

**Violations of IHL and IHRL in course of an International  
Armed Conflict: torture, inhuman and degrading treatment,  
hostage taking, etc**

## **Introduction**

As a preliminary issue, it shall be noted that the Government of Georgia considers that in course of an international armed conflict between Georgia and Russian Federation, the international humanitarian law (IHL) as well as international human rights law (IHRL) applies. Therefore, the parties to the conflict, where as a minimum bound to comply with the Four Geneva Conventions of 1949 and its Additional Protocol I of 1977, as well as International Covenant on Civil and Political Rights and European Convention on Human Rights and Fundamental Freedoms.

It is generally acknowledges that humanitarian law rules are *lex specialis* in situation of an armed conflict. However, it is also generally acknowledged that human rights law does not cease to apply in times of war. In addition:

- Both IHL and IHRL (treaty as well as customary based norms) provide for the prohibition of discrimination, as well as prohibition of torture, inhuman and degrading treatment;
- Prohibition of Torture is a non-derogable human rights norm. The right to habeas corpus is also regarded as a procedural guarantee that has acquired a non-derogable nature as it secures detainees from torture, inhuman and degrading treatment;
- Prohibition of torture both under IHL and IHRL represents a norms from which no derogation is allowed – *jus cogens* norm.

Therefore, the following document outlines the rules of IHL and IHRL that have been violated in course of an international armed conflict by the Russian Federation.

With respect to the human rights norms, it is the contention of the Government of Georgia that in line with the existing state practice, the human rights treaties apply extraterritorially, when the state A exercises *de facto* effective control of territory of the state B (as an occupying power or a power being present on the territory of the State B without the letters consent). In addition, unlike human rights treaties, the Geneva Conventions of 1949 contain common article 1 that requires state parties not only *to respect* but also *to ensure respect* of the said conventions. Hence, the obligation of the state parties to the conflict is a strict obligation.

### **A. Rules Under International Humanitarian Law**

#### **1. Common Article 3 of the Four Geneva Conventions of 1949**

Common article 3 of the Four Geneva Conventions of 1949 represent a “convention in miniature”. It has been considered a bridge between IHL and IHRL, since the rules of Article 3 contains "elementary considerations of humanity" to be ***protected in all circumstances***.<sup>1</sup> In essence, common article 3 includes minimum guarantees of humane

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<sup>1</sup> *Corfu Channel Case*, Merits, *I.C.J. Reports* 1949, p. 22; *Military and Paramilitary Activities in and against Nicaragua*, Merits, *I.C.J. Reports* 1986, para. 218; See also Report of the International Commission of

treatment without any adverse distinction, as well as certain judicial guarantees characteristic to human rights treaties. Some legal scholars even argue that the acts prohibited in common article 3, though limited in a number, are very similar to the non-derogable rights under human rights treaties<sup>2</sup>. Namely, third paragraph of the article lists the acts are and shall remain prohibited *at any time*:

- Violence of life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- Taking of hostages;
- Outrages upon personal dignity, in particular humiliating and degrading treatment;
- The passing out of sentence or carrying out of execution without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples (summary execution).

Common article 3 is a rule binding not only state parties to the conflict, but also a rule for applicable to non-state actors – the South Ossetian militia<sup>3</sup>. Persons protected: any person not taking part in active hostilities or who laid down their arms or are *hors de combat* (i.e. civilians, prisoner of war, wounded or sick combatants/civilians).

## 2. Treatment of the Prisoners of War

In course of an international armed conflict, Georgia detained 5 Russian soldiers whom from the moment of detention were given prisoner of war status (POW) as treated in accordance with the Third Geneva Convention of 1949. The Russian Federation detained 21 Georgian Soldiers, who were tortured and treated inhumanely in violation of articles 12 (responsibility for treatment of prisoners), 13 (humane treatment of prisoners), 14 (respect for the person of prisoners), 26(Food), etc.

One of the prisoner of war named **Khicha Melkuashvili, born on 28 February 1970 in his statement said that:** *"The Russian soldiers took me into a house, tied my hands and feet and throughout the whole night beat me with their hands and feet and the butts of their assault rifles and brutally tortured me. The Russian soldiers also tortured me with electricity, twice shocking me in the head."* (See Annex)

## 3. General Treatment of Civilians

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Inquiry on Darfur, to the United Nations Secretary-General pursuant to Security Council Resolution 1564 of 18 September 2004 (Geneva, 25 January 2005), para. 157;

<sup>2</sup> R. Abi-Saab, Human Rights and Humanitarian Law in Internal Conflicts found at Human Rights and Humanitarian Law – the Quest for Universality, D. Warner ed., Graduate Institute of International Studies – Geneva, Nijhoff Law Specials, Vol. 29, p. 111;

<sup>3</sup> The first paragraph of Common Article 3 notes that in “the case of an armed conflict not of an international character occurring in the territory of a High Contracting Part, each Party to a conflict shall be bound to apply as a minimum...” thus it applies to the High Contracting Parties (states) only but to any party to an armed conflict.

In course of an international armed conflict, civilians are protected persons within the meaning of article 4 of the Geneva Convention IV and also benefit from the protection as civilian population under articles 50 and 51 of the Additional Protocol I. Apart from the violation of articles 27 (treatment of civilian population – rape of women), 31 (prohibition of physical coercion), 32 (prohibition of corporal punishment and torture), 33 (prohibition of reprisal against civilian population) and 34 (prohibition of hostage-taking) of the Geneva Convention IV, the said treaty clearly determines the grounds when civilian can be detained or interned (view article 5, 41, 42, 43, 68 and 78 of the GC IV). These exceptions were not present with respect to several hundreds of Georgian civilian detainees (mostly elderly) held in captivity in Tskhinvali.<sup>4</sup>

**Arkadi Mekhaturashvili (father's name - Ervan), born: 09.02.1949 in his statement said that:** "They (Ossetian Militaries) forced me to get in their car. When we reached my house, they threw me on the ground. They offended me. They swore at me and beat me with feet. I got on my car and turned on the engine. When they saw that the car worked, they threw me out and shot over my head from automatic weapon. Then they had left" (See Annex)

**Iason Nodarovich Nadiradze born on 24 November, 1970 in his statement said that:** "Yesterday I witnessed, that my neighbor – Givi Ilariani entered my house, he was frightened and it was visible that he was beaten. He told me that the Russian soldiers with the Ossetian separatists were in our village, who captured him together with two Georgian women. He was told to rape these elderly women. If not, they would have killed him. He told them, that he was ill and was not able to do that and for this he was beaten by axe handle. Then he had escaped from them. As Givi told me, there were threats from the Russian side that if they would not empty the village, they would do worse to them and as far as the Georgian Government was in power, the civilians would be in this kind of situation." (See Annex)

**Ana kitovna Datashvili born on June 30, 1935 in his statement said that:** "I saw how Ossetian soldier threw the subject resembling a bomb on the first floor of my house which caused set the house ablaze. Then they took me to the center of Tamarasheni on foot and there they put me and three other villagers in a car "Vilisi" and drove me to Tskhinvali, where they put us in Jail. I saw there about 200 Georgians, most of them were elderly both men and women. I was placed in a cell of Jail chimney which was about 30 square-meters. There were 30 old women together with me. 15 young men were amongst 200 Georgians in jail. They were taken to the town every morning and forced to work on cleaning the city. While being in jail one could get only a cup of tea and a piece of bread both in the morning and evening. The most part of men had recognizable damages on their bodies in jail." (See Annex)

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<sup>4</sup> See Annexed report of HRW on Russia/Georgia: Investigate Abuse of Detainees.

**Gulnara Shalvovna Jakhveladze born on 4 July, 1951 in his statement said that:**  
*“Then we met with a person dressed in a military uniform who said we should follow him to the Police station where they would register us and let to go. As soon as we came in the police office, they took our ID documents, cell phones, money and other belongings. The police officers were only Osetians. Then they took us downstairs to the detention isolator. The police officers used to abuse our government and us. During the first three days they gave us only bread and water. On the fourth day they gave boiled buckwheat porridge. The cell had 16 places in it but there were more than 40 people inside it. I heard from the women captives there that the Russian soldiers were unmerciful to the peaceful population. They pumped into peaceful population, tortured them and were ruthless even with disabled and sick people.” (See Annex)<sup>5</sup>*

In accordance with article 29 of GC IV, *the Russian Federation, as an occupying power in whose hands the civilians were, is responsible for the treatment accorded to them by its agents, irrespective of any individual responsibility which may be incurred.*

#### **4. General Obligation of an Occupying Power**

Georgia considers that as a result of Russian intervention (act of aggression) into Georgia, there is a military occupation in the sense of common article 2 of the Four Geneva Conventions of 1949 as well as article 42 of the Hague Regulations of 1907. Under IHL occupying power has specific obligation to preserve public order and safety of civilian population (see article 43 of the Hague Regulations of 1907 which is binding as a customary rule of international law), as any occupying power is a temporary administrator and shall take measures in order to ensure the normal living of the local population.

The facts on the ground talk of the contrary – apart from the aforementioned violations of the civilians rights, ethnic Georgians were subjected to massive deportation (violation of article 49 of GC IV) and forced labor (article 51 of GC IV). Georgian villages were looted and burned in violation of article 53 of GC IV (prohibited destruction of the property). These acts took place on massive scale representing grave breaches of GC IV in accordance with article 147 (*See Annex*).

#### **B. Rules Under International Human Rights Law**

According to the preamble of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment<sup>6</sup> the *lex specialis* for the determination of

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<sup>5</sup> For other Statements see Annex. There are more other Protocols of Victims Testimonials collected by the General Prosecutor’s Office of Georgia indicating that the Georgians were subject to torture, inhuman and degrading treatment, hostage taking and other violation of human rights resulted from Russian invasion and occupation since August 8, 2008.

<sup>6</sup> Paragraph 3 of the preamble.

such fact is the Article 3 of the European Convention on Human Rights (ECHR). No doubts can be raised concerning the applicability of its provision to this particular situation. As affirmed by the CoE Commissioner for Human Rights the ECHR is applicable at all times.<sup>7</sup> The only option to derogate from its certain provisions is provided in the Article 15. The paragraph 2 of this article however enlists the Article 3 of the Convention among those non-derogative. Consequently, no justification for violation of the provisions of this article may be imposed under any circumstances.

The Government of Georgia wishes further to inform the Committee that the facts of torture and inhuman or degrading treatment have numerously taken place during the conflict. The statements of the victims as well as some other evidentiary material attached to this paper provide a clear proof of that. As an example of the testimony of the hostages detained by the Russian forces and the South Ossetian militias, among others the statement of Enver Babutsidze is remarkable. This is how Mr. Babutsidze, a 62-year-old resident of Kvemo Achabeti, recounts his capture: the “Russian soldier suddenly jabbed me in the back with the point of his rifle and then hit me with the butt”.<sup>8</sup> He then explains that he was marched towards Tskhinvali in the custody of a lieutenant in the Russian army, and placed into a car with two Ossetian militiamen, who drove him to the Interior Ministry building in Tskhinvali. He was then placed “in a windowless cell with only a small hole for air to enter” and the guards told him that “we were hostages and would be held until there was an exchange”.<sup>9</sup> Mr. Babutsidze and his fellow prisoners were subjected to inhumane conditions.

*“The guards often beat hostages. On one occasion they took 4 men and I could hear them being beaten. Another time a guard brandished a knife and shouted ‘I wish I could drink your blood and that I never see Georgians’. I also remember a brutally beaten 94-year-old man being thrown into the cell. This man said that he had been beaten by Russian soldiers.” Stated Mr. Babutsidze.*<sup>10</sup>

The facts of the same kind took place on a large-scale and a regular basis. The Russian Federation exercising an effective control of the territory is thus accountable for the violations of the Articles 1 and 3 of the ECHR.

## **Conclusion**

On 9 August 2008 the Office of the Prosecutor launched an investigation including under Articles 143 (unlawful deprivation of liberty), Article 144<sup>1</sup> (torture), 144<sup>3</sup> (inhuman and

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<sup>7</sup> Thomas Hammarberg, Report on Human Rights in Areas Affected by the South Ossetia Conflict, 8 September 2008, CommDH(2008)22, paras. 11-14.

<sup>8</sup> See ICJ Verbatim Record of the public sitting held on Tuesday 9 September 2008, at 4:30 p.m., at the Peace Palace in [www.icj-cij.org/docket/files/140/14719.pdf](http://www.icj-cij.org/docket/files/140/14719.pdf)

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

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.

# **Annex**



Title	Russia/Georgia: Investigate Abuse of Detainees
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## Russia/Georgia: Investigate Abuse of Detainees

(Moscow September 21, 2008) - Russia should immediately investigate allegations of extrajudicial execution, torture, and other abuse of Georgian military and civilian detainees by Ossetian forces during the recent conflict in Georgia, Human Rights Watch said today. Georgia should investigate alleged ill-treatment of Ossetian detainees during their detention and transfer to Tbilisi and improve conditions of detention, Human Rights Watch said.

"The torture and ill-treatment of Georgian detainees is abhorrent and can't be justified, even during armed conflict," said Rachel Denber, Europe and Central Asia director at Human Rights Watch. "Russia had effective control in South Ossetia while these abuses took place and it has the duty to hold the perpetrators to account for these horrific crimes."

In interviews with former Georgian military detainees, Human Rights Watch has documented at least one extrajudicial execution of a Georgian soldier in detention, as well as severe torture of at least four Georgian soldiers by Ossetian militia and other Ossetian forces.

Human Rights Watch also found that Russian and Ossetian forces unlawfully detained at least 160 civilians, mainly elderly, in South Ossetia and Gori district; approximately 40 were women. At least one man was executed while in Ossetian custody. Most civilians were held in the basement of the Ossetian Ministry of Interior building in Tskhinvali for approximately two weeks in conditions that amounted to degrading treatment. Some

were subjected to beatings and were forced to work cleaning the streets of Tskhinvali of decomposing bodies of Georgian soldiers and building debris. At least four Georgian civilians were held by Russian military forces in a dirt pit and beaten at what appeared to be a Russian field base before being handed over to the Ossetian Ministry of Internal Affairs. Ossetian forces had no legal authority to detain military service personnel or civilians.

The Georgian military detained Ossetians during the active fighting in South Ossetia. The Georgian ministry of defense claims that it detained only militia fighters or others posing security risks. Human Rights Watch spoke to two of the detainees, one traffic policeman and another male who claimed that he had not taken any part in hostilities. Both men reported that they were ill-treated as they were being transferred from South Ossetia to Tbilisi and complained of poor food during detention.

"Georgia has an obligation to investigate allegations that Ossetian detainees were beaten during their transfer to custody," Denber said. "Poor detention conditions in Georgia are a long-standing problem that the government has taken insufficient steps to address."

Of 13 Georgian military servicemen known to have been detained by Ossetian and Russian forces, Human Rights Watch conducted individual, in-depth interviews with four. Human Rights Watch also interviewed more than 20 civilians detained by Ossetian and Russian forces as well as two Ossetians and two Russian soldiers detained by the Georgian military.

#### **Execution and torture of Georgian military servicemen**

The Georgian military servicemen interviewed by Human Rights Watch were detained by Ossetian militias on August 8, 2008, during the active fighting in Tskhinvali. They were held in informal places of detention, including apartment buildings and schools, for several days, and were then transferred to Ossetian forces, who detained the soldiers for six days. Russian forces were aware of the detentions.

The four Georgian soldiers interviewed by Human Rights Watch, together with nine other Georgian soldiers and two people the Georgian authorities claim were civilians, were exchanged by the Russian authorities for five Russian prisoners of war on August 21. Because the Georgian soldiers were detained in Tskhinvali in South Ossetia, an area over which Russia exercised effective control since August 9, they should be treated as having fallen into Russia's power. Russia was therefore obligated to afford them prisoner-of-war (POW) status and to treat them in conformity with the protections of the Third Geneva Convention, which include absolute prohibitions on ill-treatment and require POWs to be treated humanely and kept in good health.

Georgian soldiers reported that they had been subjected to severe torture and ill-treatment throughout their detention by Ossetian militia and Ossetian forces. The Ossetian militia and other forces frequently beat the soldiers, not only by punching and kicking them, but also by using implements such as hammers, butts of machine guns, and metal rods. They also burned their skin with lighters, starved them and threatened them with execution. The men were held in degrading conditions, given very little water and little to no food after the initial days of their detention. The torture and ill-treatment caused severe head trauma, broken bones, burns, severe bruising, and serious dehydration and loss of weight among the prisoners. After several days in detention by Ossetian forces, one Georgian soldier who had been wounded during active fighting in Tskhinvali was taken into custody by Russian federal forces proper and treated in hospitals in South Ossetia and Russia.

The Georgian soldiers also reported that one of the soldiers detained with them was executed. Shortly after the soldiers were detained in a school, one soldier was taken from the group into a small room and shot in the back of the head with automatic weapon fire. Other soldiers were made to carry the body outside and later bury it. The man was apparently singled out because he was a tank driver. Georgian soldiers also stated that another Georgian military serviceman detained among them, who was ethnic Ossetian, was taken away during their detention. They never saw this soldier again. One Georgian soldier reported that he had been told the man was killed "as a traitor."

For information on the extrajudicial execution by Ossetian forces of an armed Georgian man in a separate incident, see

<http://hrw.org/english/docs/2008/08/13/russia19620.htm>.

#### **Execution, arbitrary detention, and ill-treatment of Georgian civilians**

As Russian forces began to occupy South Ossetia on August 8-9, South Ossetian forces followed them into ethnic Georgian villages. Russian and Ossetian forces detained many of the remaining residents, most of whom were elderly and had stayed behind to protect their homes and property; younger family members had fled in the initial days of fighting. On subsequent days, Ossetian forces also detained people trying to flee looting and burning by Ossetian forces in the Gori district. Human Rights Watch has also documented how Ossetian forces looted and burned houses in Georgian villages (<http://hrw.org/english/docs/2008/08/28/georgi19712.htm> ). There is no evidence that the civilians detained by Russian and Ossetian forces posed any security threat that would necessitate their detention.

During the detention of approximately 10 men, who were taken from cars while attempting to flee from villages in the Gori district, one detainee was executed by Ossetian forces. The group of detainees had been made to lie face down in the back of a minivan, were kicked and hit with gun butts, and told not to raise their heads, despite

the beatings. One detainee told Human Rights Watch that the young man lying next to him, who was approximately 25 years old, raised his head several times and the Ossetian captors eventually shot him in the head three times. They threw his body out of the van and threatened the other detainees, "We will kill you all eventually." These men were subsequently taken to the Ossetian Ministry of Interior building in Tskhinvali.

At least 160 Georgian civilians, including many elderly and approximately 40 women, were held together in the basement of the Ossetian Ministry of Interior building in Tskhinvali. Detainees described appalling conditions of detention. They stated that the dark, hot, poorly ventilated basement had five detention cells designed for short-term detentions. The cells quickly became overcrowded, and detainees were forced to sleep in the hallway or in the small, fenced-in, outdoor exercise yard accessible from the basement. There were only a handful of beds, and most detainees slept sitting or lying on the floor.

There was one toilet for all detainees and it frequently did not have water. Detainees described being given water that was dirty as well as insufficient food. During the initial days of detention, guards would throw four to five loaves of bread into the cells, saying "Eat, pigs!" Detainees stated that following a visit by the International Committee of the Red Cross (ICRC), in mid-August, they were given slightly more and better food, including buckwheat cereal, more servings of bread, and tea. Most detainees reported losing significant weight during the detention. Material conditions in Tskhinvali at the time of these detentions were dire; the city had no electricity, very little food, and very little water.

Several men reported being beaten at the moment of detention, during transfer, and upon their arrival at the detention facility. Several men were also forced to work, which included recovering decomposing bodies from the streets of Tskhinvali, digging graves, and burying bodies, as well as cleaning the streets from building debris accumulated as a result of fighting. They did not receive any compensation for this work. Under international humanitarian law, civilians may be required to work if it is necessary, for example, to maintain public utilities or to meet humanitarian needs, but they should be appropriately compensated for their work. Unpaid or abusive forced labor, or work that amounts to partaking in military operations, is strictly prohibited.

One group of 61 detainees, including most of the elderly and all of the women, were released on August 21, and were officially exchanged for eight detainees whom the Georgian military describes as militia fighters. Other civilians were released on subsequent days, including a large group of 81 civilians on August 27, who, according to the Georgian Ministry of Defense, were exchanged for four people detained during fighting and described as militants, as well as nine Ossetians previously convicted for crimes and serving sentences in Georgian prisons.

### **Detention and ill-treatment of Ossetians by Georgian military**

Human Rights Watch interviewed two Ossetians detained by the Georgian military in Khetagurovo, a village in South Ossetia, on August 9. Both detainees reported being beaten by Georgian soldiers at the moment of their detention. One detainee stated that his jaw was dislocated as a result of the beatings. The other detainee told Human Rights Watch that Georgian soldiers punched and kicked him during his transfer by car to Tbilisi. Both detainees complained about poor and inadequate food during their detention in the Vaziani military base in Tbilisi. Neither detainee complained of ill-treatment while in detention. Human Rights Watch [has documented poor conditions](#) in Georgian prisons and places of detention and has called on the government to ensure conditions meet international standards.

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### **Related Material**

#### [Georgia: EU Mission Needs to Protect Civilians](#)

Press Release, September 16, 2008

#### [Georgia: Join Treaty Banning Cluster Munitions](#)

Press Release, September 1, 2008

#### [South Ossetia: Tskhinvali's Apocalypse](#)

Commentary, August 29, 2008

#### [Law on Occupation and Effective Control](#)

Questions and Answers, August 26, 2008

#### [Georgia: Civilians Bear the Brunt of Conflict](#)

Special Focus, August 21, 2008

#### [Georgia: Satellite Images Show Destruction, Ethnic Attacks](#)

Press Release, August 29, 2008

#### [Letter to President Nicolas Sarkozy in Advance of the September 1 Emergency Summit](#)

Letter, August 26, 2008

#### [Georgia: International Groups Should Send Missions](#)

Press Release, August 18, 2008

#### [Georgia: Russian Cluster Bombs Kill Civilians](#)

Press Release, August 15, 2008

#### [Russia/Georgia: Investigate Civilian Deaths](#)

Press Release, August 14, 2008

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## Protocol of a Victim Testimonial

Tbilisi

August 21, 2008

According to the articles 294-303, and 309 of Criminal Procedural Code of Georgia, I, *the department prosecutor of Tbilisi Prosecutor's Office, D. Khizanaidze, in the premises of Tbilisi Prosecutor's office, and regarding the Case # 074088079, have examined as a victim*"

- |   |  |
|---|--|
| 1. Name, father's name, surname         | <b>Magala Archilovna Japaridze</b>           |
| 2. Date of birth (y/m/d)                | <b>1948 / May/07</b>                         |
| 3. Place of birth                       | <b>City of Tskhinvali</b>                    |
| 4. Nationality & citizenship            | <b>Georgian</b>                              |
| 5. Education / profession               | <b>Secondary</b>                             |
| 6. Civil status                         | <b>Widow</b>                                 |
| 7. Place of residence                   | <b>Gori district, village of Zemo Nikozi</b> |
| 8. Place of work & occupation           | <b>Dish washer at Café "Farn"</b>            |
| 9. Previous trials                      | <b>N/A</b>                                   |
| 10. Any kind of immunity                | <b>N/A</b>                                   |
| 11. State awards                        | <b>N/A</b>                                   |
| 12. Other notes                         | <b>N/A</b>                                   |
| 13. What relationships with the accused | <b>N/A</b>                                   |

Before the examination, the victim **Ms. Magala Japaridze** was introduced to her rights, as well as her responsibilities over her duties according to the articles 294-303, and 309 of Criminal Procedural Code of Georgia, and was given a written list of her responsibilities and duties.

Signature of the victim - signed

Examination started at 15:40 and ended at 17:15.

On the offer to tell everything she knows about the case – **Magala Japaridze** - testified the following:

**- I certify that I was introduced to my rights and responsibilities of the victim, among them the right to have a defender, that I don't think to be necessary. I will defend my rights on my own.**

**I live at the address indicated above together with my son – Mamuka Mindiashvili, his wife – Lali Metreveli and grandchildren – Mariam and Giorgi Mindiashvili. Mamuka is 28 year old, his wife is 22, as for the grandchildren, Mariam is 5 year-old girl and Giorgi is just 7 months old baby. My husband died in 1999 from cancer disease. I had another son – Giorgi Mindiashvili, who was killed in 1993 in our village, and he was just 18 then.**

**I would like to mention also that I have been working in Tskhinvali for last two years, at the Café-Bar “Farn” located at Isaki Street, in a capacity of a dish washer. I would also mention here that my sister Luiza Japaridze was married to an ethnic Osetian man – Valeri Sagjaev, who died in 1992, and my sister together with her children lives in Tskhinvali at the address: 36, Isak street.**

**Per question asked I would like to tell that, on August 7, 2008, at 9 o'clock in the morning I came to my job place, where I worked as usually until 20:00 o'clock and afterwards I went to my sister's place, located in Tskhinvali, at 36, Isak street, where I stayed over night. At night, at about 01:00 - 02:00 I woke up because of the noise, there was terrible storm of shells, but I did not notice who was firing and from what side. However, I would like to mention that together with the storm of shells, there were some explosions too. Because of the mentioned fact, I, my sister and her neighbor men and women went down to the basement (a kind of bunker) of the same building.**

**I want also to mention here that 3-4 days earlier all children were taken away from Tskhinvali to Russia's direction, people also were leaving Tskhinvali. I didn't know who warned them, or why did they go away.**

**After going down to the “bunker” we were together with about 20-25 people there, among them women and men, and we all spent there 4 day and nights. As I already mentioned, I was there together with my sister and her neighbors and at the very first**

night nobody insulted me. But from the next day, during the rest of time I was abused and insulted by the ethnic Osetians just because I was Georgian, they inhibited me to speak Georgian saying it was “dog’s language”, they also claimed it was their own land and Georgians had to go away from there. Two Osetian ladies – Fatima and Galina were most active ones. I cannot remember their surnames, but I know, that Fatima works at the House of culture of the City of Tskhinvali, she is about 60-65 years old, she’s slim and tall, and lives on the first floor of the same block of flats as my sister does. as for Galina, she lives in a private house in Lenin street, I don’t know her exact address, her husband works at Tskhinvali Police station and his name is Vova. Galina is approximately 45 years old. These two ladies made the most pressure towards me, they blamed Georgians in all happenings and said that all Georgians should leave the territory (their land) immediately. The reason for insulting me was just my Georgian origin. The others in the bunker also joined them. Moreover, once Galina came up to me and squeezed my arms so that they became blue, she told I should be given as a hostage to the Osetian soldiers, who would deal with me better. But at that time I was assisted and protected by a man whom I did not know, and because of whom I was not transferred to the soldiers. Then Galina, Fatima and other women started beating my sister’s back with their fists, telling the same as they did with me “Georgians you have nothing to do here, go away from our land”. The reason of beating and abusing me and my sister was just our Georgian origin.

As I have already mentioned, we did not leave the bunker for 4 days. On the fourth day, when the fire was ceased, it was August 11, In the morning, I, my sister and others from bunker came out from the basement. My sister and I went to my sister’s flat, that was not damaged, just some glasses were broken there. From August 11 to-date – August 21, 2008 I hid myself at my sister’s place. I couldn’t go out, as I could be murdered just because of my Georgian Origin. Afterwards, my sister Luiza Japaridze helped me: her neighbor is a policeman, who works at Tskhinvali Police station, his name is “Zhorika”, unfortunately I don’t know his surname. “Zhorika” managed to transfer me from Tskhinvali to Gori, from where I was able to arrive in Tbilisi today.



As I already mentioned, my sister also was a target for insults, but as she was married to an Osetian man and lives in Tskhinvali already for 50 years, the abusers were less aggressive to her. As for me, I don't know what could I do without the support of the above mentioned man – an Osetian Policeman; probably I would become a hostage, or murdered. The policeman helped because he was my sister's neighbor and had good relations with her. He managed to transfer me from Tskhinvali confidentially from his fellows.

Today, on August 21, 2008 it is the first time I went out from the flat, and what I saw in Tskhinvali streets was that there were huge numbers of Russian soldiers there with their tanks and military trucks. They were located from Tskhinvali up to Igoeti alongside the road. The Russian soldiers, checking the bus that was carrying us to Tbilisi, stopped us several times.

As I already mentioned I arrived from Tskhinvali to Gori by means of "Zhorika's" assistance. He got me on a bus in Tskhinvali that took me to Gori and there I joined the people from other villages of Gori district and went to Tbilisi.

I would like also to say few words about the state of my own house. I do not know the exact picture because I could not manage to go to my village yet. But today I phoned my son to his mobile phone and he told me that he was in Tbilisi, in Mukhiani massive, and that our house in the village of Zemo Nikozi was ruined after bombing. My son Mamuka Mindiashvili told that a projectile got in our house and ruined it. The projectile was dropped by the Russian military aircrafts. Afterwards, as my son continued, Osetian, Russian and Chechen soldiers robbed the remainder of our house. That's why my son had to leave the village and hide away.

I would like to mention that I had two houses in the village of Zemo Nikozi, as my son says both are robbed and ruined. Together with all belongings that we had in both houses the two buildings would value around 50,000 Gel.

As I mentioned above, during the time I spent in Tskhinvali bunker, I was harmed, my arms were beat black and blue, but I did not have the opportunity to go to a doctor, and I did not need much assistance from the physician. I had to undergo the fear and I am still abused by the circumstances taking place there.

I have nothing more to add.

**The testimonial is written under my dictation. I have read it and found it correct, and  
I certify it with my signature.**

**Victim – signed**

**Prosecutor – signed.**

## Protocol of a Victim Testimonial

Tbilisi

August 21, 2008

According to the articles 294-303, and 309 of Criminal Procedural Code of Georgia, I, *the Intern of Vake-Saburtalo district Prosecutor's Office Tbilisi, **Karlo Katsitadze**, in the premises of Ghudushauri National Medical Center, and regarding the Case # 074088079, have examined as a victim:*

- |   |   |
|---|---|
| 1. Name, father's name, surname         | <b>Kakha Giorgevich Zirakishvili</b>  |
| 2. Date of birth (y/m/d)                | <b>1972 / October / 16</b>  |
| 3. Place of birth                       | <b>City of Gurjaani</b>   |
| 4. Nationality & citizenship            | <b>Georgian</b>   |
| 5. Education / profession               | <b>Higher, qualification of Veterinarian</b>  |
| 6. Civil status                         | <b>Married</b>  |
| 7. Place of residence                   | <b>Gurjaani district, village of Naniani</b>  |
| 8. Place of work & occupation           | <b>Infantry Corporal of the of battalion 42, of IV Brigade of the Ministry of Defense</b> |
| 9. Previous trials                      | <b>N/A</b>  |
| 10. Any kind of immunity                | <b>N/A</b>  |
| 11. State awards                        | <b>N/A</b>  |
| 12. Other notes                         | <b>Tel: 898 573153; 898 136476</b>  |
| 13. What relationships with the accused | <b>N/A</b>  |

Before the examination, the victim **Mr. Kakha Zirakishvili** was introduced to his rights, as well as his responsibilities over his duties according to the articles 294-303, and 309 of Criminal Procedural Code of Georgia, and was given a written list of her responsibilities and duties.

Signature of the victim - signed

Examination started at 15:25 and ended at 16:30.

On the offer to tell everything, she knows about the case – **Kakha Zirakishvili** - testified the following:

- I live at the abovementioned address together together with my wife and my brother. I am in a military service since August 15, 2007. During the Tskhinvali events, I was engaged in military action. Namely, our battalion was in full readiness and awaiting the order from August 7, 2008. On August 8, 2008 I was at the Tskhinvali entrance together with my battalion. At that time Russian aviation started bombing our positions, as a result I with other 6 Georgian soldiers appeared surrounded by Osetian military group, who captured us. We, 7 Georgian soldiers had to surrender and could not contravene. We spent total 12 days in captivity. During that time, we were frequently moved to different building basements, where we underwent permanent torture. Namely, they used to tie up the ropes on our necks and pull them, at the same time someone would beat us in heads and backs with the gun-butts; when we totally ran out of energy, they made us to put hands in front of us and beat our fingers with hammers, and then burned up our fingers with lighters. Periodically, they poured water upon us in order to make us not to loose conscience and feel the whole horror, and to prolong the torment. All mentioned was added with hunger and thirst. As per your question I would like to answer, that the people that captures us were Osetians who understood Georgian speech. There were also Kazaks and Russians. Russians who used to come periodically to give orders could be easily noticed by their accent and military equipment of Russian military forces. Besides, the mentioned we spent some days at the dislocation place of Russian Special Forces, where our torture continued by the same means as described above. We survived because when we were brought to the Osetian Police station we were seen by Russian journalists. So the decision to exchange us with other military captives was made. The exchange took place on August 19, 2008 because of negotiations between Georgian military forces and Russian military representatives.

**I would like also to mention that in the next room they killed the Georgian soldier from Kutaisi, who was at service of tank battalion. The reason of killing him was just his Georgian origin and his profession. After 2 days of shooting the mentioned guy they took us to that room, where the dead body was still lying and forced us to clean the room from the reminder of the dead body's blood and brain. Afterwards we buried him.**

**In addition, I would say that besides the arms they took our mobile phones, among them was one of mine with active sim-card # 898 771719 that was never returned to me.**

**I would say once again that we spent 12 days in captivity in total and during the whole time they permanently tortured us.**

**The testimonial is written under my dictation. I have read it and found it correct, and I certify it with my signature.**

**Victim – signed**

**Prosecutor – signed.**

## Protocol of a Victim Testimonial

Tbilisi

August 21, 2008

According to the articles 294-303, and 309 of Criminal Procedural Code of Georgia, I, *the Intern of Vake-Saburtalo district Prosecutor's Office Tbilisi, Mikheil Tskhovrebadze, in the premises of Ghudushauri National Medical Center, and regarding the Case # 074088079, have examined as a victim*"

- |   |  |
|---|--|
| 1. Name, father's name, surname         | <b>Imeda Giorgievich Qutashvili</b>                              |
| 2. Date of birth (y/m/d)                | <b>1987 / April / 04</b>   |
| 3. Place of birth                       | <b>Tbilisi</b>   |
| 4. Nationality & citizenship            | <b>Georgian</b>  |
| 5. Education / profession               | <b>Secondary</b>   |
| 6. Civil status                         | <b>Single</b>  |
| 7. Place of residence                   | <b># 13-a Ghrmaghele 1<sup>st</sup> lane; 898 700 206 (Maka)</b> |
| 8. Place of work & occupation           | <b>Corporal</b>  |
| 9. Previous trials                      | <b>N/A</b>   |
| 10. Any kind of immunity                | <b>N/A</b>   |
| 11. State awards                        | <b>N/A</b>   |
| 12. Other notes                         |  |
| 13. What relationships with the accused | <b>N/A</b>   |

Before the examination, the victim **Mr. Imeda Qutashvili** was introduced to his rights, as well as his responsibilities over his duties according to the articles 294-303, and 309 of Criminal Procedural Code of Georgia, and was given a written list of his/her responsibilities and duties.

Signature of the victim - signed

Examination started at 15:10 and ended at 16:00.

On the offer to tell everything she knows about the case – **Imeda Qutashvili** - testified the following:

- **On august 08, 2008, at about 16:00 I together with Georgian military company was at the entrance of the city of Tskhinvali and were firing toward the Russian troops dislocated in Tskhinvali. At that time Russian airborne committed bombing attack toward our positions and we got the order to retreat. We tried to get back the injured people as well and that's why we missed our company. There were 7 or 8 of us running to the south direction, were we came across with Russian ambush that surrounded us. There was no sense to contravene, so they captured us and took to the basement of one of the empty living blocks. We spent there 2 days. They beat us and abused much, gave very little food and water. The vast majority of them were Osetians who hated us most of all and addressed to us as to "pigs".**

**After 2 days we were taken to Oseti Police station; but before the transfer, they took one Georgian soldier out and executed him. Then they told as if that soldier tried to escape.**

**There was one guy, ethnic Osetian, his surname was Khubulov, who was also taken away and was never brought back again.**

**All the captives were pushed to one room in Oseti police station and they all started beating us with their hands, legs, gun-butts and other devices. I got injuries all over my body and broke my left hand.**

**The soldiers there presumably were Kazaks according to their uniforms and accent. They spoke unknown language and I don't know their names.**

**While beating us one soldier, presumably Kazak told I looked like his injured son and added that nobody would touch me any more. At that time one "boevik" targeted me by his gun and told he would kill me, but the mentioned Kazak shielded me with his own body, pushed that guy away and did not give the opportunity to kill me.**

**3-4 days earlier Russian Soldiers were coming and negotiating our transfer for release, after long negotiations we were put in a helicopter and got to Igoeti where we were exchanged together with other captives on August 19, 2008.**

On your question, I would answer that the soldiers were extremely aggressive to the captives and were beating us with gun-butts and iron bars, were beating our heels with hammers and crushed out cigarettes onto our bodies.

On the question I would answer that David Malachini, Kakha zirakishvili, Malkhaz Meladze and others were in captivity together with me.

As for the capturers, I would say that vast majority of them were Osetians and Kazaks that were permanently abusing Georgians and Georgia.

The testimonial is written under my dictation. I have read it and found it correct, and I certify it with my signature.

Victim – signed

Prosecutor – signed.



## Protocol of a Victim Testimonial

Tbilisi

August 21, 2008

According to the articles 294-303, and 309 of Criminal Procedural Code of Georgia, I, *the intern of Gldani Nadzaladevi district Tbilisi, **Shota Kvachantiradze**, in the premises of Tbilisi Prosecutor's Office, and regarding the Case # 074088079, have examined as a victim:*

- |   |                                      |
|---|--------------------------------------|
| 1. Name, father's name, surname         | <b>Gulnara Shalvovna Jakhveladze</b> |
| 2. Date of birth (y/m/d)                | <b>1951 / July / 04</b>              |
| 3. Place of birth                       | <b>Znauri region, village Tilva</b>  |
| 4. Nationality & citizenship            | <b>Georgian</b>                      |
| 5. Education / profession               | <b>Secondary technical</b>           |
| 6. Civil status                         | <b>Married</b>                       |
| 7. Place of residence                   | <b>Gori district village Kekhvi</b>  |
| 8. Place of work & occupation           | <b>Unemployed</b>                    |
| 9. Previous trials                      | <b>N/A</b>                           |
| 10. Any kind of immunity                | <b>N/A</b>                           |
| 11. State awards                        | <b>N/A</b>                           |
| 12. Other notes                         |                                      |
| 13. What relationships with the accused | <b>N/A</b>                           |

Before the examination, the victim **Mr. Gulnara Jakhveladze** was introduced to her/his rights, as well as his responsibilities over his duties according to the articles 294-303, and 309 of Criminal Procedural Code of Georgia, and was given a written list of her/his responsibilities and duties.

Signature of the victim - signed

Examination started at 15:40 and ended at 17:15.

On the offer to tell everything, she knows about the case – **Gulnara Jakhveladze** - testified the following:

- I live in a village Kekhvi of Gori district together with my three sons, daughters in law and two grandchildren. On August 12 my sons and their families left the village and I do not know where they went. the reason of leaving was the conflict situation in the region. On August 12 my neighbors told that Russian and Osetian soldiers are walking up and down the village, searching houses and if they find a military uniform in a house burn it. On the same day, at about 08:00 a.m. people dressed in military uniforms entered my house. they spoke Osetian and Russian. They started searching my house, took households, technical equipment, other belongings, a motor-car of my son – Vasil Nebieridze (I don't remember the car make) they loaded the car with our belongings, clothes of my son, even the curtains and left. I hid myself in the room of icons, in which they did not enter. Then I went out and found a shelter under the machine tools in front of my neighbor's house. from that shelter I could observe them coming several times and taking away everything they found inside. I could not see how they managed to carry away all the things. My neighbor told that Russian and Osetian separatists took away all the livestock (cows, pigs, sheep) from the village. There are only three families of ethnic Osetians in the village Kekhvi and their houses were not touched. From the shelter I could see the Osetian and Russian soldiers burning the houses of Georgian population, they would stay until the house was fully burned up.

I spent approximately 12 hours in the mentioned shelter. Then I got hungry and decided to go home. At that moment I heard terrible noise of explosion and I found that the shell was dropped onto the roof of my house. However, it does not cause the fire. On August 13, 2008, at 03:30 a.m. the neighbors gathered together. there were 10 women and 3 men. From them I noticed that the shells dropped by Russians killed my neighbor Misha Kakhniashvili. We immediately started to Tskhinvali direction and after 2 hours entered Tskhinvali. On our way to Tskhinvali we met with Russian armored vehicles and truck columns moving to Gori direction. At the entrance of Tskhinvali Osetian ladies met us, who started abusing us just because we were Georgians. Then we met with a person dressed in a military uniform who said we should follow him to the Police station where they would register us and let to go.

As soon as we came in the police office, they took our ID documents, cell phones, money and other belongings. The police officers were only Osetians. Then they took us downstairs to the detention isolator. The police officers used to abuse our government and us.

During the first three days they gave us only bread and water. On the fourth day they gave boiled buckwheat porridge. The cell had 16 places in it but there were more than 40 people inside it. I heard from the women captives there that the Russian soldiers were unmerciful to the peaceful population. They pumped into peaceful population, tortured them and were ruthless even with disabled and sick people.

On August 21, 2008 @ police officers came in the cell and told we are released. They took us out where the International Red Cross bus was waiting for us. The bus took us to Gori military hospital.

On your question, I would answer that I spent 9 days in captivity and the whole time we were hungry. They gave very little food and always said “eat pigs”. They were very severe with Georgian guys and were beating them. They told they would ruin down our houses and open Russian military bases there.

as a result of aggression and violence from Russian and Osetian soldiers I met material and moral losses. The material losses equal 150,000 Gel.

The testimonial is written under my dictation. I have read it and found it correct, and I certify it with my signature.

Victim – signed

Prosecutor – signed.

## Protocol of a Victim Testimonial

Tbilisi

August 26, 2008

Tbilisi Prosecutor's Office – The head of department M. Chkheidze.

- |  |                               |
|--|-------------------------------|
| 1. Name, father's name, surname        | <b>Ana kitovna Datashvili</b> |
| 2. Date of birth (y/m/d)               | <b>1935/June/30</b>           |
| 3. Nationality & citizenship           | <b>Georgian</b>               |
| 4. Education                           | <b>Secondary</b>              |
| 4. Work/profession                     | <b>Pensioner</b>              |
| 5. Place of residence                  | <b>Village Tamarasheni</b>    |
| 6. Need of a translator                | <b>N/A</b>                    |
| 7. What relationships with the accused | <b>N/A</b>                    |

I lived in Tamarasheni when on August 7 2008 the bombing started from the side of Ossetian Separatists, which resulted in entrance of Georgian forces in our village. My son Giorgi datashvili with his wife Xatuna Xeduri and three children lived with me. As soon as the bombing broke out, we sent Xatuna and children to Tbilisi and my son stayed with me. After four days when Russian military proceeded bombing our village even more frequently I urged my son to leave for Tbilisi and remained home alone. Early in the morning when my son left, Russian tanks column with Russian military inside entered the village. They occupied our village and part of the army went to Tskhinvali. The same day the Russian soldiers returned to village together with Cossacs and Chechens and other North Caucasus robbers. They started looting and burning Georgian houses massively. They have entered my house five times and stole everything, mainly: TV, fridge, goods, clothes, and many other small things. This continued for 6 days. On August 14 2008 three armed with persons in military camouflage entered my house. As I guessed later one of them was Russian Soldier and two others – Ossetian.

The Russian Soldier started speaking in loud voice with me but I could not understand what he was saying as I don't know Russian. Afterwards one Ossetian explained to me that

Russian Soldier ordered me to leave the house as they were going to burn it. I asked them why where they doing this, we were relatives. I explained that I was half Ossetian, my mother was Ossetian. Notwithstanding my explanation they told me that I was Georgian and had no place there. They said that Georgians will never live on this land any more. Afterwards Russian Soldier forced me by physical abuse to leave the house. I saw how Ossetian soldier threw the subject resembling a bomb on the first floor of my house which caused set the house ablaze.

Then they took me to the center of Tamarasheni on foot and there they put me and three other villagers in a car “Vilisi” and drove me to Tskhinvali, where they put us in Jail. I saw there about 200 Georgians , most of them were elderly both men and women. I was placed in a cell of Jail chimney which was about 30 square-meters. There were 30 old women together with me. 15 young men was amongst 200 Georgians in jail. They were taken to the town every morning and forced to work on cleaning the city. While being in jail one could get only a cup of tea and a peace of bread both in the morning and evening. The most part of men had recognizable damages on their bodies in jail.

My house which was burnt was two-storey with three rooms on the first floor and two on three on second. The price of my house was approximately 30 000 Gel.

I am not able to tell you know what amount of Material or Moral damage have I suffered. I can only declare that everything what I could hardly achieves in life and what I had with hard work is lost and destroyed now..

**The testimonial is written under my dictation. I have read it and found it correct, and I certify it with my signature.**

**Victim – signed**

**Prosecutor – signed.**

## Protocol of a Victim Testimonial

Gori

August 26, 2008

According to the articles 116, 118, 119, 287, 194, 196, 198, 300, 301, 302, 303, 309 of Criminal Procedural Code of Georgia, I, *the Prosecutor of Shida Kartli and Mtskheta-Mtianeti District, Levan Salaia, have examined as a victim:*

- |                                 |   |
|---------------------------------|---|
| 1. Name, father's name, surname | <b>Iason Nodarovich Nadiradze</b>         |
| 2. Date of birth (y/m/d)        | <b>1970/November/24</b>                   |
| 3. Place of birth               | <b>Rustavi</b>                            |
| 4. Nationality & citizenship    | <b>Georgian</b>                           |
| 5. Education / profession       | <b>Secondary</b>                          |
| 6. Marital status               | <b>Married</b>                            |
| 7. Place of work                | <b>Currently unemployed</b>               |
| 8. Previous trials              | <b>Has been convicted</b>                 |
| 9. Address                      | <b>Gori District, village Meghvrekisi</b> |

Before the examination, the victim **Mr. Iason Nadiradze** was introduced to his rights, as well as his responsibilities over his duties according to the articles 294-303, and 309 of Criminal Procedural Code of Georgia, and was given a written list of her responsibilities and duties.

Signature of the victim - signed

Examination started at 16:00 and ended at 16:30.

**- I have been living in village Meghvrekisi with my wife – Manana Shukvaniani and daughter – Mariam Nadiraze for approximately 8 years. On the abovementioned address I have a two storied house**

**With a backyard and a garded, valued at approximately 15 000 GEL, the so called “Trangaletka” – valued at 600 GEL, I have 3 cows with 3 calves, a pig and 50 chicken, all together valued at 4 000 GEL.**

Till August 2008 there were frequently such cases, when different kinds of provocations from Tskhinvali Region took place, namely, there were shootings, threats against the peaceful population. As far as you know our village lies in border with Tskhinvali Region and we have often been the victims of the oppression from the Ossetian side.

The abovementioned situation deteriorated in the beginning of August 2008 and the bombing of our village from the Russian aircrafts started. Several houses were damaged as a result of bombing, namely, my house. The lootings and threats against the peaceful population are massively taking place. Especially the last few days, they were oppressing and telling us, that as far as Saakashvili was our President, we would be in such a situation. There were calls as from the Russian as well as from the Ossetian soldiers, to overthrow our President, to organize demonstrations and overthrow the Government. The threats, that each day would be worse, took place against the whole population.

Yesterday I witnessed, that my neighbor – Givi Ilariani entered my house, he was frightened and it was visible that he was beaten. He told me that the Russian soldiers with the Ossetian separatists were in our village, who captured him together with two Georgian women. He was told to rape these elderly women. If not, they would have killed him. He told them, that he was ill and was not able to do that and for this he was beaten by axe handle. Then he had escaped from them. As Givi told me, there were threats from the Russian side that if they would not empty the village, they would do worse to them and as far as the Georgian Government was in power, the civilians would be in this kind of situation.

We were watching from the gardens our houses being robbed. The so called Russian peacekeepers were taking everything they could and what they were not able to take, were burning. I have spent the whole night in the gardens, hiding and waiting that they would catch and kill us. They were crying in Russian to leave the villages or they would kill everybody they would catch and were blaming our Government in this. As a result of all this abovementioned I have suffered a material as well as moral damage.

The testimonial is written under my dictation. I have read it and found it correct, and I certify it with my signature.

Victim – signed

Prosecutor – signed.

## Georgia vs. Russia – The Ministry of Justice of Georgia

### Questionnaire

Place of interview, date and time: **Tbilisi, 18.08.08.**

Interviewer, organization: **Babutsa Pataraia - „GCRT”.**

1. Respondent's name, last name and father's name: **Luiza Basishvili (father's name - Tedo), born: 29.03.1956, Arkadi Mekhaturashvili (father's name - Ervan), born: 09.02.1949.**

2. Date and place of birth:

3. Permanent place of residence/address: **village Kurta.**

4. Current place of residence/address and phone:

5. Citizenship: **Georgian**

6. Occupation: **both are engineers.**

7. Reason of displacement and time (when did you leave home) – underline – **air attack**, expel, **entry of Russian military forces on adjacent territory**, other (point out) –

8. Whether one of the following took place against you or member of your family<sup>11</sup>:

A. Murder, threat of life (bombing, shooting and other...)?

B. Body injury (beating, wounding)?

C. Rape?

D. Property damage (destroying-burning of house, property, money, vehicle. Taking away and demolishing of jewellery (point out approximate price)?

---

<sup>11</sup> After paragraph 8 answers have to be written on a separate paper as detailed as possible



E. Imprisonment/detention

F. Abuse (in what manner)

G. Threat/Intimidation (in what manner)

H. Other

9. In case of existence of any abovementioned incident(s), please answer the following questions:

9.1 What incident took place? Did you face incident yourself? How long the incident continued?

9.2 Who committed the incident (military personnel, armed civil personnel, jet, tank, armoured vehicle, other)? Did you acknowledge any of identification signs (transport number, sign on military uniform, other)? At what language they were talking?

9.3 When incident took place (date, time)?

9.4 Where they were located during the incident, whether they were nearby Georgian military forces, whether fighting took place, whether sudden attack took place?

9.5 Who (name, last name, date of birth, relationship with the Respondent) or what (video, photo, other) can confirm your information about the incident?

9.6 In case of body injury what kind of injury was identified (whether you have medical certificate, photo, video)?

10. Have you left family members on occupied territories? (who, where, why)?

11. Do you agree your complaint to be taken to the European Court of Human Rights?

Signature of questioned person

I agree ----- **Luiza Baishvili, Arkadi Mekhaturashvili.**

On 10-11 August the village Kurta was intensively bombed. Then, we heard rumors, that Ossetians and Kazaks were looting and if they found us in basements, they would have killed us. We ran out and saw Russian troops dislocated in the Kurta Public School. I (Luiza) came to them and told that we were peaceful population and asked them to help us to escape. They refused to help us. Then we saw the car of Ossetians. They started talking with Russians. We were scared and ran away. We lost hope that Russians would help us.

We left my brother in the village. There was Ossetian woman in neighborhood. I asked her to pay attention to my brother. She said that Ossetians would not burn her house and she will do her best to help my brother. There is no military object in Kurta and also, there were nor Georgian troops. But, still, they burnt and destroyed our houses and exploded bombs.

In the center of the village Kurta Ossetians caught us. They wore military uniforms and were armed. They threatened to kill us. They put us on the ground and were going to shoot. We said that we were peaceful population and we had not damaged anyone ever. They said, that they were going to kill everybody, because Georgians had killed there brothers.

**Luiza:** I fell in there legs. I told them that we had new car and if they would not kill us, we would give it to them. Ossetians were happy to hear about the car. They forced my husband to get in their car and they had gone. I was still captured.

**Arkadi:** They forced me to get in their car. When we reached my house, they threw me on the ground. They offended me. They swore at me and beat me with feet. I got on my car and turned on the engine. When they saw that the car worked, they threw me out and shot over my head from automatic weapon. Then they had left.

**Luiza:** I saw, that our car appeared. They had already removed the number from the car. The second car came behind. My husband was not sitting with them. Also, I heard the sound of automatic weapon before. Being scared, I asked them about Arkadi. „Arkadi is dead” – they answered. I fell on the ground and began to cry. One of the Ossetians hit the weapon on my head. “Go away, the next time I will not pardon you” – he said. I dreamed on death. I was going and crying. When I reached the village Kheta, I saw my neighbors. They told me, that they had seen Arkadi. He was alive and was looking for me. I was very happy and full of energy. I walked through the forest on foot. Arkadi also walked on foot and escaped. We went to Tbilisi apart from each other on 12 August.

Signature - **Luiza Basishvili**

Victim interview

City: Tbilisi

Date: 21 August

I, Giorgi Gagnidze, an intern at the Office of the Georgian Prosecutor-General, in accordance with Articles 294-303 and 309 of the Georgian Criminal Code, interviewed the following individual in connection with criminal case No 074088079 in the building of Ghudushauri National Medical Clinic in the city of Tbilisi:

1. Name, patronymic, surname: Khicha Levanis dze Melkuashvili
2. Year, month and date of birth: 1970 February 28
3. Place of birth: Dzevera village, Gori District
4. Ethnicity and citizenship: Georgian, Georgia
5. Education and specialty: secondary
6. Family status: married with children
7. Place of residence: Dzevera village, Gori District
8. Profession and title: corporal at the Gori engineering brigade
9. Past convictions: none
10. Immunity: no
11. State awards: no
12. Other information: Tel: 855 26 93 15; 899 34 23 84
13. Relation to the accused:

Prior to the interview, the victim, Khvicha Melkuashvili, was explained his/her rights and obligations under Articles 69-70 and 289 of the Georgian Criminal Code, as well as the consequences for not upholding these obligations, and has been given a written list of these rights and obligations.

Victim's signature: (signature)

Interview began at: 1545 hours

and ended at: 1615 hours

When asked to tell everything he knows about the case, Khvicha Melkuashvili said: "I live at the address given above together with my father, wife and children. I work at the Gori engineering brigade. On 11 August 2008, I was in Kareli together with my battalion when we were ordered to return to our homes. I returned to my home in the village of Dzevera. On 12 August, Russian soldiers came in and took me prisoner. I was taken prisoner at about 19:00-20:00 hours in the evening.

"The Russian soldiers took me into a house, tied my hands and feet and throughout the whole night beat me with their hands and feet and the butts of their assault rifles and brutally tortured me. The Russian soldiers also tortured me with electricity, twice shocking me in the head. In the morning, they took me to Gori, where they looted the military base and then took me by helicopter to a school building near Tskhinvali. I state that I was held in Tskhinvali for seven days. That was where the Russians were taking Georgian prisoners. There were about 13-14 men being held prisoner. After I was taken to Tskhinvali, neither I nor the other prisoners were tortured by the Russians.

"On 19 August Russian soldiers took us to Igoeti, where we were exchanged for Russian soldiers who had been taken prisoner. From Igoeti we were taken to Tbilisi's Ghudushauri Clinic, where I am still being treated. The Russian soldiers left two Georgian prisoners in Tskhinvali. One of them had been wounded and the other badly beaten with his ear cut off. At this stage I do not have any evidence to prove this."

This statement has been written at my dictation. With my signature I confirm its accuracy.

(Signature: Kh. Melkuashvili)

(Signature: interviewer G. Gagnidze)