

**Statement of the Delegation of Georgia at the
Human Dimension Implementation Meeting**
Warsaw 29 September – 10 October 2008

Monday, 6 October 2008

Working session 11: Humanitarian issues and other commitments (15:00-18:00)

Mr. Chairman,

Ladies and gentlemen, distinguished participants,

Georgia has been always positively assessing this forum within the OSCE's framework as an opportunity of sharing our concerns for the purposes of the better future and the respect of human rights throughout the Europe. Regrettably, today, instead of addressing our constructive joint efforts in this direction, I have to speak about the facts of a totally opposite character, how the one OSCE Member State through its aggression against another one has nullified all achievements made by this organization in the field of regional security and human dimension.

Leaving aside all violations of international law and the principles set out in the Helsinki Final Act committed by the Russian Federation, I will just briefly point out your attention to the facts of great human sufferings, deprivation and total disrespect of basic human rights resulting from the Russian military aggression against Georgia and the occupation of its territories.

It is currently a totally horrifying situation in the places affected by the hostilities and occupied by the Russian troops. The Russian army not only fails to ensure the respect of basic guarantees to civilians what is its duty as of the occupying power under the international humanitarian law, but according to the numerous third-party reports

regularly commits the violation of the applicable humanitarian and human rights norms itself.

We may confidently speak of the reality, where there is almost no right guaranteed under the international human rights law which has not been violated by the occupying power and its subordinate paramilitary groups on a large scale basis. In the furtherance of its policy of the ethnic purification of the Georgian occupied territories, through the ethnic cleansing of Georgians, the Russian Federation has created a situation amounting to the humanitarian catastrophe in the region.

The figures are simply shocking. A huge number of casualties among the civilians are complemented by the tens of thousands of internally displaced persons, significant part of which most probably will be unable to return their homes in the foreseen future. This is not only due to the fact of the occupying power's denied access to them, but also, what is worse, because of the well organized, massive and systematic pillage and destruction of the villages formerly resided by the ethnic Georgians. All this was preceded by the enforced expulsion of the Georgian population, where those unwilling to leave their homes were subjected to arbitrary detentions, forced labour, torture and killings.

Ladies and gentlemen,

The Russian Federation has not only waged an aggressive war against Georgia causing a large scale human sufferings and victimization, but created the zones of impunity within the territories occupied by its troops, where the gross human rights violations continue to appear on a daily basis, leaving thus the remaining Georgian population in these zones under the permanent threat. This issue has been numerously addressed by the various third-party observers, expressing the urgent measures to be taken in this respect.

Now let me draw your attention to the international political background around the current developments. As it is well known to the delegations around this table, Georgia has been continuously requesting an increased international presence in the territories under concern, also within the frame of the OSCE. Unfortunately, no consensus was found within the Permanent Council on the decision of deployment of additional 80 Military Monitoring Officers in Georgia. It is obvious that the protection of human rights becomes the hostage of the certain corrupt political interests, the primary goal of which is to avoid transparency on the ground at any cost.

At the same time, earlier in August we have been able to adopt the Permanent Council decision on deployment of 20 additional OSCE Monitoring Officers in Georgia. By 1 October 2008 one utmost important condition of the six-point cease-fire agreement has been met – the international mechanism has been launched by introducing the EU Civilian Monitoring Mission on the ground. We once again express our deep gratitude to all EU Member States, which contributed to this mission. Accordingly, as agreed by the presidents of France and Russian Federation on 8 September 2008, the Russian side must finish the process of withdrawal no later than 10 October 2008.

Fulfillment of this condition is crucial for launching the Geneva process of international talks on ensuring security and stability in South Ossetia and Abkhazia, Georgia, preparations for which are being carried out among all sides at the moment. The first meeting in Geneva is planned to take place on 15 October 2008. We believe that the positive output of these talks is of crucial importance for building up peace and security in South Ossetia and Abkhazia, Georgia. Hereby, we expect the Russian Federation will constructively be engaged in Geneva talks and honor all its obligations under the six-point cease-fire agreement.

At the same time, Georgia strongly believes that all disputes with the Russian Federation should be resolved in accordance with international law. Georgia has filed two international claims against Russia: one at the European Court of Human Rights and the other at the International Court of Justice.

The European Court of Human Rights

On 11 August 2008, while Russian forces were heading to the Capital of Georgia, Georgia applied to the European Court of Human Rights with a request for interim measures to the effect that the Russian Government should refrain from taking any measures which may threaten the life or state of health of the civilian population and to allow the Georgian emergency forces to carry out all the necessary measures in order to provide assistance to the remaining injured civilian population and soldiers via humanitarian corridor.

On 12 August 2008 the President of the Court, acting as President of Chamber, decided to apply Rule 39 of the Rules of Court (interim measures) considering that the current situation gives rise to a real and continuing risk of serious violations of the Convention. Both parties were indicated to provide the Court with information concerning their engagement under the Convention, particularly under Article 2 (right to life) and Article 3 (prohibition of torture, other inhuman and degrading treatment or punishment) on regular basis. Georgia has been providing the Court with detailed information about its compliance with the provisional measures, including the positive obligation. Georgia has also been providing the Court with information about the failure of the Russian Federation to meet the obligations reinforced by the order of the Court.

Georgia submits that the Russian Federation has failed up to the present date to respond specifically to concrete allegations raised by Georgian Government. Regrettably, Russian Federation has failed to abide by the indications through

repeatedly ignoring in the communications to the Court specific facts submitted by the Government of Georgia. Moreover, Russian Federation has artificially confined the area of applicability of the interim measures indicated by the Court to the territory of South Ossetia, particularly Tskhinvali region, while the allegations of the Government of Georgia reach far beyond South Ossetia and encompass the entire area of Russian controlled territories including Abkazia, certain villages in Samegrelo, Sachkhere, and Gori districts as well as whole Akhalkalaki district.

The interim measures were prolonged twice by the Court on 26 August and 16 September respectively.

The Ministry of Justice is working on the inter-state Application that will be submitted to the European Court of Human Rights in due course.

The International Court of Justice

On 12 August, 2008, Georgia instituted proceedings before the International Court of Justice (ICJ) against the Russian Federation under the International Convention on the Elimination of All Forms of Racial Discrimination. Georgia requests the ICJ to establish that the Russian Federation, through its State organs, State agents, and other persons and entities exercising governmental authority, and through the South Ossetian and Abkhaz separatist forces and other agents acting on the instructions of, and under the direction and control of the Russian Federation, is responsible for serious violations of its fundamental obligations under the Convention, including Articles 2, 3, 4, 5 and 6. These violations under the Convention were committed during three distinct phases of Russia's interventions in South Ossetia and Abkhazia in the period from 1990 to August 2008.

On 13 August 2008 Georgia availed itself to the right provided under the Rules of Court requested provisional measures to be indicated to the Russian Federation in

order to stop the ongoing discrimination of ethnic Georgians in the territories under Russian control. The provisional measures request was modified on August 25, 2008. The oral hearings took place on September 8-10. Georgia submitted evidence to the Court in support of the claim of ongoing ethnic cleansing and the particular threat ethnic Georgians are facing to in Gori and Akhalkalaki Districts as well as in Gali District of Abkhazia. Georgian evidence was based on witness testimonies, including those of former hostages kept in notorious Tskhinvali camp, reports of independent international organizations, satellite images etc.

It is noteworthy that despite Russia's allegations against Georgia aired on TV or made at political forums, Russia strongly resists the International Court of Justice to exercise jurisdiction over the case and to make competent legal determination on Russia's possible responsibility for the ethnic cleansing of Georgians.

At the same time, almost immediately after the break out of the hostilities, the Office of the Prosecutor General of Georgia launched investigation on the facts. On 9 August 2008 the Office of the Prosecutor launched an investigation including under Articles 143 (unlawful deprivation of liberty), Article 144¹ (torture), 144³ (inhuman and degrading treatment), 411 (deliberate violation of humanitarian law provisions during internal and international armed conflicts), Article 413 (other violations of international humanitarian law, including looting, illegal acquisition and destruction of civilian property) of the Criminal Code of Georgia. It is important to note that the investigation is not against anyone, but is launched on the fact and intends to shed light to the overall situation. Every person whose culpability is revealed in the course of investigation will be subject to relevant legal proceedings. No charges have yet been made. At this stage of investigation, the authorities focus on exclusively fact-finding: Initial statements from prisoners of war, civilian hostages have been taken, statements are continually

taken from internally displaced individuals affected by the conflict, forensic examinations have been conducted, and seizure and inspection of affected areas under Georgian control has been implemented.

Georgia has expressed its readiness to share this information with the International Criminal Court. Unlike Russia, Georgia is a State Party to the Rome Statute. Accordingly at the time of ratification Georgia expressed its willingness to be bound by the Statute and recognized the jurisdiction of the Court over relevant crimes committed *inter alia* on the territory of Georgia.

Mr. Chairman,

Ladies and gentlemen,

The achievement of the full respect of human rights and fundamental freedoms in Europe is our common goal, whereas every failure to ensure it in each and every concrete situation. The lack of consensus should not impede our shared responsibilities.

Finally, I would like to appreciate the whole OSCE community for its strong involvement in the process of peaceful resolution of this conflict. I also would like to use this opportunity and especially thank the Director of the ODIHR and the OSCE High Commissioner on National Minorities for their dedicated efforts in this field.

I thank you very much for your attention.