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JOINT STATEMENT BY A GROUP OF COUNTRIES ON
THE ECHR JUDGEMENT IN THE CASE GEORGIA VS. RUSSIA

Delivered by Ambassador Anne-Kirsti Karlsen at the Permanent Council
Vienna, 15 April 2021

CHECK AGAINST DELIVERY

Madame Chair,

This statement is delivered on behalf of Bulgaria, Czech Republic, Estonia, Finland, Ireland, Latvia, Lithuania, Norway, Poland, Romania, Sweden and Ukraine.

We reaffirm our full support for Georgia's sovereignty and territorial integrity within its internationally recognized borders.

We have closely followed the developments related to the recent judgment by the European Court of Human Rights in the case concerning the armed conflict between Georgia and the Russian Federation in August 2008 and its consequences.

We assess this judgment by the Court as a landmark decision in establishing the facts, in defence of the rules-based international order and the interests of those, whose rights and fundamental freedoms have been violated, and in many aspects continue to be violated up to the present moment, by acts of military aggression by the Russian Federation and subsequent occupation of a significant part of the Georgian territory.

We note that the Court ruled that the Russian Federation has exercised effective control over the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia after the 12 August 2008 ceasefire agreement, which ended the active phase of hostilities between the Russian Federation and Georgia, and that the events that occurred after the cessation of hostilities fell within the jurisdiction of the Russian Federation for the purposes of Article 1 of the European Convention on Human Rights. In its judgment, the Court found violations of a number of provisions of the Convention, for which the Russian Federation is held responsible.

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The ECHR concluded beyond reasonable doubt that there had been an administrative practice contrary to Articles 2 and 8 of the Convention and Article 1 of the Protocol No. 1 as regards the killing of civilians and the torching and looting of houses in Georgian villages in South Ossetia and the “buffer zone”. The abuses were classified by the Court as inhuman and degrading treatment of the victims who had been targeted as an ethnic group, therefore amounting to a violation of Article 3 of the Convention, on prohibition of torture.

As a result of those attacks against civilians, around 23 000 Georgian nationals have fled their homes in the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia. Since then, an absolute majority of them continue to be deprived of a possibility to return to their homes. In this case, the Court again underlined the responsibility of the Russian Federation, which has been exercising “effective control” over the occupied territory, for this violation, including through the so-called agreements it signed on 30 April 2009 with the illegal regimes in the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia on control of the administrative boundary lines. The Court took note that the issue of internally displaced persons continues to be one of the core issues within the Geneva International Discussions for finding a political solution. At the same time, the Court underlined the duty of the Russian Federation to enable the inhabitants of Georgian origin to return to their respective homes.

The Court also noted that the 160 Georgian civilians, who had been detained by local illegal forces between around 10 and 27 August 2008 as described in a report by Human Rights Watch, fell within the jurisdiction of the Russian Federation. Most of them were elderly and one-third were women, but also an 8-year-old boy. The Court ruled that the Russian Federation was responsible for a violation of Articles 3 and 5 of the Convention due to the arbitrary detention of the 160 civilians and their inhuman and degrading treatment.

After hearing the testimony of several witnesses and examining relevant reports, among others, by Human Rights Watch, Amnesty International and “August Ruins”, the Court came to a conclusion that the Georgian prisoners of war (POWs), detained in Tskhinvali region of Georgia between 8 and 17 August 2008, were victims of treatment contrary to Article 3 of the Convention. The Court also took note that at least 3 Georgian Prisoners of War were deliberately killed while being in custody. The Court considered their ill-treatment must be regarded as acts of torture, which are particularly serious due to the fact they were perpetrated against Prisoners of War, who have a special protected status under international humanitarian law. The Court also concluded that with regard to the treatment of the Georgian POWs, there was an administrative practice in violating the Article 3 of the Convention, for which Russian Federation is responsible.

The Court attested that despite the 12 August 2008 ceasefire agreement and even after 10 October 2008 – the date of the official withdrawal of the Russian troops from the

“buffer zone,” the Russian Federation maintained its strong military presence in both Georgian regions of Abkhazia and Tskhinvali region/South Ossetia instead of withdrawing its forces to the pre-conflict positions as stipulated by the agreement.

Finally, the Court came to a conclusion that the Russian Federation was responsible for the investigation of the violations of the Convention in the occupied parts of Georgia committed during and after the cessation of hostilities, and that it failed to do so. In its judgment, the Court stated, that having regard to the seriousness of the allegedly committed crimes, and the scale and nature of the violations found during the period of occupation, the Court considered the investigations carried out by the Russian authorities were neither prompt nor effective nor independent, and accordingly did not satisfy the requirements of Article 2 of the Convention.

We call on the Russian Federation to fully comply with the judgment, including by putting an end to human rights violations in the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia, enabling the IDPs to return to their homes in safety and dignity, and ensuring an adequate and effective investigation of the events as indicated in the ECHR’s ruling. We see it as an obligation of the Russian Federation to also investigate all violations of this Convention during the active phase of the hostilities. In this regard, we recall, inter alia, the tragic death of the Dutch RTL TV cameraman Stanislaus N.I.M. (Stan) Storimans along with other civilians, who were killed on 12 August 2008, by cluster munitions, propelled by a type of rocket available only to the armed forces of the Russian Federation, after Georgian military and police units had abandoned the town.

Thank you.