constitution of Abkhazia’.

- 3.3.1 the right of individuals to provide information and the right of others to receive that information;
- 3.3.2 the obligation on public bodies to provide information in key areas; and
- 3.3.3 limitations on access to publicly held information.

We discuss these in turn below.

3.3.1. *The right to provide and receive information*

Although freedom of expression is often thought of as the right to speak one's mind without undue interference by the authorities, in fact the legal definition is broader. According to Article 19 of the ICCPR, freedom of expression includes the right to *receive* information which others impart; a government which chooses, for example, to suppress a publication, is interfering not just with the author's, but also with prospective readers' right to freedom of expression. This arrangement recognises that a right to speak is worth little without a corresponding right to listen. More fundamentally, it also signals that the purpose of freedom of expression is not just to guarantee everyone the opportunity to propagate ideas, but to enable every individual to be well-informed about all aspects of society.

Although international law treats freedom of expression as one of the most fundamental rights in democracy³⁶, the right is not absolute and restrictions are permissible under certain circumstances.

Article 19(3) of the ICCPR sets out the conditions States must overcome if they take actions that restrict the right to freedom of expression:

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (a) For respect of the rights or reputation of others;
- (b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

³⁶ E.g. *Laptsevich v. Belarus*, 20 March 2000, Communication No. 780/1997 (UN Human Rights Committee), para. 8.2.

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This has been interpreted as setting a very high threshold for any State actions that have the effect of restricting expression or information, crystallised in a three-part test³⁷ First, the interference must be provided for by law. The law must be accessible and “formulated with sufficient precision to enable the citizen to regulate his conduct.” Second, the interference must pursue one of the legitimate aims listed in Article 19(3); this list is exclusive. Third, and most importantly, the interference must be “necessary” to secure that aim, in the sense that it serves a pressing social need, that the reasons given to justify it are relevant and sufficient and that the interference is proportionate to the legitimate aim pursued. This implies that restrictions must be narrow and effective. Restrictions which are over-broad, or which go beyond what is necessary to protect the legitimate aim, are not legitimate. Furthermore, restrictions which are not effective in securing the legitimate aim cannot be justified. International jurisprudence makes it clear that this is a strict test, presenting a high standard which any interference must overcome. This is apparent from the following quotation, cited repeatedly by the European Court of Human Rights:

Freedom of expression, as enshrined in Article 10, is subject to a number of exceptions which, however, must be narrowly interpreted and the necessity for any restrictions must be convincingly established.³⁸

One of the early cases considered by the European Court of Human Rights is a good illustration of the kind of State action that would be considered to be an *illegal* interference with the right to receive and impart information. In *Open Door Counselling and Dublin Well Woman Centre and Others v. Ireland*,³⁹ the Irish government had prohibited a number of organisations from providing pregnant women with information concerning abortion facilities abroad, on the basis that this was necessary to protect public morals. While it acknowledged that governments have some power to act to protect public morals, the European Court found that a prohibition on the mere provision of information regarding abortion constituted a violation of the right to freedom of expression:

³⁷ *Mukong v. Cameroon*, Communication No. 458/1991, U.N. Doc. CCPR/C/51/D/458/1991 (1994), para. 9.7. Similar formulations can be found in the European and American regional human rights treaties: see, for example, *Herrera-Ulloa Vs. Costa Rica*, 2 July 2004, Series C No. 107 (Inter-American Court of Human Rights), paras. 120–124.

³⁸ *Sunday Times v. the United Kingdom (No. 2)*, 24 October 1991, Application No. 13166/87, para. 50.

³⁹ 29 October 1992, Application No. 14234/88 and 14235/88 (European Court of Human Rights).

[T]he injunction limited the freedom to receive and impart information with respect to services which are lawful in other Convention countries and may be crucial to a woman's health and well-being.⁴⁰

The Court also stressed the negative consequences arising from the lack of availability of information:

[T]he available evidence, which has not been disputed by the Government, suggests that the injunction has created a risk to the health of those women who are now seeking abortions at a later stage in their pregnancy, due to lack of proper counselling, and who are not availing themselves of customary medical supervision after the abortion has taken place. Moreover, the injunction may have had more adverse effects on women who were not sufficiently resourceful or had not the necessary level of education to have access to alternative sources of information.⁴¹

Courts have also held that the right to freedom of expression imposes a 'positive obligation' on States to ensure that persons wishing to provide information are not barred from doing so by others. In other words, the State has to ensure an environment within which everyone can exercise their right to freedom of expression unobstructed. For example, in *Steel and Morris v. UK* the European Court of Human Rights has emphasised how important it is to enable NGOs to disseminate information of general public interest:

...in a democratic society even small and informal campaign groups, such as London Greenpeace, must be able to carry on their activities effectively [...] there exists a strong public interest in enabling such groups and individuals outside the mainstream to contribute to the public debate by disseminating information and ideas on matters of general public interest as health and the environment.⁴²

The government, as the guarantor of rights of individuals on its territory, is thus under an obligation to ensure the effective exercise of the right to freedom of expression for all, which includes the right of citizens to receive information that others are willing to impart.

⁴⁰ Ibid., at para. 72.

⁴¹ Ibid., at para. 77.

⁴² *Steel and Morris v. UK*, 15 February 2005, Application No. 68416/01, para. 89.

3.3.2. Obligations of public bodies to provide information

In his 1998 Annual Report, the UN Special Rapporteur on Freedom of Opinion and Expression⁴³ declared that freedom of information includes the right to access information held by the authorities:

“[T]he right to seek, receive and impart information imposes a positive obligation on States to ensure access to information, particularly with regard to information held by Government in all types of storage and retrieval systems.”⁴⁴

This was an important development, as the right to receive information had previously been understood as applying to information which other *individuals were willing to share*. The Special Rapporteur’s views were unanimously welcomed by the UN Commission on Human Rights,⁴⁵ and in his 2005 Annual Report, the Special Rapporteur stated that “the right of access to information held by public bodies has become a benchmark of democratic development”.⁴⁶ In principle, therefore, *all records held by public bodies should be available for inspection, subject only to limited exceptions*.

The right of freedom of information implies not only that governments must provide information held by them on request by an individual, but also that they should *take active steps to publish information in certain crucial areas*. For instance, the UN Special Rapporteur stated that public bodies should “publish and disseminate widely documents of significant public interest, for example, operational information about how the public body functions and the content of any decision or policy affecting the public”.⁴⁷ In addition, they should actively publish information that is relevant to the full realisation of people’s civil and political rights, but also their social, economic and cultural rights and their right to development. The European Court of Human Rights has confirmed that States are under a strong obligation to provide information that is important to the health, education, or family life of those under their jurisdiction. Interpreting a provision in the ECHR that guarantees the right to private

⁴³ The Office of the Special Rapporteur on Freedom of Opinion and Expression was established by the UN Commission on Human Rights, the most authoritative UN human rights body, in 1993: Resolution 1993/45, 5 March 1993.

⁴⁴ Report of the Special Rapporteur, *Promotion and protection of the right to freedom of opinion and expression*, UN Doc. E/CN.4/1998/40, 28 January 1998, para. 14.

⁴⁵ Resolution 1998/42, 17 April 1998, UN doc. E/CN.4/RES/1998/42, para. 2.

⁴⁶ Report of the Special Rapporteur, *Promotion and protection of the right to freedom of opinion and expression*, UN Doc. E/CN.4/2005/64, 17 Dec. 2004, para. 38.

⁴⁷ Report of the Special Rapporteur, *Promotion and protection of the right to freedom of opinion and expression*, UN Doc. E/CN.4/2000/63, 18 Jan. 2000, para. 44.

life,⁴⁸ the Court found that the Italian State had violated the rights of the inhabitants of a small town by failing to provide them with adequate information relating to pollution emanating from a nearby factory.⁴⁹ The Court's reasoning can be extended to other categories of information that are crucial to the protection of life and health.⁵⁰

On issues relating to the environment, the internationally binding Aarhus Convention⁵¹ is very clear in requiring the authorities to be proactive in providing access to information:

Each Party shall endeavour to ensure that officials and authorities assist and provide guidance to the public in seeking access to information, in facilitating participation in decision-making and in seeking access to justice in environmental matters ...

... shall promote environmental education and environmental awareness among the public, especially on how to obtain access to information, to participate in decision-making and to obtain access to justice in environmental matters.⁵²

Furthermore, international standards are clear in that *public bodies should provide access to information to everyone equally, and without requiring the requester to justify the information request*. The UN Special Rapporteur says in his Annual Report 2005:

Anyone should be able to file information requests and should not have to provide grounds or reasons for their request: the right of access to information is a fundamental human right which can be exercised by all. Information requests should be treated equally without discrimination with regard to the requestor, regardless of his/her social, racial and political affiliation.⁵³

The same principle is reflected in OSCE and Council of Europe documents.⁵⁴ Furthermore, *procedures for accessing information should be simple, rapid and free or low cost*.⁵⁵

⁴⁸ Article 8, ECHR. Because of its different formulation – unlike Article 19 of the ICCPR and Article 13 of the ACHR, it does not guarantee a right to ‘seek’ information – the European Court has held that the freedom of expression provision in the ECHR does not guarantee access to information: *Sirbu v. Moldova*, 15 June 2004 (admissibility), Application No. 73562/01.

⁴⁹ *Guerra and others v. Italy*, 19 February 1998, Application No. 14967/89.

⁵⁰ See *Open Door Counselling and Dublin Well Woman Centre and Others v. Ireland*, 29 October 1992, Application No. 1423/88 and 142335/88. This case is discussed in section 4.1.1.

⁵¹ Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, 25 June 1998, 2161 UNTS 450

⁵² *Ibid.*

⁵³ Report of the Special Rapporteur, note 48 above, para. 41.

⁵⁴ For instance, Recommendation R(2002)2 of the Committee of Ministers to member States on access to official

What is a public body?

The UN Special Rapporteur explained that the term “public bodies” covers *all bodies performing public functions*, including governmental, legislative and judicial bodies, and stated that “the expression ‘bodies performing public functions’ *also pertains to enterprises, societies and associations performing a unique role and/or receiving public funds*”.⁵⁶ This extends the definition of public bodies also to such institutions as publicly run hospitals, schools or universities.

The ARTICLE 19 publication *The Public’s Right to Know: Principles on Freedom of Information Legislation*⁵⁷ which has been endorsed by, among others, the UN Special Rapporteur on Freedom of Opinion and Expression and the OSCE Special Representative on Freedom of the Media, states that for the purpose of freedom of information, the definition of ‘public body’ should focus on the type of service provided rather than on the legal character of the body in question.

This means that, besides all branches and levels of government, nationalised industries and public corporations, non-departmental bodies or quasi non-governmental organisations (bodies to which the government has devolved power), and judicial bodies, as well as private bodies which carry out public functions (such as maintaining roads or operating rail lines) should have an obligation to provide access to information.

Furthermore, private bodies themselves should also be included if they hold information the disclosure of which is likely to diminish a significant risk to such important public interests as the environment and health.

3.3.3. Limitations on access to publicly held information

It is clear that while access to information held by public bodies is an important right, it needs to be balanced against other important social interests, such as national security, economic

documents adopted by the Committee of Ministers on 21 February 2002 at the 784th meeting of the Ministers’ Deputies, available at [www.coe.int/T/E/Human_rights/rec\(2002\)2_eng.pdf](http://www.coe.int/T/E/Human_rights/rec(2002)2_eng.pdf)

⁵⁵ Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression, adopted on 6 December 2004, available at: <http://www.cidh.org/Relatoria/showarticle.asp?artID=319&IID=1>.

⁵⁶ Report of the Special Rapporteur, note 48 above, para. 38.

⁵⁷ *The Public’s Right to Know: Principles on Freedom of Information Legislation* (London: 1999), available at: <http://www.article19.org/pdfs/standards/righttoknow.pdf>

stability, privacy, and so on. Freedom of information should not go so far as to cause more harm than good; at the same time, claims about the harm that would result from releasing a record should be treated with great caution, given most governments' tendency towards excessive secrecy.

In section 3.3.1 above, we discussed the rules for legitimate restrictions on the right to free expression generally. Specific guidance on legitimate exceptions to the right to access information held by public bodies can be found in the 2000 Report of the UN Special Rapporteur:

A refusal to disclose information may not be based on the aim to protect Governments from embarrassment or the exposure of wrongdoing; a complete list of the legitimate aims which may justify non-disclosure should be provided in the law and exceptions should be narrowly drawn so as to avoid including material which does not harm the legitimate interest⁵⁸

Similarly to freedom of expression, restrictions on access to information are permissible only if they comply with a three-part test:⁵⁹

First, information should only be withheld for a legitimate reason recognised by law. The Council of Europe has issued a Recommendation on Access to Official Documents which contains the following indicative list of legitimate interests:

- i. national security, defence and international relations;
- ii. public safety;
- iii. the prevention, investigation and prosecution of criminal activities;
- iv. privacy and other legitimate private interests;
- v. commercial and other economic interests, be they private or public;
- vi. the equality of parties concerning court proceedings;
- vii. nature;
- viii. inspection, control and supervision by public authorities;
- ix. the economic, monetary and exchange rate policies of the state;
- x. the confidentiality of deliberations within or between public authorities during the internal preparation of a matter.

Second, there must be a reasonable anticipation that releasing the information would actually *harm* the legitimate interest. In other words, it is not sufficient that the information *relates* to, for example, national security; the public body seeking to withhold information should explain how disclosure would in fact cause harm to the country's stability or defence.

⁵⁸ Report of the Special Rapporteur, note 49 above at para 44.

⁵⁹ See, for example, Recommendation No. R(2002)2 of the Committee of Ministers of the Council of Europe to member States on access to official documents, adopted 21 February 2002, Principle IV.

Third and finally, if the public interest in disclosure is greater than the harm to the legitimate interest, for instance national security, the information should nevertheless be disclosed. This third part of the test, which is commonly known as the ‘public interest override’, is of particular importance. It expresses the reasonable idea that the decision whether or not to disclose information should depend on which course of action will, on balance, cause least harm. For example, granting a request for information about corruption in the armed forces could pose a risk to national security, since it would reveal weaknesses in the army to foreign countries. Nevertheless, such a request should probably be granted, since exposing problems in the country’s defence will allow them to be addressed and thus in the long run strengthen rather than weaken national security.

3.4. The role of freedom of information for good governance and democracy

It is now widely accepted that freedom of information is an essential requirement for democratic governance. The fundamental principle underlying the concept of democratic governance is that “[t]he will of the people shall be the basis of the authority of government”.⁶⁰ In accordance with this principle and in as far as public bodies serve the people, they do not own the information they hold; rather, they hold it on behalf of the public. As such, this information must be accessible to members of the public, unless there is an overriding public interest in secrecy, and it is a duty of democratic governments to enable access to information by enacting freedom of information laws.

In 1999, the Commission on Human Rights stated that

‘the rights of democratic governance include, *inter alia*, ... (b) the right to freedom to seek, receive and impart information through any media ... (f) transparent and accountable government institutions.’⁶¹

The UN Human Rights Committee also has confirmed the importance of access to information for the democratic process.⁶²

⁶⁰ Universal Declaration of Human Rights, UN General Assembly Resolution 217 A (III), 10 Dec. 1948, Article 21(3).

⁶¹ Promotion of the right to democracy, UN Commission on Human Rights Res. 1999/57.

⁶² In *Robert W. Gauthier v. Canada*, a Canadian journalist was denied access to the press facilities in Parliament on equal terms with other journalists. The Canadian court had argued that the journalist could rely on other

At the European level, Recommendation R(2002)2 of the Committee of Ministers of the Council of Europe confirms that wide access to official documents:

- allows the public to have an adequate view of, and to form a critical opinion on, the state of the society in which they live and on the authorities that govern them, whilst encouraging informed participation by the public in matters of common interest;

- fosters the efficiency and effectiveness of administrations and helps maintain their integrity by avoiding the risk of corruption;

- contributes to affirming the legitimacy of administrations as public services and to strengthening the public's confidence in public authorities;⁶³

The right to information is central for the democratic process in several respects:

Without the right to access information citizens cannot enjoy their right to political participation: only an electorate that is well informed about the activities, successes and failures of government and political parties is in a position to vote for their representatives. Access to information strengthens the ability of the population to form opinions and make decisions at elections.

Secondly, the right to access information from public bodies is an important tool to monitor government activity and hold public institutions accountable. For instance, by providing transparency on budgets and public spending, access to information helps ensure public resources are allocated and used in a way that benefits the public most. In this sense, freedom of information also constitutes an important dimension in the fight against corruption. Corruption, broadly defined as 'the abuse of public power for private gain' thrives in secrecy. When institutions have to report regularly about ongoing work and all financial transactions,

means, such as broadcasting services, to report about parliamentary proceedings, and did not need direct access. The Commission rejected this claim, saying: "In view of the importance of access to information about the democratic process, however, the Committee does not accept the State party's argument and is of the opinion that the author's exclusion constitutes a restriction of his right guaranteed under paragraph 2 of article 19 to have access to information." *Robert W. Gauthier v. Canada*, Communication N° 633/1995. UN Doc. CCPR/C/65/D/633/1995.

⁶³ Recommendation R(2002)2 of the Committee of Ministers to member states on access to official documents adopted by the Committee of Ministers on 21 February 2002 at the 784th meeting of the Ministers' Deputies, available at [www.coe.int/T/E/Human_rights/rec\(2002\)2_eng.pdf](http://www.coe.int/T/E/Human_rights/rec(2002)2_eng.pdf)

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when decisions – for instance on public contracts awarded to private businesses – have to be transparent, opportunities for abuse of public goods are minimised.

But the concept involves not only the right of the public to access government-held information – it also entails that public bodies should proactively publish a variety of information. This allows the population to follow law- and policy-development processes, and creates opportunities for people to contribute to political debate and government decision-making on matters of public importance. It thereby facilitates more profound ways of political participation by the population, beyond the act of voting on election days. With more information about government activities, the public can also develop a better understanding of how public administration works, including the challenges and constraints it faces. This helps build public trust in and respect for institutions, in turn strengthening institutional capacity and authority.

Freedom of expression, access to information and participation are often regarded with suspicion by national and international actors in a conflict. However, while secrecy may be required for a period during peace-making, experience across the world has shown that this must be for a limited time. Information blackout or inappropriate communication strategies by governments and inter-governmental agencies can lead to mistrust, misrepresentation and disinformation, thus exacerbating areas of tension. Access to information fosters cohesion within society by strengthening public trust in the leaders who represent them and helping people to better understand the situation and challenges. This is particularly important in situations when everyone lives in constant fear of insecurity and instability. When there is insufficient public confidence in institutions, it becomes difficult for authorities to maintain public order and safety, and even harder to embark on post-conflict democratisation. In addition, a fully developed freedom of information system helps ensure better representation of peoples' concerns at the decision-making level, thereby strengthening the capacity of a society to pursue a peace-process that addresses key issues in a comprehensive manner.⁶⁴ The media especially is a decisive factor in peace-processes and post-conflict situations. They can take on a strong, supportive role in relation to the peace process by helping to inform the public of political agreements and their implications, facilitating public participation and

⁶⁴ ARTICLE 19 publications analysing the importance of access to information in conflict and post-conflict situations include: *Who wants to forget? Truth and Access to Information about past human rights violations*, 2000; *Left to Their Own Devices: The Impact of Informal Information and Communication Networks on Security in the Tanzanian Refugee Camps*, 2003; *War of Words: Conflict and Freedom of Expression in South Asia*, 2005.

reconciliation, and diffusing the many threats to progress. Or they can fail to do this, cater for divisive elements within the warring camps, fuel remaining tensions and further deepen dangerous divisions.⁶⁵

The practical experience of a number of former communist countries of Eastern Europe who have passed freedom of information legislation over the past 10 years testifies to the value of this legislation in bolstering and monitoring countries' transitions towards more democratic governance. Strong civil society groups have emerged, who are using the legislation as an effective instrument for achieving greater openness and accountability of administrative and judicial cultures, and strengthening public participation in policy-development and decision-making.⁶⁶ A 2006 empirical survey by the Open Society Justice Initiative found that authorities in Armenia, Bulgaria and Romania now even outperform France and Spain in providing information.⁶⁷

3.5. The role of freedom of information for development

Around the world, it is those communities most affected by poverty which are least able to impart and obtain information, including that relating to basic services. As a result, they are excluded from public debate and unable to influence decisions that have a profound effect on their everyday lives. The alienation of poor communities from the public sphere prevents them from being able to represent their interests at the decision-making level, rendering them even more vulnerable and powerless. It is the poor who bear the greatest burden of corruption, since corruption always entails some public resources being diverted away from a public purpose to benefit some private interests, and the least influential members of society face the strongest requirement to pay bribes in order to get services.⁶⁸

Better access to information can empower poor and disadvantaged communities to advocate their own interests and rights and become active stakeholders in development. In societies

⁶⁵ ARTICLE 19 publications on media in conflict include: *Broadcasting Genocide: censorship, state-sponsored violence and propaganda in Rwanda*; 1995; *Forging War: The media in Serbia, Croatia, Bosnia and Hercegovina*, 1999.

⁶⁶ For instance: Armenian Freedom of Information Center (<http://foi.am/>); Bulgarian Access to Information Programme (<http://www.aip-bg.org/>); Georgian Young Lawyers' Association (www.gyla.ge/); Moldovan Freedom of Expression and Access to Information Promotion Centre (Access-Info) (<http://www.access-info.org.md/>).

⁶⁷ *Transparency and Silence: A Survey of Access to Information Laws and Practices in 14 Countries*, OSI, September 2006, available online at: http://www.soros.org/resources/articles_publications/publications/transparency_20060928.

⁶⁸ Based on: Dr Agnès Callamard: *Development, Poverty and Freedom of Expression, Article written for the UNESCO Conference on Freedom of the Media and Development, on the occasion of the World Press Freedom Day, May 3rd, 2006, Colombo, Sri Lanka.*

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where information flows widely and access to communication services is widespread, markets and government institutions are likely to become more efficient, transparent and accountable. The institutions and organisations that serve the poor and defend their interests, for instance NGOs, can be more effective. Information and knowledge that are vital to the poor can be more easily and widely accessible.⁶⁹

Successful development relies on an enabling legal and policy environment, predictable and effective governance. An access to information regime is a necessary prerequisite for accomplishing these objectives: poverty eradication and development strategies need to be based on comprehensive needs information and analysis, and require participation of the beneficiaries in the design of the measures that are taken to improve their lives. Needs assessment and effective participation of beneficiaries entail gathering appropriate information and making it available to those that need it, as well as soliciting perspectives and knowledge from the populations that are targeted by the development policies.

Over the past years, actors in international development have become increasingly aware that freedom of information is absolutely critical to achieving and sustaining poverty eradication and development.

In his 2000 Annual Report the UN Special Rapporteur noted that the right to seek, receive and impart information, in addition to being essential for ensuring democracy and freedom in a society, “is also a right that gives meaning to the right to participate which has been acknowledged as fundamental to, for example, the realization of the right to development.”⁷⁰

In his 2004 Annual Report he confirmed

“addressing the information and communication needs of the poor as an essential feature of the right to information because the poor often lack information that is vital to their lives – information on basic rights and entitlements, information on public services, health, education and employment”.⁷¹

⁶⁹ *The significance of information and communication technologies for reducing poverty*, London: DFID, January 2002.

⁷⁰ Report of the Special Rapporteur, note 49 above at para. 42.

⁷¹ Report of the Special Rapporteur, *Promotion and protection of the right to freedom of opinion and expression*, UN Doc. E/CN.4/2004/62, 12 Dec. 2003, at para. 54.

The Commission on Human Rights in its Resolution 2001/72 expressly linked good governance to sustainable human development. The resolution, which was adopted by consensus, stated

“that transparent, responsible, accountable and participatory government, responsive to the needs and aspirations of the people, is the foundation on which good governance rests, and that such a foundation is a *sine qua non* for the promotion of human rights, including the right to development”.⁷²

The development community too has, over the past 10 years, arrived at the conclusion that the right to information is a prerequisite for sustainable human development.

In 2002 the annual Human Development Report, published by the United Nations Development Programme (UNDP), was dedicated to the theme ‘Deepening democracy in a fragmented world’. It recognised that economic growth is not a sufficient condition for development, and that instead political power and political institutions have immense influence on human progress. It highlighted that shifting power to the poor by giving them a voice and an active role in decision-making is a requirement for achieving human development. Democratic governance enables development, said the report, because it gives individual people the freedom to make choices and decisions and hold their governments accountable – important features of human development in their own right; because democratic countries are better able to avert conflict and catastrophes; and because in democracies people are empowered to press for policies that expand social and economic opportunities, and open debates help communities shape their priorities.⁷³ It also noted that there has been an explosion of civil society activism and new forms of political participation around the world over the past two decades, and that civil society groups are increasingly taking more direct roles in local decision-making and monitoring and are developing new, collaborative forms of governance.⁷⁴ The report explicitly mentioned freedom of expression and freedom of information as necessary ingredients to strengthen these processes.⁷⁵

⁷² The role of good governance in the promotion of human rights, UN Commission on Human Rights Res. 2001/72, available at [http://www.unhcr.ch/Huridocda/Huridoca.nsf/\(Symbol\)/E.CN.4.RES.2001.72.En?Opendocument](http://www.unhcr.ch/Huridocda/Huridoca.nsf/(Symbol)/E.CN.4.RES.2001.72.En?Opendocument)

⁷³ *Ibid.*, at 57–59.

⁷⁴ *Ibid.*, at 5.

⁷⁵ *Human Development Report 2002: Deepening democracy in a fragmented world*, New York, Oxford: UNDP,

Similarly, a new research report which assesses the state of good governance in over 200 countries around the world, released in September 2006 by the world's most powerful institution in charge of poverty reduction and development, the World Bank, further testifies to the increasing global recognition of the crucial role of access to information and government transparency for development.⁷⁶ Three of the six components chosen by the World Bank as a measure of good governance for development are closely linked to and require effective access to information regimes:

- Voice and accountability (public participation; political and civil rights);
- Government effectiveness;
- Control of corruption.

Most donors of international development assistance are nowadays making their aid conditional upon progress in 'good governance' of which freedom of information laws are a central pillar.

3.6. Freedom of information and socio-economic rights: The rights to health and life

Freedom of information is also a right that enables other rights to be protected and exercised. It is therefore referred to as a 'cornerstone right' or 'empowerment right'. It is through the right to seek, receive and disseminate information that people can demand the respect of all other human rights, for instance the right not be discriminated against or socio-economic rights.

To better demonstrate this link, we discuss here the importance of freedom of information for the rights to health and life, two rights that have emerged as being of particular concern in Abkhazia today.

A study carried out by ARTICLE 19 in Peru revealed the importance of an effective access to information regime for the realisation of health rights: The research found that Peru's access to information law increasingly provides a vital recourse for civil society groups working to

2002, 6.

⁷⁶ D Kaufmann, A Kraay, and M Mastruzzi: '*Governance Matters V: Governance Indicators for 1996-2005*', World Bank, 15 September 2006, www.worldbank.org/wbi/governance/govmatters5

improve health conditions of poverty-stricken communities. Civil society groups who act as a bridge between marginalised sectors of society and State bodies use the law to obtain State-held information in order to carry forward advocacy strategies on behalf of individual men and women whose reproductive and sexual health rights are unrealised or actively threatened.⁷⁷ Some government officials also recognised that proactively publishing information can make even the most worrying statistics less alarming and have a positive effect by spurring members of the public to take responsible measures to protect their own health.⁷⁸ ARTICLE 19's experience to date has shown that by connecting the right to information to the right to health, issues that are often taboo can be demystified and properly debated by governments, civil society groups, multi-lateral agencies and the public, thus ensuring more effective protection of and respect for the reproductive and sexual health rights of individual women.⁷⁹

The right to life is at the core of all the major human rights treaties.⁸⁰ The scope of this right is a broad one and extends beyond the narrow right not to be deprived of one's life arbitrarily. In 1989, the UN Human Rights Committee stated:

The right to life has been too often narrowly interpreted. The expression "inherent right to life" cannot be properly understood in a restrictive manner, and the protection of this right requires that states adopt positive measures.⁸¹

In particular, the Committee recommended that States should implement "all possible measures" necessary to reduce infant mortality and increase life expectancy.⁸² The European Court of Human Rights and the Inter-American Court of Human Rights have affirmed this interpretation.⁸³

The implementation of "all possible measures" can be argued to include the provision of information on health matters, including on family planning and sexual education, HIV/AIDS

⁷⁷ *Time for Change: Promoting and Protecting Access to Information and Reproductive and Sexual Health Rights in Peru*, London: ARTICLE 19, January 2006, 130–132.

⁷⁸ *Ibid.*, at 126.

⁷⁹ *Ibid.*, at 11.

⁸⁰ ICCPR, Article 6 and ECHR, Article 2.

⁸¹ General Comment No. 6.

⁸² *Ibid.*, at para. 5.

⁸³ See, for example, *Osman v. United Kingdom*, 28 October 1998, Application no. 23452/94, para. 115, and *Godinez Cruz case*, 20 January 1989, para. 185 (Inter-American Court of Human Rights).

and other sexually-transmitted diseases, hepatitis, or the dangers and consequences of drug abuse.

Similar obligations arise from the right to health, a human right that is protected in a range of binding international treaties, including under Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)⁸⁴.

In 2000, the UN Committee on Economic, Social and Cultural Rights, the supervising body for the ICESCR, adopted a General Comment on the interpretation of the ICESCR in which it pointed out that the right to health is connected with and dependent on the realisation of other rights, including the right to information.⁸⁵ The Committee stated that the right to access health information constitutes a core component of the right to health, and that an important aspect is the participation of the population in all health-related decision-making at the community, national and international levels.⁸⁶

States are under specific obligations of relevance to the issue of access to information. For instance, States should refrain from censoring, withholding or intentionally misrepresenting health-related information; ensure that third parties do not limit people's access to health-related information and services; adopt legislation or take other measures ensuring equal access to health care and health-related services provided by third parties; ensure that privatization of the health sector does not constitute a threat to the availability, accessibility, acceptability and quality of health facilities, goods and services. They should also implement health information campaigns, in particular with respect to HIV/AIDS, sexual and reproductive health, traditional practices, domestic violence, the abuse of alcohol and the use of cigarettes, drugs and other harmful substances.⁸⁷ The Committee explicitly lists "the deliberate withholding or misrepresentation of information vital to health protection or treatment" as a clear-cut violation of the right to health.⁸⁸

⁸⁴ The *International Covenant on Economic Social and Cultural Rights*, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entered into force 3 January 1976.

⁸⁵ General Comment No. 14 (2000), 11 August 2000, UN Doc. E/C.12/2000/4. [http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/E.C.12.2000.4.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/E.C.12.2000.4.En?OpenDocument)

⁸⁶ *Ibid.*, at paras. 11, 44.

⁸⁷ *Ibid.*, at paras. 34–37.

⁸⁸ *Ibid.*, at para. 50.

In 2002, the UN Commission on Human Rights set up the office of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.⁸⁹ In his 2004 Report, the Special Rapporteur included a section on the rights to sexual and reproductive health in which he outlined the crucial nature of access to information for the implementation of these rights.⁹⁰ He noted that even with scarce resources, States can achieve major improvements in the health of their populations, pointing at the example of Sri Lanka, where significant advances have been made by improving education, increasing literacy, enhancing the quality of the health care services and making them more accessible.⁹¹ The same point has been made by the UN Committee on Economic, Social and Cultural Rights, which has pointed out that access to health information and care is most important for those who are least privileged: “[E]ven in times of severe resource constraints ... the vulnerable members of society can and indeed must be protected by the adoption of relatively low-cost targeted programmes.”⁹²

The UN Special Rapporteur on Freedom of Opinion and Expression has also identified access to health information as an area where States are under a strong positive obligation to ensure that individuals receive sufficient information. In his 2003 Annual Report to the UN Commission on Human Rights, the Special Rapporteur elaborated on the importance of the positive obligation on the State to provide information in relation to HIV education and prevention.⁹³

The Special Rapporteur on Freedom of Opinion and Expression also stated:

The effective exercise of the right to freedom of opinion and expression, including the right to seek, receive and impart information, is of the utmost importance for ensuring effective education and information campaigns to prevent HIV/AIDS. As demonstrated by the examples given below, information and education on HIV/AIDS are the cornerstone of prevention programmes, and the Special Rapporteur believes that the exercise of the right to freedom of

⁸⁹ Established by the UN Commission on Human Rights, in Resolution 2002/31, 22 April 2002, UN Doc. E/2002/23- E/CN.4/2002/200.

⁹⁰ 16 February 2004, UN Doc. E/CN.4/2004/49.

⁹¹ *Ibid.*, at paras. 28–31.

⁹² General Comment No. 3.

⁹³ Report of the Special Rapporteur, *Promotion and protection of the right to freedom of opinion and expression*, UN Doc. E/CN.4/2003/67, 30 Dec. 2002.

opinion and expression is a sine qua non condition of effective information and education campaigns.⁹⁴

3.7. Freedom of information and women's equality

The prohibition of discrimination is among the most fundamental principles of international human rights law. Nevertheless, discrimination of women is a fact in most societies around the world. The main international treaty aimed at ensuring the full realisation of women's human rights, the *Convention on the Elimination of all forms of Discrimination against Women* (CEDAW), recognises that

“discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity”.⁹⁵

CEDAW requires States “to pursue by all appropriate means and without delay a policy of eliminating discrimination against women” and “take ... all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality.”⁹⁶ CEDAW requires States to take positive steps in order to eradicate inequalities where these persist, and to ensure equality in fact as well as in law.⁹⁷ This means that a government has an obligation not to discriminate against women in its own actions, but also to ensure that discriminatory practices do not occur in other sectors of society.

Access to information is considered to be of particular importance for some areas of women's human rights. One of them relates to women's right to fully and equally participate in political and public life, dealt with in Article 7 of CEDAW:

⁹⁴ *Ibid.*, at para. 41.

⁹⁵ Adopted and opened for signature, ratification and accession by GA resolution 34/180 of 18 December 1979, entry into force 3 September 1981, Preamble. Discrimination against women is defined in Article 1 as: “[A]ny distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”

⁹⁶ *Ibid.*, Articles 2 and 3.

⁹⁷ See also the Human Rights Committee's General Comment No. 18, Non-Discrimination, 10 Nov. 1989, UN Doc. HRI/GEN/1/Rev.1 at 26 (1994).

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

(b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government

Participation in the formulation of government policy and implementation thereof require a functioning freedom of information regime under which, for instance, draft policies would be published for consultation and information on the progress of policy implementation would be easily accessible.

Women's education and health are two other areas where access to information is of utmost importance and they are explicitly mentioned by CEDAW. Article 10 says:

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

And Article 16:

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights

The CEDAW convention is particularly concerned with the problems faced by rural women, who are often deprived of their right to have a voice in the development of programmes and policies that affect their lives, and denied access to information necessary for their health and well-being. In Article 14 the Convention states:

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(a) To participate in the elaboration and implementation of development planning at all levels;

(b) To have access to adequate health care facilities, including information, counselling and services in family planning;

(f) To participate in all community activities;

The important role of information for achieving women's equality is confirmed amply when we look at social realities:

On the occasion of the tenth anniversary of the 1995 Beijing World Conference on Women, the UN held a review conference in 2005 to assess worldwide progress on the implementation of the 'Beijing Platform for Action', the action plan governments had agreed to in 1995 for the advancement of women's equality. The review report, which collated information from hundreds of countries around the world, highlights the role information plays in some key areas, such as women's health (in particular sexual and reproductive health), tackling violence against women and other human rights abuses such as trafficking.⁹⁸ It points out that lack of information keeps teenage pregnancy rates high, contributes to unintended pregnancies, unsafe abortions, and ineffective family planning. Up to 27 million unintended pregnancies annually result from incorrect or inconsistent contraceptive use.⁹⁹ With regard to violence against women, it notes that public information, education and awareness-raising campaigns play a crucial role in prevention, and the rehabilitation of victims and in enabling women to defend their rights. Among the biggest challenges in tackling the problem of violence against women it cites the lack of reliable and comparable sex-disaggregated statistical data and information.¹⁰⁰ On human trafficking, the report notes increasing recognition of the importance of giving women migrants the tools to reduce their vulnerability, and information is one of them. Some countries, including Armenia and the Russian Federation, have set up immigration offices and telephone hotlines to provide information on safe migration and provide information kits to women going abroad.¹⁰¹

While the report notes that new opportunities created by modern information and communication technologies are helping increase active participation of women in public life,¹⁰² it also notes with concern that poor women become further marginalised. The digital divide between urban and rural areas affects women more negatively than men. Many rural areas in developing countries lack electricity, and even access to radios is limited. Rural

⁹⁸ Review of the implementation of the Beijing Platform for Action and the outcome documents of the special session of the General Assembly, entitled *Women 2000: gender equality, development and peace for the twenty-first century*, Report of the Secretary-General, 6 Dec. 2004 (E/CN.6/2005/2).

⁹⁹ *Ibid.*, at para 185.

¹⁰⁰ *Ibid.*, at para 218.

¹⁰¹ *Ibid.*, at para 524.

¹⁰² *Ibid.*, at para. 43.

women and girls generally have less access than men to information and new technologies.¹⁰³ There is a concern that patterns of gender inequality are being reproduced in the information economy.¹⁰⁴

The report identified as a key weakness, and consequently as one of the strategic priorities for the advancement of women, the generation and dissemination of data disaggregated by sex.¹⁰⁵ Many countries are still unable to provide sufficiently detailed information in this field, although the report also notes that a number of governments have developed methodologies to improve data collection and develop gender-specific indicators.

Without gender-disaggregated information it is impossible to understand gender-specific needs as well as discrimination patterns. Data about the situation and living conditions of women are the basis for successful advocacy and campaigning for women's rights: They serve to attract political attention to discrimination issues and to urge decision-makers to take action to address them. Making information widely available also helps make the public aware of the problems and can mobilise public support for women's concerns.

Access to information is crucial for defending women's rights but it is also the basis for successful policy-making on gender-specific problems. Most policies, laws or other measures governments adopt affect women and men differently. This means, while they often do not take gender considerations into account, they are hardly ever 'gender-neutral'. A well-conceived legal right to access information creates space for the active participation of women in the development of programmes and responses on issues that affect them. It thereby enables decision-makers to assess the gender-specific impact of planned measures and ensure gender-needs are adequately addressed. Improved consultation mechanisms through better access to information will also need to be accompanied by measures that address under-representation of women in the public-political sphere more generally, as well as dealing with existing media bias towards male perspectives. Both are in effect also important obstacles to the full realisation of women's right to know and women's right to actively contribute to public and policy debates.

¹⁰³ Ibid., at para. 618.

¹⁰⁴ Ibid., at para. 620.

¹⁰⁵ Ibid., at para. 675.

Most governments are verbally committed to gender equality – a commitment that needs to be put into practice by ensuring women’s perspectives are taken into account in planning and programming, by developing budgets that allocate funds in a gender-sensitive way, as well as by actively taking measures to reduce imbalances and discrimination. An effective access to information right enables women’s groups and other civil society players to monitor government performance in this field. This can be done for instance through gender budget analysis, an approach that compares government policy commitments against resources allocated to their implementation, and thereby exposes any gaps or inequitable impact the spending may have on women and men. When they have access to government documents civil society can further monitor the effect government measures have had on the ground, the efficiency with which programmes have been implemented, and whether they have reached the objectives they were designed for at the outset. Without the right to access information from public bodies, it is impossible to effectively provide such monitoring.

4. THE CURRENT LEGAL FRAMEWORK REGULATING ACCESS TO INFORMATION IN ABKHAZIA

This chapter gives a short overview of the legal framework that currently regulates access to information in Abkhazia.

Abkhazia recognises in Chapter 2, Article 11, of its *Constitution* the “human rights and freedoms fixed in the Universal Declaration of Human Rights, the International covenants of economic, social, cultural, civil and political rights, or in other universally recognised international legal acts.”

The right to access official information is not explicitly stipulated in the Constitution. Article 14 of Chapter 2 of the Constitution, however, guarantees the right to freedom of expression: “Each man has the right to freedom of private life, personal and family secret, protection of honour and dignity, freedom of conscience, belief, creativity, thought, speech and convictions.” It has already been explained in Chapter 3 of this report, on international standards, that, according to the European Convention of Human Rights (ECHR), the right to free expression includes the right to seek, receive and disseminate information,¹⁰⁶ and it is

¹⁰⁶ Article 10 (1) of the European Convention on Human Rights.

widely recognised internationally that this includes the right of the public to access information held by public bodies. International standards say that every country should enact separate legislation implementing the right to freedom of information, and such a law should apply to everyone and not just to the mass media. Abkhazia currently has no such specific law that sets out rules according to which people can exercise their right to information, as well as duties and responsibilities of public bodies, although a mixed working group, consisting of civil society representatives, lawyers, a member of parliament and a representative of the Presidential Administration, is currently working on a draft “Law of Abkhazia on the Right of Access to Information”.

Article 72 of the Constitution stipulates openness of legal proceedings: “The examination of cases shall be open to the public in all the courts except in cases specified by law.” The Procedural Criminal Code and the Procedural Civil Code respectively regulate cases in which courts can legitimately make a decision to hold closed hearings. In practice, however, it frequently occurs that the courts evict the public and the media, even if these specific conditions are not fulfilled.¹⁰⁷

The *Law on Mass Media*, adopted in summer 2004 by the Abkhazian Parliament, has set out, for the first time in Abkhazia, a right to information. However, it is applicable only to representatives of the mass media.

In particular, Article 37 of the media law provides that private citizens have the right to receive “authentic” information about the activities of “state organs and organisations, public associations and their officials” through mass media. The right does not extend to “state, commercial or any other specialised secret information protected in laws”. There is no explanation or definition of ‘state, commercial or other specialised secret information’. In particular, the law does not say that the information can only be declared secret if disclosure would cause *harm* to commercial interests or national security, and that it is not enough when

¹⁰⁷ For instance, in March 2006, when hearing the case *Grigolava vs. Chachkhalia* in Sukhum/i, the judge announced before the beginning of the session to the journalists in the court room that they had no right to be present and sent them away. Article 10 of the Procedural Civil Code of the Republic of Abkhazia states that the “Trial of cases in all courts shall be open, except for cases, when it contradicts the interests protecting state secrets. Other than that, a closed proceeding is admitted for the purposes of prevention of disclosure of information on the personal life of persons participating in the case and to allow for confidentiality of child adoption.” However, in this case the judge decided to hold a closed hearing without the presence of the above mentioned circumstances.

the information only *relates to* commercial, national security or other interests. The exact requirements that should be fulfilled by an exceptions regime that corresponds to international standards have been explained in section III.1.3. of this report. In the absence of any such specifications, the Law appears to allow public authorities to label virtually any information as constituting a ‘State secret’.

Article 38 provides that the mass media are entitled to make information requests, and cannot be refused unless the materials they seek fall within the exception just noted. Refusals must be explained (Article 39), and may be appealed to a court of law (Article 60).

Article 46 sets out the various rights of journalists. While these are indeed rights that journalists ought to and in fact do have, it should be emphasised that many of them are rights that persons have generally as an integral part of their freedom of expression – for example, not only journalists, but all persons, have the right to “look for, inquire, receive and spread information”, and to “set forth his or her personal judgements and assessments in reports and materials intended for dissemination under his or her signature”.

These elements, aimed at facilitating journalists’ access to information, are positive in principle. However, the right to information according to international standards means that all people are also entitled to seek and receive such information themselves, not only via the media. A freedom of information law should therefore be passed that applies to everyone and not just to the mass media.

The *Law of the Republic of Abkhazia “On State Secrets”*, dated 23 February 1998, contains, in Article 5, a list of types of data that can be considered a ‘state secret’. These include specifically data

- in the military field;
- in the field of economy and science;
- in the field of foreign policy and economics.

Article 7 of the Law contains the list of items of information which are not subject to classification, including data:

- on emergencies and accidents endangering the safety and health of citizens, and their consequences, and also on acts of nature, their official forecasts and consequences;
- on the condition of the environment, public health services, sanitation, demography, education, culture, agriculture and criminality;
- on privileges, compensation and discounts given by the State to citizens, officials, enterprises, establishments and organisations;
- on infringements of the rights and freedoms of human beings and citizens;
- on the size of gold reserves and State currency reserves;
- on the health of top State officials;
- on infringements of laws by State bodies and their officials.

The same Article 7 stipulates the responsibility of officials who make decisions on classifying information and the right of citizens to appeal such actions in court. However, Article 4 of the Law, dealing with the “responsibilities of state bodies and officials in classifying information as state secret and their protection” contains the following provision: “The President of the Republic of Abkhazia: Shall approve ... the list of data referred to as state secret; [and] within the limits of his competences solves other questions relating to the referral of items of information to the category of state secret and their protection.”

According to international standards, the list of information that can legitimately be kept secret should be exhaustive and narrowly defined. The list contained in the Abkhazian State secrets law is vague and over-broad. Under these provisions, a lot of information can be declared secret of which the release would in reality not pose any harm to national security or other legitimate aims.

Paragraph 3 of Article 36 of the “*Rules of the National Assembly*” provides for openness of parliamentary sessions: “sessions of Parliament shall be carried out openly and shall be covered in the mass media.” However, paragraphs 5 and 6 of the same Article say: “Parliament can make a decision to hold a closed session. The decision on holding a closed session has to be taken by majority vote of the deputies present at the session. Information on the contents of closed sessions of the Parliament is not subject to disclosure.” The law does not stipulate under what circumstances Parliament can decide to hold a closed session. This

implies that practically any session of Parliament can be a closed session if the majority of MPs decide so. The rules should clearly specify the conditions that need to be present for a closed session to be legitimate.

A similar situation exists in relation to local self-government bodies. Article 5 of the *Law of the Republic of Abkhazia “On Government in Administrative-Territorial Units”* states that “the government in the administrative-territorial units shall be carried out on the basis ... of openness.” In addition, bodies of local self-government and their officials are obliged to allow everyone access to documents and materials concerning their rights and freedoms (Article 6).

The “*Rules of the Sukhum Municipal Assembly*” (2004 – 2007) similarly contain an indication that its activity is based on the principles of openness and transparency (Article 2) while paragraph 1 of Article 34 says: “The Municipal Assembly can make a decision to hold a closed session. The decision on holding the closed session shall be approved by the majority of votes ... Media representatives are not supposed to be present during the closed sessions.” Monitoring conducted by the NGO ‘Civic Initiative and People of the Future’ Foundation showed that, in practice, the Municipal Assembly of 2004-2007 interpreted the Rules in a way that favoured secrecy: it restricted access of journalists to its sessions through an accreditation system. In addition, they called sessions without prior announcement. This decision was justified by “regular disinformation in mass media about the activity of the National Assembly”. However, there have been no attempts on the part of the municipal authorities to hold journalists responsible for disinformation.¹⁰⁸

The *Law of the Republic of Abkhazia “On the order of publication and coming into force of the laws of the Republic of Abkhazia and other legal acts adopted by the Parliament of the Republic of Abkhazia”* guarantees the right of citizens to get acquainted with legal acts approved by the Parliament. Article 1 of the Law says that “the Laws of the Republic of Abkhazia and regulations on them adopted by the Parliament shall be published by the President of the Republic of Abkhazia no later than 15 days after their approval by the Parliament of the Republic of Abkhazia”. The medium of publication, according to Article 3, has to be the newspaper *Republic of Abkhazia*, or *Apsny*, and the ‘Compilation of Acts of the Republic of Abkhazia’.

¹⁰⁸ E Korsaya, L Amichba *Report on monitoring the right to information on the budget for mass media from local self-government bodies*, Sukhum/i: Civic Initiative – People of the Future Foundation, 2006.

Meanwhile, the Council of Ministers also issues legal acts in the form of orders and decrees. Publication of these is not regulated anywhere in Abkhazia's legislation. They should be subject to the same publication requirements as legislation passed by Parliament.

Legislation should not only be published in hard copy, it should also be posted on an electronic server, including draft bills in all readings and at all stages of development. The President's new website which went online in October 2006 now contains some laws and decrees. This constitutes a good start, but needs to be expanded so that all laws and draft laws are public.

On 1 January 2007, the *Law on the "Public Chamber of the Republic of Abkhazia"* entered into force. The Public Chamber will be a new advisory institution to the President, and is meant to be a means of communication between the State and civil society. The Public Chamber will be composed of 35 members, of whom the president nominates 13, municipal administrations 11, and political parties and social movements 11. The Chamber's declared tasks (Article 2) are to facilitate public participation in politics; to carry out consultations amongst the public; to formulate recommendations on draft laws; to advise the President on matters of civil society development; and to exercise the role of a public watchdog over the activities of executive government institutions and the respect of freedom of expression in Abkhazia. The Chamber has not begun operating yet but civil society groups in Abkhazia are hopeful that it might become a real channel for voicing public opinion in Abkhazian politics.

5. EMPIRICAL STUDY: ACCESS TO INFORMATION IN ABKHAZIA (WITH A GENDER-FOCUS)

5.1. Summary

We have already discussed on a conceptual level how access to information facilitates development and human rights, and accountable and democratic government. In this chapter we present an empirical study looking at the meaning of freedom of information for women and men living in Abkhazia; how freedom of information can serve to strengthen elements of good governance with respect to the Abkhazian situation; and how it can help society to improve its fulfillment of people's basic needs and fundamental freedoms.

For this study, a group of Abkhazian researchers carried out a qualitative sociological survey in three cities of Abkhazia (Sukhum/i, Tkvarcheli/Tkuarchal and Gudauta) collecting primary data about the availability of information from public institutions in Abkhazia and its impact on people's lives. Besides gauging access to information for the population in general, the research also looked at gender-specific needs and experiences. A total of 97 respondents were surveyed through focus group discussions and in-depth interviews. They included 'ordinary people', civil society representatives and intellectuals, women activists, and public officials. The research was complemented by eleven face-to-face interviews conducted by ARTICLE 19. (See Annex for details of the methodology)

The study examined a number of key issues relating to information flows and needs. It demonstrated that most people feel lack of access to information has a detrimental effect on their lives. This relates in part to information held by government institutions – the main focus of our study – but also to a lack of access to information from media sources, and a more general lack of opportunities to access information that would improve people's lives.

In the next section we present a summary of the key findings, followed, in section 5.3, by a more detailed account of the views expressed by representatives of the public and the media, while section 5.4 presents the perspectives of public officials. The concluding section (5.5) draws these findings together.

5.2. Key Findings

The survey revealed the following key findings:

There are few sources of information that the population has access to.

- Abkhazian television is the main source of news from Abkhazia, in particular for the rural population. It is government-run and does not represent a diversity of opinions. Russian TV is also important, but of limited relevance concerning local news.
- A second major source of information is hearsay – a source of very limited reliability.
- Newspapers are mainly available in the capital, and often do not reach rural areas or they arrive only after long delays.
- The Internet has become a key information provider for those who have access to it, mostly the better-placed urban population.
- Where local media outlets exist, they are weak. People in remote areas feel starved of information, and deprived of participation in public debate.

People identified a variety of areas where there is a real need for more information.

- Many, including public officials, deplored the lack of specialised information and opportunities to upgrade professional skills and knowledge.
- A strong need for more access to information from public institutions was expressed. More information would help contribute to the following aims:
 - the need for truth
 - safety
 - public trust in institutions
 - tackling human rights abuses and abuse of the law
 - ensuring community needs get addressed
 - participation in public debate and decision-making
- In particular, people wanted to have more transparency in the socio-economic sphere, information on public services, on public income and spending.

In practice, a lot of information is considered a ‘State secret’ in Abkhazia.

- While people generally recognise secrecy as justified when there is a threat to, for instance, security or law enforcement measures, they think there is a need to define more precisely what constitutes a ‘State secret’.
- There is a feeling that more information is treated as secret than is necessary, especially when it is information that does not relate to the conflict.

In seeking information or communicating with public institutions, people made a variety of observations.

- Social status and personal relations are the most important factors facilitating access to information.
- Many officials do not feel obliged to provide information and want to know why information is needed. Refusals are often based on subjective reasons.
- Outright refusals of information are rare, but information provided is often not comprehensive.
- Public bodies are doing little to make accessible to the public comprehensive information related to their activities.
- For journalists, requesting information can be very bureaucratic. Some officials do not want to communicate with non-government press.
- There have been some positive recent developments, such as the creation of the Department of Governmental Information within the Presidential Administration.
- Central institutions are seen as more open than regional and local institutions; higher level officials as more accessible than lower level officials.
- NGOs are the most open actors, while international organisations working in Abkhazia can also be secretive.
- The following key areas were identified as those where people would like to see more transparency:
 - authorities’ activities
 - laws
 - health
 - environment

- development and social issues
- statistics
- economy and privatisation
- politics and security

There are a number of obstacles which make it difficult to improve freedom of information in Abkhazia.

- o Key challenges to greater transparency are the restricted resources public bodies have at their disposal; and insufficient skills and know-how amongst public officials, particularly in rural areas.
- o A public that is not sufficiently alert; and lack of external support for democratic institution-building were also mentioned.
- o The institutional culture is not used to public consultation and public participation, although some elements of it can be found. A culture of greater public consultation needs to be developed. More consultation, people believe, would help improve decision-making, avoid ‘mistakes’, make public institutions more predictable, and build trust.

The media sector in its current form is not fully able to satisfy the population’s information needs.

- o Abkhazian television is criticised widely for not offering enough context and analysis, as well as diversity, but in the absence of other sources of local information many people rely on it.
- o Many newspapers are also seen as biased, mainly aimed at compromising their political opponents, rather than offering useful information to the public.
- o The existence of a certain degree of media pluralism in Abkhazia was seen as an important achievement.
- o Community media at the local and regional levels could greatly benefit the communities by strengthening democratic public debate at the local and regional level.

In some respects officials held similar views to those expressed by civil society and the media; in others they offered different perspectives:

- Most officials also felt that people in Abkhazia do not receive enough information relevant to daily life and everyday problems. Several officials thought that the quality and amount of information published by their institutions was not satisfactory.
- They also wished to have
 - more access to specialised information that helps them secure professional standards; and
 - access to more socio-economic data in order to better understand the needs within their society.
- Furthermore, they would like to have improved information-sharing between different sectors of public administration.
- They noted that a lack of effective information dissemination leads to overburdening of high-level officials.
- Officials have no guidelines as to what is public and what isn't, and often rely on their own intuition. Lower level officials rely on their superiors. Officials sometimes fear that the release of information could fuel panic or chaos.
- There is little awareness that the public has a right to receive information from public bodies, and public bodies have a duty to provide information. Officials have little experience and little understanding of the practical benefits of public consultation.
- Most public bodies have no structures in place for receiving and handling information requests.
- There have been some attempts to improve communication and information flow between government departments and the population over the past couple of years, some of them initiated by the President.

Although most people agreed that gender is not an important factor facilitating or hindering access to information, some gender-specific issues emerged during the research:

- The majority of ordinary people and civil society believed that some gender-specific information needs exist due to differences in the social roles and status of women and men.
- Some women activists felt that women tend not to be treated equally with men, but most agreed that social status is a more important factor than gender.
- All officials said that the majority of requesters are women.
- Most officials confirm that women more often than men are interested in information on public policy matters, such as education, health, or public services.
- Half of the people interviewed thought that the media had a gender bias in favour of men.

5.3. People's Voices - Media Voices

The following section details the views and experiences that representatives of the public and the media conveyed when talking about their information needs, the difficulties and benefits of obtaining information, and how communication between the Abkhazian authorities and the people could be improved.

5.3.1. Sources of information: TV and hearsay

The research confirmed that for the vast majority of respondents, state officials and official information do not constitute the main source of information. Indeed, ordinary citizens never mentioned state officials as a source of information. Women civil society activists did seek information from authorities but confirmed that the information provided by them was not sufficient: *“Everybody here knows everything that happens in town... who is appointed, who is sacked, who bought a house or a car and on what money he bought it – but not from official sources.”* (Female civil society representative)

The most important sources of information for ‘ordinary people’ are **Abkhazian television** and radio, in that order. Newspapers are cited as the third most important source by residents of the capital Sukhum/i but not in the rest of the country, due to serious distribution problems in the regions. Most respondents were critical of the quality of television information, but they have few alternative sources of information, especially in the villages. Some respondents would like to see the media paying more attention to socio-economic questions and problems and to state accountability: *“I want to know the truth, [I want] that television shows actual*

achievements in the state. I should know our budget and what it is spent for.” Civil society from the capital Sukhum/i identified the **Internet** as one of the main sources of information for their work, followed by scientific works and special literature.¹⁰⁹

Civil society representatives and women activists highlighted the acute lack of information in **rural areas**. For instance, newspapers are up to a week out-of-date by the time they arrive in the regional town of Tkvarcheli/Tkuarchal. Moreover, many people lack the purchasing power to buy newspapers. In addition, Tkvarcheli/Tkuarchal has no internet connection. The lack of media at the district level means there can be no public debate of local and district issues. The reliance of many people on Abkhazian-government television as their main source of information means that, in the winter months, when there are frequent power cuts, people can find themselves in an information vacuum. The extremely bad condition of many roads also makes it physically very difficult to travel to the urban centres where information and news are more available.

Hearsay and information obtained verbally from friends and relatives were named as a vital source of information, both by ordinary citizens and civil society representatives. One respondent admitted that she receives necessary, at times even confidential, information from friends and relatives in different cities and areas of Abkhazia. She added: *“We should know more what is happening in the republic, around us and inside of us. – We don’t get much information from television, and even that information is usually vague.”* Many of the respondents were aware of the dangers of relying on hearsay, since the origin and truthfulness of this information is usually unknown, facts easily get distorted and, as a result, generate insecurity and confusion. Respondents mentioned, for instance, that there is not enough exact information available about the volatile Gal/i region along the ceasefire line with Georgia, where the majority of Abkhazia’s Georgian population lives. Given that the events in Gal/i represent one of the issues at the heart of the ongoing conflict and the stalled peace-process with Georgia, the lack of verifiable information from there is unsettling for many.

Paradoxically, however, a number of respondents felt that at times information from unofficial sources proved to be more accurate and detailed than information released by the

¹⁰⁹ Residents in the capital city enjoy the highest rate of internet access in the country.

officials. This reveals a lack of trust or lack of quality of the information public bodies provide.

Women activists also reported relying on the Abkhazian media, non-governmental organisations, medical, and educational establishments. One respondent also quoted training events and seminars organised by various international and local organisations, as well as parliamentary committees, as sources of information.

A teacher declared that she simply relies on her own professional experience in her work and on the orders and instructions from the Ministry of Education. She noted a desperate need for **specialised information** for both teachers and social workers. All civil society representatives highlighted being restricted in sharing their experiences with colleagues from outside Abkhazia and complained about the lack of opportunities to travel abroad to raise their professional standards or to receive special literature. Respondents mentioned their interest in learning from experiences in Russia or the Baltic States. Indeed, a representative of the Union of Businesswomen emphasised that people need information not only from and about Abkhazia but also from abroad – including on new technologies.

5.3.2. Information needs

‘Ordinary’ people were particularly interested in receiving information on the following areas of public policy:

- political processes in Abkhazia,
- perspectives on the settlement of the Georgian-Abkhazian conflict,
- level of crime,
- the privatisation process being undertaken, and in whose interest this is conducted,
- the level of education and supply of textbooks to schools,
- the demographic situation in the country (statistics on death and birth rates) and
- problems of public health services,
- how the taxes generated by the tourism industry are used,
- why people still live in poverty,
- budget expenditure, and how authorities make decisions on expenditure.

Women activists in Tkvarcheli/Tkuarchal – the most isolated and deprived of the three regions we looked at – were particularly interested in greater transparency on social and economic issues:

- how the standards of living may be raised,
- demographic information, and
- social security.

In Sukhum/i and Gudauta, women activists also wanted to receive more information on political decision-making and the peace negotiations.

In the journalists' view, the gathering and distribution of information needs to be more systematised at the level of state structures. Today journalists are mostly informed of new important developments after the event: there is a need to get information in advance, so that journalists can more fully cover the activities of public bodies.

Gender-specific needs

When asked whether women and men have different information needs, the prevailing view among ordinary people was that there are certain types of gender-specific information, while there is some information that is important for everyone.

The majority of the civil society respondents believed that besides shared topics and problems, men and women also have gender-specific information needs related to their personal and social life. Two of the four women activists interviewed insisted on gender-specific needs due to the persistent structural discrimination of women. They noted that since there are many more men in power than women, the information which institutions provide is more focused on men than on women. They highlighted the need for stronger public programmes in such fields as public health services and education, aimed at addressing women's needs. *“In this respect it's the man's country, and there are men in power structures. The very fact that we don't have programs for women on television probably says a lot.”* For another female interviewee, there was a big difference in male and female information needs. Traditionally men have been mainly interested in politics, she says, and more recently they got increasingly interested in information on business opportunities in their quest to make money. Women, on the other hand, are more concerned with securing

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livelihoods, and how to educate and bring up children. One woman television journalist noted that there is a need to discuss in the press issues relating to women in the workplace, domestic violence (as women do not know their rights), as well as issues of child care and education. This kind of information was described as crucial to assist women in defending their rights, and caring for themselves and their children.

According to the opinion of a male interviewee (ordinary person), other features such as the educational level, the status in society, or simply personal interests, determine a person's information needs more than her or his gender. He thinks that both men and women are equally interested in politics and the economy. The same point was made by the woman journalist interviewed. Overall, media respondents found it difficult to answer the question as to whether or not the information needs of women and men differ.

REPORT

Domestic violence and reproductive health in Abkhazia

The Information Dimension

In summer 2006, a group of researchers with support from UNIFEM carried out a survey on violence against women and women's reproductive health in three districts of Abkhazia (Tkvarcheli/Tkuarchal, Ochamchira and Gal/i).¹¹⁰ On the basis of 300 questionnaires, 12 focus group discussions with women and men, and a number of interviews with experts and affected women, they came to the following conclusions with implications for information policies in Abkhazia:

The problems

- Violence against women, physical, sexual, and verbal, seems to be widespread in all the three surveyed regions of Abkhazia and this is likely to be reflective of the situation throughout Abkhazia.
- High rates of abortion to deal with unwanted pregnancies have significantly impacted on the health of women in Abkhazia. Abortion remains the most common method of childbirth regulation. Many abortions are carried out informally, without professional care, posing significant health risks to the women who seek them.
- Early pregnancies and poor access to gynaecological services have also had an extremely negative impact on women.

The information dimension

- Information on gender-based violence – in particular domestic violence – and reproductive health is almost non-existent and understanding about these issues among women and society as a whole is almost completely absent.
- There are no statistics about the situation of women as regards reproductive health and gender-based violence.
- The hospitals do not have any consultation centres, gender based violence is not registered as a separate type of violation of human rights, and there is no crisis centre

¹¹⁰ The results are compiled in the following report: Dina Shukurova: *Understanding women's rights over their bodies – Domestic violence and reproductive health in Abkhazia, Assessment of a sociological survey conducted in Gali-Tkuarchal-Ochamchira*, February–June 2006

that women, the victims of violence, can refer to.

- To date, no comprehensive awareness-raising campaign has been carried out in Abkhazia.
- 21 per cent of the respondents pointed that there is no information available on reproductive health while 28.3 per cent are getting information from their friends and acquaintances – incredibly unreliable sources.
- Even those who deal with the victims in the line of duty and therefore have first-hand information about the problem (law enforcement bodies, lawyers/consultants, social workers and gynecologists) do not know which governmental and non-governmental institutions affected women could approach. Only 16.3 per cent of the questionnaire respondents know about the activities of NGOs in the field of violence prevention. Practically no-one has heard of international or domestic legislation protecting the victims of violence.
- One of the reasons why so little information about these issues or how to address them is available is an existing cultural taboo that prevents public discussion of these issues.

Information needs

- Women articulated a strong interest in obtaining more information about contraceptive methods and HIV/AIDS prevention (36,7 per cent and 39,7 per cent respectively). 36 per cent responded that they would like to have more information but are afraid of their husband's reaction if they seek information on reproductive health issues.
- All the respondents were unanimous in the belief that the problem of violence against women deserves not only broad public discussion but also needs to be closely controlled by the state and society.
- The women see the key responsibility for the solution to these problems as lying with government institutions.
- There is a need for: awareness-raising/information work; public discussion of the problem; more information about the laws that protect women's rights; the establishment of support centres; lobbying for and drafting of special laws and secondary legislation aimed at bringing to account those who commit violence against women; surveys and the creation of records and statistics on the scope of the problems.
- 68 per cent of the respondents to the question about the need for sexual education (53 adults and 6 teenagers) think that youth must be provided proactively with education and information on these issues.
- They also demanded better training and information for health professionals and public awareness-raising work.

Women's voices

- *"I attended some seminars on women's rights. Maybe it is necessary to conduct such seminars."*
- *"Yes, speak about it more often. We in our turn will tell our neighbours, friends, those who could not be present here. And like that, by spreading information we will be able to change things."*
- *"That is exactly what we need to learn and know about. When you know the laws, then you feel much more protected, and know where to turn to."*
- *"We do not have information about the organisations to which women could apply in such cases."*

According to local women's organisations, the Abkhazian authorities have generally failed to provide adequate support and information to women in the area of health. Most of these issues

are dealt with by local and international organisations, with some co-operation from the authorities. They highlighted the following problems:

Insufficient remedies: Overall, according to Abkhazian NGOs working on health, both women and men seem to pay insufficient attention to their health. This is certainly due to misinformation, a distrust of medicine and, at times, a strong belief in natural remedies. In one case, a woman set up an office that provides computer diagnosis in 15 minutes. She prescribes medicines that are at most palliatives. She has established herself unofficially, as the Ministry of Health denied her permission to practise because she lacked the necessary qualifications. Her business is reported to be successful, mostly because it is quick and relatively inexpensive, and exploits beliefs in natural remedies.

Child Care: There is little information on problems related to pregnancy and childbirth. Many paediatricians are old and have outdated information on child care and young mothers' health, reducing their ability to provide competent advice. In many cases, when children are ill, people try to take them to Sochi (Russia) for better medical care. Information on breast-feeding is very scarce. When women run into difficulties with breast-feeding they often immediately discontinue, as they are not provided with medical information and guidance.

Family Planning: There is very little information on family planning. Even in hospitals it is difficult to get clear information about contraception. Women's main sources of information on contraception are other women. Some NGOs working on women's health are involved in training and information activities on contraception and family planning, but this does not meet the majority of women's needs, and there is virtually no literature on this issue. There is little awareness of the fact that certain forms of contraception are not suitable for all women, and that women should be examined beforehand.

Some information on social and health issues is available through Russian television. Some believe that the number of abortions may have gone down thanks to information on contraception provided by Russian television. However, given the lack of statistics, it is impossible to establish whether this impression is true. A civil society representative also mentioned the example of a mother who, having received important information from the Internet, managed to take a child for treatment outside Abkhazia.

5.3.3. Why information is important

Respondents mentioned the following reasons why there needs to be a flow of information from public bodies to the general public:

The need for truth: The need for truth was mentioned both by 'ordinary people' and civil society representatives. One interviewee said that only by having different alternative sources

of information can one gain a more objective picture of what is happening. *“I don’t know, to what extent it would facilitate life, or maybe on the contrary, it would complicate it, but all of us would like to know the truth. We should feel involvement in all processes ... During the war we understood the complexity of the situation, we tried to help in whatever way we could. And now nobody is informing us.”* Relating to the events of the war, a lot of information is still absent. One female NGO leader mentioned people’s need to know what happened to the disappeared. She said there have been burials in some regions, but nobody knows for sure who was buried. If the missing are dead, people would like to know where they are buried.

Safety: Many ordinary people as well as women activists stated the special importance of timely and accurate information on the background of the political instability that surrounds Abkhazia. Receiving information makes people feel more secure. One female respondent admitted that authorities at times do not release information in order to avoid panic, but she is convinced that people need to be informed. At the beginning of the war, she remembered, people sometimes were not informed in a timely manner about dangers, and many have suffered as a result. *“[Provision of truthful information] should be ensured by the State. My employee has sent her children to her grandmother in Georgia. Then there were rumours that a provocation was being prepared, and she was going crazy because she did not know what the situation was.”* Another example mentioned was when in the summer of 2006 Georgia sent troops into the Kodori gorge – the only area of Abkhazia where Georgia has partial control – to fight rebel groups. Distorted media reporting of this event made people extremely worried. Although there are currently some exchanges of information between the official information agency ‘Apsnypress’ in Abkhazia and the Tblisi-based agency ‘Kavkazpress’, which is an important step forward, in most cases news on the conflict is exaggerated.

Public trust: There was a feeling that people in public positions often use the power they hold to further their personal business interests rather than working “for the people”, which lowers the esteem people have for the authorities. *“It would be nice to trust in the authorities”* and *“We have democracy ... it is necessary to make everything transparent,”* said two ordinary persons.

Tackling human rights abuses and abuse of the law: Two women activists pointed out that having more information from law-enforcement bodies, public health services and educational

establishments would contribute to preventing abuses of the law: *“People would be more protected and with more information it could even be guaranteed that fewer infringements occur in these areas.”*

A legal victory

In the case of the dismissal of a woman from the Ministry of Internal Affairs, the court recognised a violation of her information rights. The woman had not been informed of the order of dismissal, or invited to the meeting of the personnel commission that took the decision on the dismissal. The case was taken to court in 2004, with assistance from the NGO Foundation “Civic Initiative and People of the Future”. The woman won the case: as courts are often biased in favour of men, this was a positive precedent and had much resonance in the media. The court ruled that the woman should be given her job back and paid compensation, but the decision was not implemented. The case was finally taken to the Supreme Court and in March 2005 an order was given to reinstate the woman.

Addressing community needs effectively: NGO activists and ordinary persons pointed out that both information about the society as well as on public projects should be available for community needs to be addressed effectively. The head of the NGO Centre for Geopolitical Studies explained that for the planning of developmental projects he should know how many people live in certain settlements, how many of them are children, disabled and elderly people. He would also like to know from the Ministry of Economy what their plans and intentions are, but such information is not available. A woman from Tkvarcheli/Tkuarchal complained about road works on a major road that have been going on for five years. The road is extremely important for the local population, and yet there has been no comprehensive information on why the works progressed so slowly. *“This road is all our life – everything is connected with it. But if everyone had information on what was the deadline for building this road, how much money has been spent on it and who are the responsible persons, then the situation with accountability would be different.”*

Public debates and decision-making on issues of importance: The majority of civil society activists interviewed highlighted how difficult it is for people to make personal and public decisions without adequate information. They were also concerned that there is hardly any information in the regions on what is happening at the central level, thereby keeping the rural population out of public debates. It was said that *“nobody in Tkuarchal knows anything about the heated discussion on the railways”*.

The railway case

Since the middle of the 1990s there have been negotiations involving the Russian, the Abkhazian, the Georgian and the Armenian governments, the subject of which was a possible restoration of the railway link between Sochi in Russia and the Armenian capital Yerevan, running through Abkhazia and Georgia. The railway connection would be a major strategic improvement for all parties involved but the negotiations are overshadowed by the Georgian-Abkhazian conflict issues and no final agreement on the restoration has yet been achieved. While previous documents of the working meetings always mention the ‘Abkhazian side’ and the ‘Georgian side’ on equal footing, in 2006 the protocols started referring to Abkhazia only as ‘the Abkhazian sector of the railway’. The Abkhazian government had failed to fully inform the public in Abkhazia that they had agreed to this compromise. The opposition in Abkhazia (representing the pre-2004 government) subsequently got hold of the documents and published them widely, accusing the current Abkhazian government of treacherously selling out Abkhazia’s national security interests. The incident led to a heated debate caused apprehension amongst the population who had little information about the facts, the background, or the government rationale when compromising on the issue. Had the government been more transparent and more proactive in explaining their decision to the people and publishing all information about the negotiation process, they would possibly have had the support of the population.¹¹¹

5.3.4. Legitimate exceptions

All civil society respondents as well as women activists accepted the need for confidentiality of information concerning national **security**, activity of law-enforcement agencies and defence, but they believed that this sphere should be clearly outlined: the citizens should know precisely what falls under issues of national security. A ban on the release of information should be an exception to the rule, one of the respondents emphasised. In the opinion of the female editor-in-chief, only a threat to security and the health of a person can justify a refusal to release information.

Journalists complained about a **lack of clarity** as to what information may be considered confidential in Abkhazia. They reported that in reality the mentality of the society, personal or public interests, as well as the alleged “delicacy” of a topic are used as justifications for secrecy.

¹¹¹ For more information about the railway rehabilitation project, see: *Abkhazia: Ways Forward*, International Crisis Group, Europe Report N°179, 18 Jan. 2007, 27-29

Sometimes officials explain to them verbally the essence of an issue, but ask them not to publish the information. Such information is provided for the journalist to develop an understanding of the situation.

Whilst amongst the population there is wide acceptance that secrecy is justified in areas relating to the conflict, it also emerged from the interviews that many people think too much information is treated as a secret, particularly in areas not directly related to security.

5.3.5. Seeking information

Factors facilitating access

The majority of ordinary people, civil society representatives as well as women activists reported that **social status** plays a crucial role in whether or not a person can obtain information from public bodies. The status is determined by age, personality, degree of popularity, authority and position of the person, as well as education. One civil society respondent mentioned: *“Everyone is accepted differently. Someone is welcomed with coffee or tea, with someone they don’t shake hands, and someone will not even be let in the doorway.”* An MP reported that in some cases people have addressed him for help because they had been unable to get information. Due to his status he was able to intervene and facilitate access to information. A well-known newspaper editor confirmed the same observation: He said he always receives an answer from official bodies, but it happens that they refuse information to ordinary correspondents. In the opinion of one female civil society activist, such different treatment happens in particular in contacts with officials at a low level: *“The higher the rank, the more democratic is the official”*.

The two editors interviewed thought that, in so far as much in this small country is built on **personal relations**, the personality of the requester plays a vital role when seeking information. Other journalists confirmed the role of personal relations. *“Most businesses here [in Abkhazia] are built on the personal level, all the politics is formed on the personal level”* (Editor)

While two editors think that the ease with which a journalist can get information depends on her or his age, professionalism, and the degree of knowledge on the topic of conversation, journalists mentioned that it is also important which media someone represents. It was

mentioned that television journalists are favoured by officials over representatives of the press.¹¹²

Gender issues

All respondents thought that status is far more important than gender when it comes to the question of how requesters are being treated. *“It does not depend on gender, but on social status. It is not surprising that the way of treatment and service towards me and some well-known person will be different. It is a reality. A rather unpleasant one,”* said one man (ordinary person). The same point is made by a woman (ordinary person): *“I would not say it [gender] is important. I have not noticed it so far. My status – that is important. And it was always like this. Status was always an important thing.”*

The women activists interviewed said that the attitude to women, especially elderly women, is quite respectful. One female respondent, however, feels that while she is often treated in a very polite manner by public officials because she is a woman, she feels that at the same time they do not take her seriously, precisely because she is female. She noted that officials consider male requesters more seriously. In particular, she encounters this attitude in women public officials.

Another female civil society activist thinks that women suffer from lack of information more than men because of the general gender inequality in Abkhazian society: *“Our women are more passive than men, but not because they do not have their own ideas Simply, such is the people’s mentality, women are oppressed. Those who try to express themselves somehow are literally roughly stopped and pointed at their female essence – not always directly, more often they try to do it in a hidden way, very subtly”*. But she, too, thinks that the status is the primary factor for discrimination, and gender only secondary. Another respondent noted that she had not thought about these issues before, but said she now wanted to be more attentive.

Contacting authorities

Most ordinary persons as well as civil society representatives had mainly had contacts with local authorities, social security bodies, educational and medical establishments. A small

¹¹² This might be because television reaches a broader audience, but also because government-owned television is usually less critical than, for instance, the private print media.

number of ordinary people had also contacted high-level authorities. Many expressed an **overall dissatisfaction with the quality of the interaction.**

Half of the ordinary people associated their contact with the authorities with psychological discomfort and difficulties. Some respondents admitted that they try to avoid contact, by arranging what they need through their friends. While the civil society representatives in the focus groups found that officials are often rough, indifferent and disrespectful, those giving in-depth interviews did not have any particular observations concerning the politeness of officials. The majority of women respondents noted that officials are rather polite and frequently obliging, but this does not necessarily translate in information: *“Very often the affability of public servants is just formal, behind which there is no content, no specific information,”* said one of them.

A single respondent, a female activist from Gudauta, said she has no problems with getting information: *“There were no cases in which I arrived [at a State body] and didn’t get any help or was not given the information. Here everyone knows each other.”*

The impression of journalists as well as NGOs was that **many public officials do not feel obliged to provide information.** They often ask why information is needed. Civil society representatives stated critically that queries at times remain completely unanswered, or answers are received with great delay. The overwhelming majority of women interviewed are also not satisfied either with the amount or with the quality of information they have received from institutions in the past. One respondent suspected *“internal censorship”*.

Responsiveness of public institutions tested

In the autumn of 2006, a variety of people filed 19 information requests with various public institutions in Abkhazia – central, regional and local – on a number of diverse issues. They were addressed to bodies of the executive and legislative power, to publicly funded institutions such as maternity clinics, the university, and the public telecommunications agency, as well as to an NGO. Some were made orally, some by telephone, whilst others were submitted in writing. The following is a summary of their experiences:

- In 13 out of 19 cases (68 per cent) an answer was received, suggesting that outright denials do not occur frequently.

- The registry office of Tkvarcheli/Tkuarchal city administration did not have the statistics the requester asked for but undertook to produce them within a month for the purpose of answering the information request.
- The finance department of the Sukhum/i city administration, after a request in writing, sent within three days the city budgets for the past three years.
- The Ministry of Taxes and Social Payments sent within two days information about the taxes received and the social benefits paid out in 2005.
- The NGO Union of Business Women provided information about their activities and expenditure within two days of being asked.
- In six cases (32 per cent) the requested information was not received.
- In 2 out of the 13 cases when information was provided, the response only partially answered the actual request.
- In three out of the six negative cases the denial was justified with the fact that the head of the respective institution was not in the office and staff said they were not authorised to release information.
- None of the three requests that were made by telephone received an answer, suggesting that it is better to either show up in person, or write a letter which – in the absence of a functioning postal service – would also need to be hand-delivered. This illustrates the obstacles people from remote regions face for whom it is difficult to appear in person.
- In the Sukhum/i city administration it was impossible to locate a person who felt responsible for answering a telephone request about the amount of financial support given to educational institutions. The requester eventually had to give up and was unable to even make the request.
- In one case a letter addressed directly to the Minister of Health Care was left with his secretary but no answer was received.
- In another case a written information request to the Department of Governmental Information in the Presidency was left at the reception of the building but remained unanswered.
- Most institutions had difficulties answering statistical questions related to their area of work: Either they did not keep statistics, or their statistical information was incomplete and of low quality.

Journalists seeking information

Journalists reported that they frequently request information from official structures in the context of their journalistic investigations. In their view, **professionalism and popularity** are the keys for journalists to receive information.

At times the process of obtaining information is extremely **bureaucratic**, requiring a lot of persistence and correspondence, including supplying reasons for the information requests and filling in special forms. Sometimes, despite considerable effort, information is not granted, and more frequently the information provided is **not comprehensive**. For example, when *Nuzhnaya Gazeta* requested the budget from the municipal assembly in Sukhum/i they received it but found it difficult to interpret, due to the fact that it contained non-transparent budget lines such as ‘other expenses’. One needs to have contacts in the authorities to know the whole story, the editor believed.

The two editors interviewed noted that most state officials are **reluctant to have direct contact** with journalists, or to cooperate with the non-government media. “*All our governments have used the practice of banning independent mass media from attending sessions of the Council of Ministers,*” they reported. Independent mass media learn about the developments in the government and about the decisions made with a large delay and from confidential sources. This is the reason why journalists also publish information obtained through hearsay, which they are unable to corroborate through official sources. As a result, the media at times publish inaccurate information, jeopardising the population’s access to reliable information.

It also seems that few journalists ask ‘hard questions’ since investigative journalism is still in its infancy in the region. When asked for examples of questions they addressed to the authorities, journalists referred to issues such as the number of candidates registered for the next elections, or the names of politicians who participated in high-level meetings.

As with other respondents, journalists stated that they find it is easier to go to higher levels to obtain information (as high as the president, parliament, government), as top public officials better understand their responsibilities. It would be more practical for top civil servants to better train their staff, rather than handling a barrage of queries from the media and the public.

Reasons for denials

Journalists’ experience is that middle-ranking officials will provide information only if their **boss** allows it. They said officials tend to avoid taking responsibility themselves for making information public. When refusing to grant the information, civil servants usually refer to the

orders of their superiors. According to local journalists from *Nuzhnaya Gazeta*, the outcome very much also depends on how confident the official is in making this type of decision. Refusals to provide information are also caused by **subjective reasons**, such as the personal likes and dislikes of individual officials. If a public official does not want to provide information one should try to address another civil servant with the same question, noted one female journalist. At times officials overtly say that they are **unwilling to communicate with non-government press**. The prohibition of granting information to non-government media was even a formal policy (by way of government order) under the previous administration.

Journalists also reported that references to **security** and State interests often serve as excuses for not granting information, and thought that hidden censorship takes place inside the institutions.

Nevertheless, **outright refusals to grant information are rare**, the two editors said, but overall the quality of the received information is unsatisfactory, and its timeliness leaves much to be desired. In their view, regional administration performs worse than central institutions.

A freedom of information case in court

In one case *Nuzhnaya Gazeta* requested the names of the owners of two private banks. They waited for several months, during which they were asked to fill in various forms, with no results. *Nuzhnaya Gazeta* also appealed to the National Bank – a public body – but the newspaper was finally told that the information was a commercial secret. They sued the National Bank in October 2006. *Nuzhnaya Gazeta* won the case but the bank appealed. The case was heard again on 8 February 2007 when the court reportedly adjourned the trial, asking for additional investigations to be carried out. This was the first time that *Nuzhnaya Gazeta* had taken a case to court on a freedom of information issue.

Authorities' public information work

Amongst all civil society representatives, there was an opinion that public institutions are **not** particularly **good at publishing on their own initiative** information that would be useful or sometimes vital for members of the public. The entrance exams to the Abkhazian State University provided an example. Lists of exams for each faculty and the terms of the procedure for the exams were not disseminated in time, creating difficulties for many applicants. Although some information is published in local and central government media,

the authorities generally circulate little information proactively about their activities. Overall, the editors believe, the population receives only a minimum of information from the government, and this information frequently is of political or promotional character and lacking in substance. As an illustration one respondent refers to the news releases of the official news agency, Apsnypress, which, in his view, often use superficial expressions when discussing complex topics without providing substantial information. In relation to the Georgian-Abkhaz negotiation process, for instance, it says “questions of the Georgian-Abkhaz settlement were discussed”. The same happens in the case of Abkhazian government officials’ meetings with the ‘Group of Friends’,¹¹³ donor organisations, or diplomats. “*After reading the information there are a lot of questions, which nobody can answer.*”

E-governance

Websites of public institutions are still rare in Abkhazia, but recently there has been some development in this field. Besides the Presidential Administration the following public bodies currently have homepages:

‘Ministry of Foreign Affairs’ (MFA): www.mfaabkhazia.org

‘Center for Strategic Studies’: www.css-abkhazia.org/¹¹⁴

‘National Bank of Abkhazia’: www.nb-ra.org/

The official news agency ‘Apsnypress’: www.apsnypress.info/

‘Academy of Sciences’: www.academ.atlc.ru/

All of these sites contain contact information to which requests can be addressed. The MFA and the National Bank sites also provide information about the structure of their institutions. Whilst some laws can be downloaded from the presidential site, many laws cannot be found anywhere online. The National Bank’s site lists a wealth of documents regulating its functioning which can be downloaded directly from the site. The MFA website’s section entitled ‘MFA documents’, however, is empty apart from a couple of position papers by the Presidency about the Georgian-Abkhazian conflict. None of the sites lists what type of information is held by and can be obtained from the respective institution.

Press conferences and briefings are the most widespread form of dialogue with the press, and thereby with the public. They are mostly practised by central government bodies: the

¹¹³ See Section 2.1 Introduction

¹¹⁴ The Centre for Strategic Studies was founded by President Bagapsh in 2006 and has the task to provide research, analysis and strategies on development challenges that Abkhazia is facing in the economic, cultural, geopolitical and information spheres.

President (two to three times a month), the Prime Minister, the Deputy Prime Minister, and Ministries. Press releases are issued rarely and one editor expressed the view that press services effectively function as filters between government institutions and the public, noting: “For a long time we have tried to force local authorities to publish the budgets of cities and regions, to make deputies of the regional assembly tell about their activities, but as a result they chose the way of restricting access to information by creating the notorious press services.”

When asked how public bodies work with journalists, one respondent corrected the interviewer: “It is not the state bodies that work with journalists, but rather the journalists who try to work with them.” Normally journalists are the first to be active and contact public officials to obtain information from them.

Press conferences initiated by the media

The Abkhazian NGO Sukhum Media Club has been organising press conferences to bring together public officials and the media. This has raised the number of journalists having the opportunity to attend press conferences with officials, and facilitates equal access to information of governmental and non-governmental journalists. The themes of the press conferences are decided by the journalists themselves. In most cases, public officials have agreed to participate, but it seems that officials at the lower levels of the hierarchy are more worried about press conferences than their superiors. At times politicians refrain from directly answering the questions addressed to them. At times, however, the authorities have been quite open.

In a press conference in late 2006 in which the Prime Minister participated, particularly tough questions were asked by the media. *Chegemskaya Pravda* wanted to know why the non-State media was not allowed into the meetings of the Cabinet of Ministers and the Prime Minister replied that the needs of the two (the government and the media) have to meet mid-way: the media have to print positive information about the authorities for them to be allowed inside. Social issues have also been raised. For example, *Chegemskaya Pravda* took the opportunity to remind the authorities of their responsibilities in relation to war veterans. Reportedly, some additional funds have been allocated as a result.

Although the legislation says that sessions of **elected bodies** (such as city assemblies) and court **trials** are open in principle and can only be closed under specific circumstances, this is not always the case in practice. The Sukhum/i city assembly of 2002-2007 imposed some

restrictions on journalists, and media representatives reported of court cases where they were not allowed to be present without having been given any reasons for this decision. It is also difficult to find information about court cases that are already over.

A female journalist and civil society representative said that, **since 2004**, there has been a trend of public institutions becoming more active in disseminating information. For example, the Ministry of Taxes disseminates some information about the results of its work; the Customs Services also prepare information for journalists and write short reports; and the Ministry of Health does not publish reports but in some cases has invited the media to write about its activities. Both editors interviewed mentioned as a positive development the recent creation of the Department of Governmental Information which is more than just a press service, and also fulfils certain information responsibilities vis-à-vis the public.

The Department of Governmental Information

In 2005, the President created a Department of Governmental Information replacing the Presidential press service. The task of the new Department is to provide information to the media but also to handle information requests from the public. In February 2007, four people were working for the Department itself and six working on the presidential website.

The website of the Department (www.abkhaziagov.org) went online on 15 October 2006 and sets a positive precedent of openness and proactive communication in Abkhazia, although there is still considerable room for improvement. The site contains a number of key laws (Law on Mass Media, Law on NGOs, election legislation), presidential decrees,¹¹⁵ as well as some policy papers (The Concept of Social and Economic Development of Abkhazia, and 'Key to the Future' – a paper outlining the Presidency's position in the Georgian-Abkhazian conflict). It also gives guidance on how to contact the Department, and provides an option for submitting email queries to the President. The website does not, however, contain a list of the types of information that can be accessed through the Presidential Administration.

The staff of the Department reported that they always attempt to assist people in their efforts to obtain information. When they do not have the information required they refer requesters to

¹¹⁵ At the time of writing, however, only the decrees of the year 2005 could be downloaded. Upon request, we were informed that this is because the website is still under construction and eventually all decrees would be there.

the relevant institution that may be able to help. They believe they are in a good position to provide information, as they are in constant contact with the president, and have themselves access to information on a great variety of topics. The Department's staff feel confident that they can reply in the three-day period established by the Law on Mass Media, and in many cases in one day. The director of the Department mentions that most other public bodies are not as open as the presidential structures. He thinks that one of the problems related to this is the absence of a Law on Freedom of Information, as well as lack of capacity.

An independent journalist in an interview expressed a somewhat less optimistic view, also highlighting the need for legal guarantees of the right to information. In his view, if the Department's staff is forthcoming this is simply due to their goodwill, rather than thanks to specific guidelines of their responsibilities and those of other institutions. The fact that they do not have a responsibility to provide comprehensive information to the general public means that they could, in principle, supply such information selectively.

Most closed and the most open institutions

All respondents said that **central institutions** are more open than regional and local authorities. Several see the current President as much more open and accessible than his predecessor. According to journalists, somewhat accessible are also the Sukhum/i municipal administration, structures related to sports and physical culture, bodies of sanitary and epidemiological supervision. However, they also made clear that even in the relatively open institutions the situation leaves much to be desired.

Ordinary people and civil society also found **higher-level officials** more open than low-level officials. *“Because of the pomposity of low-level officials it is necessary to address their bosses for all petty things,”* is how one civil society representative characterised the situation.

Two editors reported that their most negative experiences are related to communication with all **Prime Ministers, heads of police, interior ministers and public prosecutors** (of different levels). As an example of particular secrecy all journalists mentioned the **Department of State Statistics**. Reportedly, it continuously refuses information to non-state media, saying that their data “is given only to state institutions and only for internal use”. Medical establishments and the Ministry of Education were also identified as rather closed institutions.

The most positive experience in accessing information is to be found in contacts with **non-profit organisations**. *“They willingly give all the information; they are open for dialogue and always ready to share the information which can interest us.”* Non-commercial organisations always invite the media to their events.

It also became clear that **international organisations** do not necessarily present a better picture: *“Various international organisations working in Abkhazia are also characterised by a similar, if not a greater degree of secrecy”*, said one editor. For example, a journalist reported that the International Committee of the Red Cross produces short monthly press releases about its programmes. However, when requested to give interviews, they sometimes take weeks to answer and, if they agree to the interview, the questions need to be sent in advance and it takes weeks again to receive the answers. The journalist added that the situation is similar with UNOMIG.

5.3.6. Which information is difficult to obtain

All respondents were generally not satisfied with the quality and amount of information provided by public bodies. In particular, they mentioned the following key areas where more transparency would be beneficial:

- the authorities’ activities
- laws
- health
- environment
- development and social issues
- statistics
- economy and privatisation
- politics and security

The authorities’ activities: ‘Ordinary people’ as well as women activists expressed discontent with both the absence of **information management systems in public** institutions, as well as the reluctance of institutions to provide information on their activities. One of the respondents said: *“On the one hand, they don’t want to give it, and on the other hand, they don’t have it.”* In her opinion, not even what is being discussed in the Parliament and how MPs vote is clear to the population. Another interviewee thought authorities too easily blame external

difficulties, and lack of resources for the problems. *“The authorities provide information that they consider convenient for themselves, and what they don’t want to give, they don’t give,”* a man concluded.

Laws: Ordinary people and civil society respondents pointed out that texts of adopted laws, decisions and orders are hard to find. When first adopted, laws are published in the governmental newspapers. However, after that it becomes difficult to obtain them. Although some official websites have been established recently which contain a number of laws – an important step forward – it would be useful to have a comprehensive online resource for all the legislation that is currently being applied in Abkhazia. At the same time laws should also be disseminated by other means because the Internet is far from available to everybody. Even UNDP representatives reported difficulties in obtaining pieces of legislation. Draft laws are also difficult to obtain, as they are not automatically public. It is mainly influential individuals or NGOs who succeed in getting access to the drafts.

Health: Many ordinary people as well as women activists said that medical and public health services are amongst the most closed institutions. Sexual health has already been discussed as an area where information needs are not sufficiently satisfied.¹¹⁶ Women activists, however, pointed out that all kinds of health-related information are a taboo. For instance, little information is available to the public about real levels of tuberculosis, HIV/AIDS, and hepatitis-C infections, or about prevention and treatment of these illnesses. The women mentioned a need to know more on the extent and impact of drug abuse in Abkhazia. In addition, doctors still refrain from telling their patients when they have terminal illnesses. One civil society respondent noted that *“even in hospitals, whatever the diagnosis, it is necessary to tell [the patient] everything. It is very important. But it is not common here”*. A young woman, for instance, was sick with hepatitis C and died after giving birth to a child. If she had had timely information about her illness and how to treat it, as well as receiving better informed preparation for the birth, her death could have been prevented. Another woman from an NGO that deals with youth issues in Sukhum/i inquired of the Ministry of Health under the former government about the number of drug addicts and the number of young people who are HIV-positive, and was told that this information was secret, without being given any reasons as to why this information was secret. The journalists reported to believe that the

¹¹⁶ See Section 2.2.2 Information needs

Ministry of Health continuously conceals information on serious illnesses, such as HIV/AIDS, or hepatitis.

HIV/AIDS

Overall, HIV/AIDS is still a taboo subject. Most information that exists on the spread of HIV/AIDS in Abkhazia has been collected by international organisations, but there are no exact statistics on the number of cases, and the real scale of the problem is unknown. Programmes on HIV/AIDS, too, were mostly initiated by NGOs. Save the Children, in cooperation with other international NGOs and the authorities have created an AIDS medical centre that provides consultation and disseminates information about it. Some additional awareness raising materials were produced by local and international organisations, the State Committee of Youth and Sport and the Ministry of Youth, and NGOs organised focus groups to discuss HIV/AIDS issues and explain its risks. However, public authorities have not been very proactive on the prevention of HIV/AIDS and other sexually-transmitted diseases. There exists virtually no social advertising and no information on these subjects in schools. In some cases, NGOs were not allowed to carry out sessions in schools to inform teenagers aged 12 to 16 years old of the threat of HIV/AIDS, as the adolescents were deemed to be too young. The general lack of awareness puts people in danger and leads to negative stereotypes and stigmatisation of HIV-infected individuals. People fear contracting the virus, not knowing that it can be transmitted only under very specific circumstances. The fact that little information circulates about other sexually transmitted diseases and most people avoid speaking about the subject also contributes to the spreading of these. Young generations are more open than older ones, but tradition is very strong.

Environment: Ordinary people said there was a lack of information about the environment. The quality of water was mentioned by a journalist as an example of a matter that many people are worried about but which usually does not get publicly discussed. Generally, the public knows little about environmental risks they might be exposed to.

Development and social issues: Civil society respondents identified the absence of systems to gather and analyse information on developmental issues as a significant obstacle to tackling developmental problems. One man said: *“The problems which used to be solved from the centre [before Abkhazia’s de facto independence], we should now solve for ourselves. [In order to do this] for us it is extremely important to receive authentic information on current realities.”* A female NGO leader said that she contacted the Ministry of Education to find out about the state of schools. Yet she realised that the information provided differed from the

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actual situation on the ground. The Ministry stated that in the villages there were enough professionals whereas in reality there weren't. She said that authorities at times 'embellish' the situation and report that there are no problems. Often the lack of availability of information is also due to the fact that information is not generated in the first place, due partly because of lack of resources, and partly because of limited know-how.

UNDP Information Centre

UNDP, as part of its Abkhazia Livelihood Improvement and Recovery (ALIR) programme, has set up an Information Centre in Sukhum/i the goal of which is to compile information about aid and assistance activities in Abkhazia and make it available to all stakeholders. The Centre is open to everyone and has staff who helps visitors find the information they are looking for. The Centre also has a library, internet connection, and maintains a website (www.abkhazdev.info) that provides diverse information about aid activities carried out by local and international organisations in Abkhazia. They host bimonthly meetings with aid stakeholders which are meant as a forum for discussion. The stakeholders themselves decide what they want to discuss during these meetings.

Statistics: The respondents had numerous complaints about the absence of systems to gather statistical data. The statistics that are available contain basic information on population (birth and deaths, and some social/economic information); are sometimes inconclusive – they can differ according to different sources; and many incidents (for instance abortions or human rights violations) go unreported and therefore do not appear in any official statistics. The 'Department of State Statistics', a governmental institution affiliated to the Cabinet of Ministers, according to many, is notorious for its disinclination to disclose information. The impression given to NGOs is that the Department gathers information for the benefit of officials, rather than for the public. As a result, local organisations often have to carry out their own research needed for their work – a significant burden as it requires additional resources and efforts. The disability NGO 'Association Inva-Support' (AIS), for example, researches on the number and needs of invalids in Abkhazia. The UN and other international organisations also do research for their own purposes, including on the state of the infrastructure and problems related to agriculture. UNOMIG produces village profiles, travelling from village to village, finding out how many people live there, and collecting information on needs, such as the possible lack of clean water. They then share the information with the aid community and local authorities. However, although much information about needs is being documented in this way, it does not always result in action.

Often it is simply archived. Even where statistical information exists, the authorities do not have much capacity to conduct analyses.

Public funds and private business: Ordinary people found that information on the public budget and public spending is insufficient, as well as information on the local economy, although the experience of some respondents has shown that often the budgets of institutions are available when they are asked for them. Other issues on which interviewees would like to see more transparency are the use of funds received through student fees in higher education institutions, and the privatisation processes. Privatisation was started by the authorities as part of efforts to reform the economy, and a number of businesses in the field of tourism, industry, services and trade have been privatised to date. There are, however, virtually no public tenders for privatisation and it is widely believed that a small group of people who have the right contacts benefit most. The opacity creates opportunities for corruption, and many people are suspicious of private arrangements unknown to the public in this context. This issue became a subject of public debate when the sanatorium ‘Gosdacha’ was going to be sold to a Russian oligarch. People protested and stated that a tender should be held. The Russian oligarch revoked his offer to buy and the sanatorium had still not been sold in early 2007.

Politics and security: One editor believes that all officials readily provide information only on their achievements, but that information on the peace negotiations process and information of a socio-economic nature are very difficult to obtain, although they are of significant public interest. Women civil society representatives found the types of information least accessible to be anything relating to the security sphere, information about the situation in Gal/i region, and Abkhazia’s relations with Russia. People also noted that there is little information in the public domain about criminality. Television programmes on this topic are not in-depth. They might report that a crime was committed, but not about possible backgrounds or the progress of investigations.

5.3.7. Key challenges

When talking about obstacles to greater transparency and openness, the main factors mentioned were the limited resources existing in Abkhazia; lack of skills and know-how amongst the public institutions; a public that is not sufficiently aware of rights and accountability issues; as well as the lack of support from international actors for democratic institution-building.

Several interviewees believed that public officials ‘mean well’. They were convinced that officials do not tend to withhold information intentionally from the public but that their failure to provide it is due to **limited capacity and resources**. A female journalist and NGO person quoted as an example the Department for Pensions, where there are always long queues and public officials have limited time to answer questions in detail. They might “*lose questions but not intentionally*”. Ordinary persons and civil society activists mainly identified the **lack of professional skills** amongst officials as responsible for poor communication and information exchange between the institutions and the public, whilst civil society respondents from the regions believed that in their case the **remoteness of their regions**, and the communication problems due to this isolation, are major hindrances for the development of more transparent governance.

The female editor identified the **lack of an alert public** as a problem: “*Our authorities don’t want to change anything, and there is no public pressure on them.*” Two newspaper editors were convinced that, when officials do not want to give information, it often means that the authorities violate some rules. This view is echoed by women activists who noted that public officials at times try to cover up information because of existing corruption or maladministration. They mentioned a case where a hospital received medicines that should have been available free of charge to the public. But the medical staff did not reveal this fact, and instead demanded that patients buy these medicines, thereby making personal profit out of them.

Respondents also quoted a “*one-sided attitude of international organisations*” to Abkhazia as contributing to the problem, referring to the lack of support from international organisations such as the OSCE or the UN in areas of good governance and democratisation, which are, however, core areas of their work in the rest of the CIS.¹¹⁷ Many Abkhazians feel that this hinders the development of greater democracy.

5.3.8. Public consultation and public participation in decision-making

All people surveyed had few experiences to tell about public consultation or participation in decision-making, revealing that the **culture of consultation** is not yet well developed.

¹¹⁷ The reason is that international governmental organisations do not want to be seen as lending legitimacy to a government they do not recognise.

‘Ordinary people’, civil society and some women activists all said that the authorities most of the time do not consult with people or discuss their plans and offers publicly. One of the civil society respondents regretted the absent link between people and power structures: *“People don’t know what is happening above, and those above don’t know what people think.”* *“State bodies are like an island, society is on the continent, and there is a large gulf between them,”* another one said. Women activists from Sukhum/i said that whatever contacts and discussions take place are incidental and happen at the level of personal communications. Journalists in the focus group could also not think of any examples of public consultation initiated by the authorities. *“The authorities have gotten so used to being closed that they hide even the positive sides of their activities.”* Two newspaper editors expressed some concern that authorities do not carry out sufficient analysis before making decisions on social issues. One of them remembered discussions of the Concept of Socio-Economic Development of the country via the government media in 2005, which in her view was not a genuine consultation but of a *“populist and declarative character”*.

Despite the critical remarks, some **positive examples** were also reported: Some influential NGOs are being consulted for their opinion on certain issues. For instance, the Union of Businesswomen has been able to obtain draft laws, despite the fact that they are off-limits to most people. They also noted that businesspeople are invited to hearings of the parliament. A female civil society activist from Sukhum/i saw the Programme of Development of the Abkhazian Language as a positive example. The programme had been published for nationwide discussion. In Novyi Afon some informal consultations with the ‘Council of Elders’ were carried out, and in Tkvarcheli/Tkuarchal, a public opinion survey was conducted.¹¹⁸ Women from the regions reported that local authorities do request input from local activists (*“they ask for advice, there is such a practice”*). But generally respondents believed that more should be done in this area. One recalled that in Soviet times some institutions had boxes where people dropped their letters with their wishes and appeals, which were later *“very closely read and, by the way, there were a lot of positive and useful things there”*.

Civil society groups have themselves initiated some activities designed to bring together civil servants and the public. For example the NGO Center for Humanitarian Programs organises

¹¹⁸ In the case of Tkvarcheli/Tkuarchal, the surveys were carried out by the public relations department of the regional administration and were for internal use only.

meetings and round-tables between public officials and the public, whilst the Media Club hosts press conferences.

Women activists pointed out that, without communication or consultation, the authorities' steps become unpredictable in the eyes of the population. In the opinion of one of the respondents, *"if there was feedback, any decision made by the authorities would be [perceived] more positively"*. One woman reckoned that for officials it may be psychologically difficult to consult as they may see it as admitting problems.

All groups believed that greater consultation would help **improve decision-making** and avoid 'mistakes'. *"People are knowledgeable ... they can advise"*, one of the ordinary persons stated. Civil society representatives were convinced that it would be especially useful to consult with people at local and district levels on matters directly affecting the life of cities and regions. A number of women stated that open discussion on burning issues would help bring about positive changes and find solutions. Areas in which this would have a positive impact, in their view, are: reception of social privileges, housing,¹¹⁹ and the problems of families with many children. They remembered that discussions organised on television and by NGOs of problems with the education system in Gal/i region have raised public awareness of the needs and problems, thereby increasing public and political support, and have finally led to some direct measures for improvements.

As an example of the negative consequences of decision-making without public discussion, the situation surrounding the relocation of the Sukhum/i city market was mentioned, along with the attempts to restore the railways.¹²⁰ In the case of the railways, one of the editors explained that the critical moment was when the opposition started criticising government actions but the public had no factual information about what exactly had happened and what the government had decided. This is what spread considerable confusion and consequently insecurity among the public.

¹¹⁹ The damage to housing through the war, the occupation of houses abandoned by the population that left during the war, claims by returnees – all these are aspects that create difficult legal and humanitarian problems around the issue of housing.

¹²⁰ The railway case is described in Section 5.2.3 Why information is important

The story of the Sukhum/i Central Market: Lack of public information and consultation led to unrest

After the war, many women began trading in the central market. In the absence of any regulations, food and clothes were placed together. The market building was old and unsafe. For reasons of hygiene and safety, the municipal authorities in 2006 decided to separate the different sections and remove manufactured goods to a new building. But they did not inform the women sufficiently of the reasons for these decisions, and did not discuss publicly the relocation plan and logistics. As a result, the women did not want to leave their places as they had no guarantees that they would get new stalls in the other market building. Fantastic rumours began to circulate among the tradeswomen, fuelling mistrust of the municipal authorities. The women started a strike, and the authorities had to postpone the removal. Finally, the conflict was resolved but the authorities demonstrated their inability to communicate effectively with the people.

5.3.9. How media are perceived

Abkhazian television

Many ordinary people and civil society activists did not have much trust in the government media. They criticised Abkhazian television as considerably worse than Russian television in terms of objectivity and relevance, although women activists from Tkvarcheli/Tkuarchal region, where Abkhazian TV constitutes the main source of information, were less critical of it than representatives from the capital. In the absence of other sources of information people in the regions still rely mostly on Abkhazian TV for information. Civil society representatives noted that they often get more information about political events in Abkhazia – they mentioned as an example peace negotiations – from Russian television, and more quickly, too. One male civil society representative said Abkhazian TV lacked analysis and context. He had just heard a report saying that a Georgian MP predicted renewed armed conflict but the information was taken out of context, did not provide any analysis, and had not been corroborated. This type of reporting was not useful, he noted. Women activists mentioned that they would like television to give more information and insight about the different branches of government and their activities than it currently does.

Two newspaper editors criticised the absence of country-wide independent television in Abkhazia, saying that official television is losing touch with “*real life*”. They said it was a problem that the populations in rural areas of Abkhazia, deprived of access to newspapers, see life only through the lens of Abkhazian-government television. The creation of the private channel Inter-TV in the early 2000s (now called Abaza-TV) was seen as positive. However,

its reception was limited to Sukhum/i and its surroundings, and its operations are currently suspended.¹²¹

Newspapers

A large number of ordinary people as well as women activists found the majority of both, governmental and private newspapers biased or of low quality. One said: “*I have a strong feeling that they all settle accounts with someone. One writes, then another one refutes.*” Similarly, civil society representatives criticised private and oppositional media for mainly aiming at compromising their political opponents, rather than offering “*information necessary for solving daily problems*”, as one respondent put it. They said that the Abkhazian media do not interest them much and they rarely read the newspapers. Many respondents appeared to see the media as adding stress and making their lives more difficult than they already are. While women from the regions perceived the editorial lines pursued by printed media as damaging in a rather global way, increasing “*pessimism*” amongst the population, women respondents from Sukhum/i criticised more specific aspects, in particular that newspapers mainly carry opinions and too little factual information. There is a strong need for “*bare information*”, one woman said. Some also said they would like to see stronger legal responsibility for authors of “*false information*” and slander, highlighting the need for Abkhazian media to increase their public credibility and raise standards of professionalism within the sector.

Nevertheless, the private papers – *Nuzhnaya Gazeta* and *Chegemskaya Pravda* – were named more often than others as more trustworthy than official information. Journalists also pointed out that the fact that there exist some independent and private print media in Abkhazia was an important achievement. “*Today newspapers reflect a wide spectrum of opinions and interests,*” one editor pointed out.

Other observations relating to media

The media sector in its current structure is not able to satisfy the population’s information needs: The fact that many Abkhazians do not have access to a variety of media was seen by journalists as a serious obstacle to public debate about the authorities’ projects and activities. A female editor acknowledged that independent newspapers, too, cannot currently fully

¹²¹ See Section 2.5 Media and communications

respond to the population's information needs as they appear only on a weekly basis and do not reach many regions.

Approximately half of the respondents seemed to believe that the media have a gender-bias towards men. They found the media more focused on men's information needs and interests than on women's and believed that there were more reports about men than about women. Some saw this as a reflection of the fact that it is mostly men who are in power positions. A woman civil society representative said "*everything here is focused on men*", and was echoed by a male respondent, who thought it necessary to show more women leaders on television.

Women activists criticised the lack of internet publications and informative websites – an aspect that gains importance as the Internet begins to spread to more regions in Abkhazia.

5.4. The Officials' Perspectives

This section summarises the views expressed by eleven public officials who were interviewed in depth.

5.4.1. Officials' perspectives about people's information needs

Most officials thought that **people in Abkhazia do not receive enough information important for daily life** and everyday problems. They are well aware that this problem is exacerbated in the regions, and especially in rural areas. One respondent noted: "*In the villages they don't see newspapers, and even if they are sent over they stay in the offices of the heads of administrations.*" Those who doubted that the population needs more information or better information services were in a minority. Some thought that there is too much information. One believed that people do not want to hear about the problems of drug abuse, HIV/AIDS and tuberculosis. Another one said: "*Everyone watches television, listens to the radio; everyone gets newspapers in this way or another. There are no isolated villages any more where they know nothing. Once a week – the president, an MP, a head of administration or me – someone always visits every village*". However, this view was not shared by the majority.

As topics that are of particular importance to the public one interviewee considered the **protection of public order, social problems such as drug abuse, or the spread of**

HIV/AIDS infections – “*all these have a large significance in our country*”. He also counted the economic development of the country amongst those topics and mentioned that there exist public fears that economic investments could come from “*enemies*”.

The officials reported that citizens, when addressing public institutions, mostly seek information on **social services** – directions to medical services, medicines, assistance in giving birth, services to facilitate their business activity, material assistance, and others.

5.4.2. Officials' own information needs

Similar to civil society professionals, many officials said they would like to have information that would help them **secure professional standards** in their field. They mentioned the need for specialised periodic publications and reference literature – for instance in the educational or medical fields – but also textbooks and manuals to raise educational levels in schools. Representatives of medical institutions mentioned that this would in turn allow them to inform the population better and more effectively.

They, too, felt that having more **data about socio-economic conditions** would be useful. The Mayor of a city wanted to have more technical information and data about the developments in the city – the condition of water and sewage networks, and of the power infrastructure. And a female representative of a regional administration regretted the lack of access to statistical data.

Furthermore, there seems to be a need to improve **information sharing between different parts of the public administration**. The head of one regional assembly said he has insufficient access to the texts of legislative acts adopted by the Parliament of Abkhazia, and would need those. One representative of a regional administration is dissatisfied with the absence of fresh information from the central government structures in Sukhum/i. She also thinks the Parliament should widely discuss the legal bills before adopting them. A member of a municipal assembly says she would like to have more information from the municipal administration, including on budget expenditure and the progress of repair works in schools. During the Soviet era there was a system of reporting and of communication between the districts, ministries and other State bodies. With the collapse of the Soviet Union these systems were lost and they were not replaced.

5.4.3. *Classified information*

According to the Department of Governmental Information (the Presidential Administration's information department), difficulties in obtaining information in Abkhazia are mostly due to the conflict, the resulting instability and **national security concerns**. Information on negotiations, the military and the Ministry of Defence are considered 'State secrets', including, for example, the Ministry's budget. If the budget was known, the public official noted, people could infer information concerning the purchase of weapons and other information linked to national security. He added, however, that the budget would be available had a political settlement of the conflict been achieved.

Some statements show that officials fear that greater **transparency might create chaos or panic**: One public health service official admitted that the source of infection of hepatitis B in Abkhazia is probably water, but he was not ready to talk openly about it *"because our water system, sewage system and electrical equipment are in a condition of crisis"*. Another official said: *"You can't sow panic among population, I proceed from this. One careless word of a chief of my level can cause an unhealthy situation."*

Doctors believe that the information on a **serious or fatal illness** of a patient is confidential. In such cases, patients themselves are generally not being given full information about their diagnosis. Respondents said that in Russia another approach is used and patients are often told the truth, but in Abkhazia this is not the practice.

The officials' statements show that no guidance exists as to what information can be released and what should be confidential. Asked about the **criteria** for deciding whether information should be kept secret, the respondents reported that they use their professional experience or intuition to make such decisions. *"With regard to State security"*, one respondent says, *"I am guided by my own experience ... I solve this question absolutely independently, there are no instructions neither from above, nor from below, and they are not necessary, in my opinion."*

5.4.4. *The right to know*

The interviews showed that the majority of respondents have limited awareness of the fact that ordinary people have the right to receive information from public bodies. When asked about their regular information activities, officials mentioned that they inform their divisions internally and report regularly to superiors. The head doctor of a regional hospital answered: *"By the year's end, all the information on our activity accumulates in the form of reports,*

statistics of surgeries carried out, and patients accepted.” However, no information of this kind is usually made publicly available. Others reported that the local administrations in Gagra, Gudauta and Gal/i do publish reports on their financial expenditure in the local government press.

5.4.5. Receiving requesters

None of the State bodies surveyed had **structures** in place whose specific task it is to deal with requests and provide information to the population, and all employees are to a degree involved in answering requests. The presidential administration maintains the Department for Governmental Information whose main responsibility is to provide information to the media about the activities of the President but which also deals with some queries from the public. In addition, three institutions – the Presidential Administration, the Parliament and the Government – have ‘public receptions’ where people can request assistance, present petitions and make complaints. Every Monday, the President receives a number of people personally.

Most officials were unable to tell how many persons address their institution per day to seek information. Regional hospitals believed that on average 30–50 people turn to them every day, but how many of these seek information held by the hospitals was unclear. The official of the Ministry of Public Health Services is contacted by 15–20 people per day, of which he reckoned approximately one third request information. Most requests are made orally.

One official identified a problem that had also been mentioned by civil society and media representatives: The lack of effective information dissemination leads to overburdening of high-level officials since people, not knowing where to seek information, tend to **approach the most senior levels with issues that should normally be dealt with at a lower level**: “[M]any citizens do not know where they should address themselves and [consequently] try to address the President with whatever questions.”

All eleven respondents, irrespective of the public body they represented, said the **majority or at least 50 per cent of applicants are women**. The Department for Governmental Information estimated that women account for 70 per cent of all information requests. Only one out of eleven respondents considers the ratio to be 50:50. “*It is mainly women who address us. I think it happens because here it is usually women who earn money, and consequently they need information. Men somehow distanced themselves from work*”, one of the respondents said, referring to the high unemployment rates amongst the male population

and to the fact that many women got involved in trade and other small income-generating activities after the conflict.

Whilst almost all respondents assured that they treat all requesters equally, they conceded that this principle might not be followed everywhere, and that practices of privileged treatment and discrimination probably exist. One said: *“for me whether it is a citizen, a deputy or a chairman of the regional assembly, it is absolutely not important. Be it the President, a worker, a representative of media, whoever he is, for me the most important thing is to help a person.”*

5.4.6. Some steps towards greater openness

The answers of some officials seemed to confirm some views expressed by civil society and ordinary people that **press services** serve to control more than facilitate the information flow. According to a member of a municipal assembly, through press services requesters only get carefully measured amount of information that is convenient to the heads of institutions.

The representative of the presidential administration’s information department thought that decision-makers are not sufficiently close to the public, although in his view the presidential administration was making a big effort to maintain a *“direct dialogue with the society in the framework of roundtables, public ventures and cooperation with NGOs, but it is not enough”*. Several other **officials admitted that they are not satisfied** with the quality and amount of information published by their institutions about their activities, but they attributed this fact to external constraints rather than failures within their institutions. Many, however, agreed that there was a need to work better in this field. *“I want everything to be transparent, so that any voter could come to a session of the municipal assembly, sit and listen ...”*, said one.

The representative of the presidential administration also believed that the arrival of the new government has made access to government-held information easier. He was convinced that the **new leadership is more inclined towards dialogue** with the population than the previous one and that even the progress of the peace negotiations has become more transparent. If the highest leadership is in favour of dialogue with the population it makes it easier also for the lower levels to engage with the public, he said. *“In this sense it is very easy for us, we really don’t have any closed topics, except for topics directly related to national security.”*

Other officials declared their openness towards new information dissemination activities: A medical doctor said he would like to print leaflets and booklets on hygiene and nutrition and distribute them in the market. The head doctor of a regional hospital thought it would benefit the public if he had regular access to the media to facilitate the dissemination of information relating to health issues.

Recent initiatives for greater transparency

Since taking office in 2005, the current President Bagapsh has taken a number of initiatives that demonstrate a will to improve information exchange between his administration and the broader public and to invite greater public participation. In 2005, he created the Department for Governmental Information which launched its website in 2006 and provides more insight and information on Presidential activities than has ever been the case in the past. He also initiated the creation of a ‘Public Chamber’, a mixed advisory body composed of members appointed by the President himself, local government, civil society and political movements. One of the Public Chamber’s tasks will be to carry out public consultations on matters of public importance and based on these formulate advice to the President, including providing commentary on draft laws and other policy proposals. According to the Law on the Public Chamber it also should play the role of a watch-dog over government activity and freedom of expression in Abkhazia. The Chamber is due to take up its work in the first half of 2007.

For the first time since Abkhazian television had abolished live talk shows on issues of current interest in 2004 – a move that was often criticised by NGO activists – a live TV talk show was held again on 28 February 2007 with Sergey Bagapsh. In this programme, he answered questions from journalists and email queries he had received from the public via his website. He announced his intention to participate in regularly in similar talk shows.

5.4.7. Experiences of public consultation

To the majority of officials, the possibility of **holding consultations** with the wider public in the context of their own decision-making **seemed alien**. Only the head of the municipal administration of Novyi Afon reported on an experience of consulting the public, through a council of respected people of the city, composed of elders and deputies. “*We discuss all decisions, I ask them. I say at once what I want to do, and if they approve it, we begin doing it. Otherwise people will simply not understand if we start something without them knowing about it.*” Similar informal ‘councils of elders’ exist in many – mainly rural – areas of Abkhazia. There is no official appointment procedure: Every old man is considered a member of the council of elders. In some municipalities, such as in Novyi Afon, attempts have started

to revive this traditional institution.¹²² A few middle-ranking officials said that they at times discuss problems with their employees and with colleagues from other institutions. The mayor of one of the cities considered it the task of the elected deputies of the municipal assembly rather than representatives of executive bodies to discuss issues with voters. The head doctor of a regional hospital and the head of the sanitary service could not think of any way in which public consultation could play a role in the running of their institutions.

Nevertheless, one respondent said he thought it was necessary to have wide public discussion to ensure effective decision-making. Once again, the situation with the Sukhum/i city market¹²³ was cited as a negative example.

5.4.8. Gender issues

Statements from several officials suggest that **women are more likely to raise public policy issues** than men. The deputy of a municipal assembly reported that women address them more often than men and “*they are interested in a greater number of topics than men*” at both the state - and the municipal level. “*It is very seldom that [women come for] personal problems.*” As regards men, “*they come with their own business and often they do it secretly*”. The head of the information department of the presidential administration, similarly, suggested: “*There is a significant difference between the information requested by women and the information requested by men. The men are not interested in problems in the field of public health services, treatment of drug addiction or HIV infection. Such information is as a rule not requested by men. They are more interested in political-economic issues.*” And a male official said that information on education is mainly requested by women because teachers are often women, and women are more involved in the education of their children. Municipal services and reception of material assistance were also mentioned as subject areas that mainly women request information on. One female respondent reckoned: “*Probably, the Abkhazian men are proud of themselves – they don’t ask for material assistance.*”

Asked whether they thought men had easier access to information, the opinions of the respondents were split approximately in half. Some thought so because men often hold more influential positions in society. Others pointed out that women are the most active part of society and are also more proactive in obtaining information. A number of respondents

¹²² However, female NGO leaders expressed their views that this would not necessarily make decision-making more inclusive or democratic, not least because participation in the councils is restricted to elderly men at the exclusion of women and younger people.

¹²³ The example is described in V.2.8 Public consultation & public participation in decision-making.

admitted that they had not reflected on this issue but thought that it would be useful to provide more information for women through special television programming and media reporting.

5.4.9. Officials' opinions on the media

The majority of the officials interviewed declared that they **tend to trust the government media more** than the private media.

The head of the Presidential Administration's information department evaluated the work of Abkhazian **television**, undoubtedly the most influential and the most accessible information tool as he pointed out, as unsatisfactory. In his view, it does not provide sufficient information on issues of public interest, which he attributed mainly to a lack of funds and resources: *"Today, in order for people to receive comprehensive information in their homes, it is necessary [for journalists] to travel to the regions and villages on a daily basis. Due to budgetary restraints our possibilities in this are limited."* The representative of the Ministry of Health regretted that an educational programme called 'Health' on Abkhazian TV has ceased to exist, reportedly also due to lack of staff and resources.

Concerning the **printed media**, the representative of the Presidential Administration noted that the private media address his department for information much less than official ones. Several officials blamed the private media for publishing untrue and/or incomplete information, and for being biased. Similar to the opinions voiced by civil society, some officials, mainly from outside Sukhum/i, said there was not sufficient diversity in the topics covered by the newspapers; that they did not pay enough attention to socio-economic topics, such as health or youth unemployment, as well as to foreign policy; and that the print media ought to be more analytical. The official from the sanitary–epidemiological service criticised the private papers for writing on medical topics only when *"there is public agitation at a certain topic, for example an outburst of hepatitis..."*. Instead, he suggested, there should be informative articles aimed at prevention. Officials from outside the capital also expressed dissatisfaction about the media's insufficient attention to the regions.

5.5. Conclusions

Both within the society as well as amongst officials there is little understanding that public authorities should be transparent and that people have a right to access information held by them. Officials are generally reluctant to publish information. This prevailing culture of secrecy within the institutions causes irritation within the population.

There are no clear rules in Abkhazia regulating access to information held by public institutions. This leaves officials in a state of insecurity as to how they should behave vis-à-vis requests from members of the public or the media and leads to *ad hoc* and subjective decisions. Officials who feel insecure tend to act cautiously. This also explains why, when in doubt, they will often decide not to release information. Some think that censorship is taking place within the institutions; others see it as self-censorship.

There is a tendency to treat a large variety of information as classified or ‘State secret’, for instance over security concerns or out of cultural tradition. This includes some types of information which many people think must be available in order to address social, developmental, and governance problems affecting the population of Abkhazia today. Peoples’ responses revealed a widespread feeling that a debate should take place on how to strike the right balance between protecting public safety, safeguarding positive cultural values, and providing the openness that is needed to tackle current challenges and improve living conditions. In particular, a precise understanding of the concept of ‘State secret’ should be developed.

People experience as particular obstacles the lack of easy access to the body of laws, decrees and regulations governing Abkhazia; the lack of transparency in public services; as well as the lack of statistical data and socio-economic information that would allow better understanding and analysis of the society’s needs.

The press services in effect do not facilitate the flow of information between institutions and the public. On the contrary, they often act as an additional filter between the administration and the people, controlling the flow of information rather than broadening it.

Most persons did not perceive gender as a factor that facilitates or hinders access to information. At the same time, many acknowledged that, besides generic information needs, there exist some gender-specific information needs. Some of them are not being adequately addressed. Women also represent the majority of those who request information from public institutions, and they more often seek information on public policy issues than men. Nevertheless, much of the media reporting seems characterised by a certain gender bias in favour of men, and government activities and programmes are generally gender-blind. Some women activists therefore pointed out the need for gender-specific information-gathering and gender-sensitive law- and policy-making, so that government measures address gender-specific needs and do not lead to or perpetuate discrimination. Effective access to information and a better culture of consultation are important conditions for developing gender-sensitive laws, policies and government programmes. Media should also aim at better representing women and women's concerns.

In addition, there is a need for more proactive information campaigns to better supply various sectors of the population, including in particular also women and youth, with the information they need to improve the realisation of their socio-economic rights. We found a specific need for increased information on discrimination and health-related issues.

When it comes to requesting information, whether or not a person can receive satisfactory information from a public institution depends significantly on this person's status, respectability, and personal connections. Chances of obtaining the information seem to be higher if one appears in person.

Often information that is officially kept secret still gets to the public through leaks and starts circulating as hearsay. Many people said that they perceive such information as being more reliable than official information – a fact that is indicative of a lack of public trust in the institutions and in the authenticity of the information these release. In fact, information that circulates through hearsay inevitably leads to misrepresentation of facts, and exaggeration. It cannot be verified or relied upon, and can contribute to fuelling confusion and tensions within society.

There is still a widespread lack of understanding of what practical benefits greater openness has for public institutions. For instance, the absence of effective information dissemination systems and rules that would empower lower level officials to provide information, lead to overburdening of high-level officials. There was a widespread feeling that having better “feedback” mechanisms between the authorities and the population would lead to better decision-making and help the democratic development of the country.

Some branches of the public administration are being seen as particularly secretive, amongst them the judiciary, health services and the governmental department of statistics, while others are more open, for instance elected bodies and some central government institutions.

Higher level institutions are seen to be more accessible than lower level institutions; the same is true for central government institutions compared to district and local administrations. This may have different reasons. First, officials of higher/central institutions tend to be better qualified and have stronger skills; second, Sukhum/i-based institutions are under more public scrutiny from media and civil society than institutions in rural areas, which may positively affect their performance; and third, provincial institutions, due to the virtual absence of an active media and strong civil society, have fewer communication channels with the population.

Access to information poses a particular problem for people in remote regions. The combination of the fact that it is easier to obtain information from central institutions and that personal contact is vital for success, against a backdrop of poor road and transport conditions making travel to the capital difficult, means that the rural population is greatly disadvantaged when in need of information. They often have to rely on relatives and friends in the capital to help them, and when they do not have good personal connections their situation becomes very difficult. It has been mentioned that bodies of local administration in the regions have no well developed mechanisms of information exchange with the public. Some informal channels, such as discussions with individuals or ‘councils of elders’, are seen as largely ineffective because they do not involve the broader community. In addition, there are hardly any local and regional media, resulting in a situation where there is virtually no possibility for public debate on matters of public importance at regional levels. The central mass media also rarely carry information on what is going on in the regions, because they lack resources for

travelling to the regions and gathering information from there. The distribution of central newspapers to the regions hardly works. As a result, there is a feeling of being starved of information, of isolation and disempowerment amongst the rural population.

Public officials often blame the media for not providing enough information to the public. Many of them have a difficult relationship with the media, in particular the non-government media, and even tend to avoid media contacts. Most institutions do not use the media to provide substantive information to the public. The media themselves are still weak, even though they have achieved a certain pluralism. Few journalists have sufficient professional skills to pursue their role as public watchdog, giving a voice to people's perspectives and concerns, as well as scrutinising those in power.

Despite the criticism people also noted that there has been a visible improvement of the situation over the past two to three years. Several central government institutions have established websites. The President is creating new channels for consultation and information-sharing with the public.¹²⁴ These measures clearly demonstrate a certain will is present to better communicate with the population and the media, and are creating a climate that is more favourable to transparency and accountability.

The interviews showed that many officials seem to be aware and agree that the amount and quality of information institutions currently provide to the public are not satisfactory. Lack of resources and capacity were mentioned as contributing factors. However, a better use of information and improved communication are also important means to increase the efficiency of institutions and their activities and achieve better results with limited resources.

The positive tendencies and good will that exist should be encouraged and supported. There are many things that can be done which do not require vast resources. The recommendations contained in this report are aimed at giving a number of concrete suggestions.

¹²⁴ See Section 5.3 The Officials' Perspectives above.

6. RECOMMENDATIONS

The following are recommendations emerging from the survey:

To the legislature:

- *A law on the right to access information* should be passed, stipulating the necessary mechanisms for the realisation of this right and responsibility of officials for refusing to grant information. In particular:
 - The law should include a presumption that all information held by public authorities is public, with narrow exemptions, satisfying a strict “three-part test” as recommended by international standards.
 - The law should foresee sanctions for officials who do not fulfil their responsibilities to provide information under the law; penalties should be of a penal nature for the obstruction of access to, or the willful destruction, of records.
- *A law on public service broadcasting* should be adopted.

Independently of whether or not a freedom of information law has been passed, the following steps are recommended:

To government and public bodies:

On consultation

- *Practices and mechanisms* for consulting the population on matters that affect their lives should be improved – especially also at the local and district levels. In particular:
 - Consultations and public hearings should be organised with political parties and civic movements on all draft laws and regulations. In this context it is important that all draft laws and regulations are published in a *timely* manner, so as to allow genuine public consultation.
 - Prior to adopting new measures or programmes, governing bodies at all levels should offer their plans for discussion to experts and the public.
 - The newly-created ‘Public Chamber’ attached to the Presidential Administration should be developed to become a real forum for consultation and debate.

On transparency

- Public institutions should develop a *culture of openness* through a variety of activities not limited to but including the following:
 - As a rule, all sessions of elected bodies should be open to the public, and broadcasted on TV and radio wherever possible. Declaring sessions closed should be permissible only under circumstances that are precisely and narrowly defined in law in line with international standards. Any decision to close a meeting including the reasons for it should itself be public.
 - Elected bodies should provide notice of meetings, so as to give people and the media a real opportunity to participate.
 - Public bodies should undertake efforts to offer freedom of information training to their staff (including on procedural mechanisms for accessing information, how to maintain and access records efficiently, and what sort of information a body is required to publish).
 - Government should provide incentives (for instance public recognition by the President or parliament) to public bodies that set good examples in the area of freedom of information.
 - Public bodies should be encouraged to adopt internal codes on access and openness.
 - If their own institution does not hold the requested information, public officials should assist requesters to find the body who can provide the information.
 - Public bodies should produce regular annual reports (to be presented to the parliament and made available to the public) on their freedom of information-related activities.
- Public bodies should *publish on their own initiative* certain types of information:
 - Government institutions, as well as institutions that fulfil important functions for the public (hospitals, schools, NGOs etc.), should publish and regularly update information about their structure and responsibilities, an annual report of their activities and budget, as well as an overview of the information they hold.
 - Budgets of public institutions should be published automatically.

- All laws and regulations currently in force in Abkhazia should be made easily accessible on the Internet, at central and regional government buildings, and in public libraries. The government should also publicise this measure, so that people know how to find these documents.
- Decision-making bodies (executive and legislative bodies at all levels) should ensure the public has easy access to all decisions taken.
- Deputies of elected assemblies (at regional as well as central levels) should regularly inform the public about their activities.
- Public bodies should develop *mechanisms that allow the public to request and obtain information* from them:
 - Every public body (and subdivisions of public bodies where appropriate) should set up a public information office (smaller ones should designate a person as information officer) which ensures the body's good practice in the field of freedom of information and keeps a database of key information about the body and its activities which can be consulted by anyone free of charge or at a very low cost. The information officers should assist requesters in getting the information they need. This is a service for the general population and should be different from the press services. A record should be maintained of all requests received and how these were answered.
 - Public institutions should create clear guidelines for their employees on how to decide whether information should be released or is confidential. These guidelines should be in line with best practice in the field of freedom of information.
 - Public bodies should work towards developing systems for collecting statistical information in every area of public administration. This information should be gender-disaggregated where possible (see 'gender-specific recommendations below).
 - The 'Department of State Statistics' should make the information it holds accessible to the public.
 - Specific measures should be adopted to accommodate the needs of special interest groups. For instance, care should be taken that public buildings and public

information offices are made accessible for persons with disability, and ethnic minorities' language and information needs should be taken into consideration.

On communication of public institutions

- Government and public bodies should *inform the public of their right to information*, and how this can be exercised.
- Government bodies should make more use of the *Internet and media* to increase communication and the information flow between themselves and the public, in particular by:
 - setting up institutional websites containing a broad variety of information on the activities of the public body;
 - seeking direct dialogue with citizens via the Internet and other media.
- *Municipal administrations* should provide comprehensive information to members of the *municipal assemblies*, on issues such as budget expenditure or the progress of repair works of schools and infrastructure.
- Public institutions should publicly announce *forthcoming events*, including notifying the media so that they can provide coverage.
- They should also inform the public in general and journalists in particular *retrospectively about unplanned events* which have already taken place.

On media policy

- Abkhazian television should be transformed into a *public service broadcaster* with the task to disseminate a wide range of opinions and ideas.
- The government should actively take measures to create an environment in which a diversity of *independent media can flourish*, including community media. For instance, officials should abandon all discriminatory treatment of private media and provide not only government media with full information and collaboration, and government should make a special effort to support the creation of independent local community media.
- The Government should try to develop a system by which *newspapers can be distributed* in a timely manner to rural areas of Abkhazia.

To the judiciary:

- Court trials should be *open to the public*, unless under special circumstances which need to be exactly defined in law in line with international standards.
- *Documentation* about court cases and their outcomes should be made easily accessible. Exceptions (for instance to protect private data or ongoing investigations) should comply with the “three-part test” as established by international standards.

To the media:

- The *Abkhazian TV* should step up its effort to provide comprehensive, balanced and accurate information on matters of public interest; including during election periods, guaranteeing fair access of all candidates and providing voter education.
- We recommend that *private media*:
 - Increase information on the various branches of government and elected representatives’ activities;
 - Provide more factual information and analysis than they currently do;
 - Pay more attention to socio-economic issues and provide more information necessary for the fulfilment of social and economic rights, for instance information that enables people to better care for their health;
 - Represent concerns and perspectives of ordinary people, in particular those who have little opportunity to communicate, such as the rural poor, minorities and other vulnerable groups;
 - Give adequate room to women’s voices and perspectives;
 - Increase programmes that specifically cater for women and their concerns;
- All journalists can make a contribution to advancing the general right to know by increasing their investigative reporting, actively requesting information of public interest from authorities.

To NGOs and civil society:

- Civil society can demand openness from the authorities. *Public pressure* is necessary in order to create open governance.

- NGOs can help *raise resources* for training public officials on access to information and provide practical advice to institutions and individual officials.
- NGOs can contribute through public campaigns (e.g. mobile actions, social advertising, discussions, petitions) to *raising public and government awareness* of the right to information and on the measures required to make it a reality in Abkhazia.
- NGOs and research institutions, through *documenting and analysing* ongoing social and political processes and developments, can assist the authorities and urge them to recognise the needs and problems of society.
- Once a freedom of information law and regulations exist, civil society can play a crucial role in *supporting* their *implementation* by, for instance, conducting monitoring activities, analysing the state of implementation, giving awards to institutions that set positive precedents, and litigating where information rights are denied.
- NGOs can study and make available *international experience* in the field of freedom of information.
- *Lawyers in Abkhazia* should develop their expertise on the right to information and undergo training in this field where possible.
- State and private printing houses could provide complimentary copies of publications to *regional libraries*.

To the aid community:

- International donors, through grants and support of professional exchange and training, can help address the need for *access to specialised information and reference literature* for various professional groups in Abkhazia (for instance in the medical sector). This will help improve peoples' lives in key areas, such as health or education.
- International agencies should support the *development of a newspaper distribution system*, as well as the development of *community media*.
- Donors should financially *support projects to strengthen accountability* and transparency of institutions.
- *International organisations* running programmes in Abkhazia should adopt transparency and freedom of information principles that are in line with good practice, and apply them to their own work.

Gender-specific recommendations:

- Public institutions in Abkhazia should ensure that gender inequalities in society do not negatively affect *women's ability to obtain information* they need for full political participation, access to justice, and the fulfilment of their social and economic rights. This requires, for instance, measures to promote women's equality in politics and in judicial proceedings.
- Government bodies and public institutions should collect and make publicly available *gender-specific information and statistics* so that measures can be developed that are relevant and well targeted at gender-specific needs. This is of particular importance in sectors where discrimination historically exists or which are for other reasons at the heart women's concerns, for instance in the health and educational sectors or the legal system.
- *Proactive public information campaigns* should be carried out to address social problems such as the spread of HIV/AIDS, sexually transmitted diseases, domestic violence, and poor health. This is of particular importance for women as they are more affected by some of these problems than men.
- *A functioning access to information regime* should be developed to help ensure *work of government and other public institutions is gender-sensitive* and does not generate discrimination. Freedom of information assists this aim by providing channels for consultation of affected population (women and men), as well as transparency of decision-making and of public spending, and by generating information that allows decision-makers as well as the public to understand how public measures impact on women and men differently.

ANNEX: METHODOLOGY OF THE SURVEY

For the empirical research about the availability of information from public institutions in Abkhazia and its impact on people's lives the following methodology was used:

A group of five Abkhazian researchers carried out a qualitative sociological survey in three cities of Abkhazia (Sukhum/i, Tkvarcheli/Tkuarchal and Gudauta) using questionnaires that were drafted by ARTICLE 19 based on consultations with Abkhazian partners as well as discussions with Abkhazian officials, civil society activists and media professionals. They questioned a total of 97 people. ARTICLE 19 carried out eleven additional interviews.

Besides assessing access to information for the population more generally, the research also considered the question of whether there are gender-specific needs or phenomena.

The study explored the following questions:

- What information do women and men feel is essential for their lives?
- To what degree are women and men able to fulfil their information needs?
- What opinions and experiences do women and men have of the communication and information practices of public institutions?
- What impact does the availability of information, or lack of it, have on women and men's ability to fulfil other basic human rights, such as health, education, family life, political participation etc?
- In what areas do people think there should be improvements?
- What role does the media play in facilitating public access to information?
- What needs do officials have and what are their views on the public right to information?
- What are the institutional practices of providing information, and what positive examples are there where lessons learned can be applied in other areas?

For the *sociological survey* two polling methods were used: focus groups and in-depth interviews. The following categories of persons were interviewed:

- 'ordinary' women and men,
- civil society activists (of whom some were women's rights activists),

- journalists, and
- officials of public institutions.

In particular, in-depth interviews were carried out with:

- 18 ‘ordinary’ persons (among them market traders, housewives, unemployed persons, a cook, salespersons, pensioners, an employee of a café, a car mechanic; twelve females, six males; six people from each of the three districts of Sukhum/i, Gudauta and Tkvarcheli/Tkuarchal).
- eight civil society representatives (seven female, of which four were women’s rights activists, and one male; two from each of Gudauta and Tkvarcheli/Tkuarchal, and four from Sukhum/i);
- Two newspaper editors (one female, one male) from Sukhum/i; and
- Eleven public officials.

Seven focus group discussions were held:

- three with women only (civil society activists and respected individuals; one each in the three districts);
- three mixed (civil society activists and respected individuals; one each in the three districts);
- one with journalists (from official and private media, press and broadcasting) in Sukhum/i.

For the interviews with public officials, institutions at different levels of government (central, district and local) were selected, as well as institutions with general responsibility (e.g. district administration) and institutions with special responsibility (in particular health institutions because we identified health as one area that is at the core of women’s information needs).

The following is a list of officials that were interviewed:

In Sukhum/i:

Head of Department of Governmental Information, Presidential Administration

Head of the State Sanitary-Epidemic Division, Ministry of Health

Deputy Minister of Health

Member of Sukhum/i Municipal Council

Mayor of Sukhum/i

In Gudauta:

Head of the Local Administration of Novyi Afon

Head of Gudauta Regional Hospital

Head of Gudauta Regional Assembly

In Tkvarcheli/Tkuarchal:

Head of Department of Education, Tkvarcheli/Tkuarchal Regional Administration

Head of Public Relations, Tkvarcheli/Tkuarchal Regional Administration

Head of Tkvarcheli/Tkuarchal Regional Hospital

For each target group ([a] ‘ordinary people’; [b] civil society activists and ‘intelligentsia’; [c] media professionals; [d] officials) a tailored questionnaire was used, containing questions in the following fields of interest:

- Sources of information
- Information needs
- Experiences / practice of seeking and providing information
- Public consultation / participation
- The role of the media

The *interviews by ARTICLE 19* were conducted with three journalists, five NGO representatives, two representatives of the UN, and one official from the Presidential Administration.

‘Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of all frontiers.’

Article 19 of the Universal Declaration of Human Rights



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