Independent International Fact-Finding Mission
on the Conflict in Georgia

Report

Volume I Volume II **Volume III**

September 2009

Volume III

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Volume III

Volume III contains material that the authorities of Georgia, the Russian Federation, South Ossetia and Abkhazia made available to the Independent International Fact-Finding Mission in either written or electronic form. It includes their views on the conflict, chronologies and responses to military, legal and humanitarian questionnaires, together with additional material related to the conflict. Where necessary, the Fact-Finding Mission has provided an English translation of the original texts (unofficial translations). Translation aside, in all other ways the texts are unaltered, and they are reproduced just as they were submitted to the Fact-Finding Mission. The purpose of reproducing them is to provide transparency and easy access to the official sources used in the drafting of the Report. This Volume is simply a compilation of the material received from the sides, and is not intended to be comprehensive.

Georgia

- View on the conflict
- Chronology
- Military aspects – questions and answers
- Military aspects – additional questions and answers
- International Law – questions and answers
- Humanitarian Law and Human Rights – questions and answers

View on the conflict

THE AGGRESSION BY THE RUSSIAN FEDERATION AGAINST GEORGIA

Summary

On August 7, 2008, Russian armed forces, already pre-positioned on Georgia's northern border with the Russian Federation, launched a massive, coordinated, and—given the scale of the enterprise—premeditated assault on Georgia. Russian forces crossed the border into South Ossetia/Tskhinvali region and, hours later, into Abkhazia. The highly calculated, full-scale attack took place on land, at sea, by air, and via cyberspace. The reason Moscow gave for its invasion of Georgia—to stop a genocide—was later debunked as a lie.

By August 26, 2008, the Russian Federation, in blatant violation of the ceasefire agreement its President had signed just two weeks earlier, had formally recognized these two territories as independent. This was clearly the culmination of a long-term plan to subvert the Georgian state and control Georgian territories. For nearly two decades of this interstate conflict between Russia and Georgia, Moscow had succeeded in using the separatists as their proxies; now, Russia effectively had occupied and was attempting to fully annex these Georgian territories.

As evidence mounted of the scale of the Russian incursion, the Georgian Government concluded that it had been left with no choice but to order military action to counter what was rapidly becoming an invasion—with aims that went far beyond a dispute over two Georgian territories. The principal intent of Georgian military action was to retard the Russian advance so that international diplomatic efforts could prevent Russia from fully occupying Georgia; in this, Georgia's decision to act met its goal.

The decision by the Government to defend Georgian territory was informed by a variety of factors enumerated in this note. Due to the space limitations of this summary, however, justice cannot be done to the vast quantity of evidence that elsewhere has been made available to the Commission. Similarly, it is critical for readers to note that every point made in this summary is backed by abundant evidence contained in over 200 separate documents and other material submitted to the Commission.

Among the key points documented in the submissions provided to the Commission by the Georgia are:

1. An analysis of the Russian Federation's actions over many years offers ample evidence that Moscow was intent on subverting the Georgian state—either by peaceful or violent means—in order to divide and rule its southern neighbor. The persistent refusal of successive governments of Georgia to accede to Moscow's de facto control of Georgian territories gradually increased the likelihood that Russian would resort to using military force. In March 2008—perhaps prompted by the West's recognition of Kosovo's independence the previous month—Moscow activated a premeditated series of legal, military, paramilitary, and diplomatic maneuvers intended to create

a pretext for invasion.

The events of August 7, therefore, followed many months of sustained legal, political and military provocations against Georgia preceded by years of Russian consolidation of control within these territories. During these years and months, Russia demonstrated a calculated disregard for the international agreements to which it was party. It abused its role as a peacekeeper. It systematically obstructed all efforts—many of them initiated by the Government of Georgia—to establish a real peace process that would have brought the government in Tbilisi into an understanding and agreement with the de facto authorities of the territories of Abkhazia and South Ossetia/Tskhinvali region. Instead, Moscow turned the de facto authorities into proxies for Russian control—in many cases even filling the most senior political and military positions with appointees directly from Russia.

A few significant milestones in Russia's policy include:

- The long-term ethnic cleansing of hundreds of thousands of Georgians from the conflict zones in order to homogenize the populations and consolidate political control;

- An illegal campaign of passportization in the conflict zones beginning July 2002 to manufacture "Russian citizens" to protect; it was the spurious claim of "protecting" these citizens that Moscow subsequently invoked when it invaded Georgia last August;

- The abrogation of international agreements regarding economic and arms sanctions in the proxy territories; Closure of border, transport communications channels with Georgia; deportation of Georgian nationals from the Russian Federation; an economic embargo imposed on Georgian products;

- Suspension of the CFE treaty on December 12, 2007. Simultaneously, an extensive military build-up in close proximity to Russian-Georgian borders, as well as in conflict regions;

- The extension of legal links by Russia to South Ossetia/Tskhinvali region and Abkhazia in April 2008;

- An intense anti-Georgia propaganda campaign;

- A rapidly escalating illegal military buildup in the conflict zones (from spring 2008 onwards, including rehabilitation by Russian Railway Troops of railway and transportation infrastructure in the areas clearly demonstrating Russia's main aim of preparing the necessary logistical infrastructure for the rapid transit of heavy military equipment;

- Targeted assassinations and other armed provocations in the territories during the days and weeks immediately before the invasion.

The granting of the 2014 Winter Olympics to Sochi lent weight to the view that Russia intended to consolidate its control of Abkhazia and even to "settle" the issue well before it might become a political liability in the context of the Games. In addition, there was evidence of much greater

Russian business activity and related acquisition of property in Abkhazia once the Sochi decision was announced.

2. Georgia began to intensify its engagement with the international community in order to stop Russia's political interference in its territories, to prevent any potential military invasion, and to seek a negotiated settlement of the conflicts. Tbilisi also made numerous proposals for negotiated solutions. These warnings and proposals were met initially with relative indifference. Only minor confidence-building measures were ever implemented, in part because the international community perceived this as an internal conflict, rather than the more complex interstate conflict that it actually was. Since Moscow effectively controlled the peacekeeping and negotiating structures—which it abused and perverted over the years—no meaningful reconsideration of these structures was ever achieved. Finally, when Western mediators sought to intercede diplomatically in early summer 2008, their late efforts proved unsuccessful.

3. Years of stalemate had left all ethnic populations in both conflict zones impoverished and without any effective protection of basic rights; Georgians in particular were targeted and persecuted on ethnic grounds.

   More specifically, immediately following the election of a legitimate democratic government in Georgia in 2004, the Georgian Government made the first of several efforts to launch a genuine peace process for South Ossetia/Tskhinvali region and Abkhazia.

   The Georgian Government made significant efforts to achieve peaceful resolution through soft power initiatives. One prominent examples of the success of these efforts was establishment of a Temporary Administrative Unit in the South Ossetia/Tskhinvali region, headed by ex-separatist leader Mr. Dimitry Sanakoev, who was elected by the local population.

   The Russian Federation and its proxy leaders rejected Georgia's peace initiatives—which included broad autonomy, power-sharing in the central government, guaranteed language/cultural rights, economic rehabilitation projects, and extraordinary constitutional rights -- each time they were proposed, even when the international community backed the initiatives.

   In the spring of 2008, the Government of Georgia began to repeatedly alert the international community that the Russian Federation was escalating pressure on Georgia. Senior Georgian officials sought meetings with their foreign counterparts to generate a consensus on how to respond to Russian provocations; the Government of Georgia also sought direct discussions with the President of the Russian Federation, which the latter rejected; the Government also sought repeatedly to engage the de facto authorities in direct negotiation. None of these efforts succeeded in slowing Russia's political and military escalation in the territories.

   In June 2008, as Russian provocations escalated further, Moscow and its proxies repeatedly subverted a peace initiative mediated by the German Foreign Minister; Then, on the eve of the invasion, the OSCE Chairman in Office proposed talks in Helsinki between South Ossetia/Tskhinvali region proxies and the Georgian Government; that proposal also was rejected.

This relentless rejection of peaceful overtures for negotiation compelled Georgia to conclude that Moscow intended to use force. Tbilisi assessed that Russia would choose a moment that offered the best military and political opportunity to act with impunity. The heat of August, when the world's attention was turned to the opening of the Beijing Olympics, seemed to offer Moscow this opportunity.

4. Beginning in 1990, Georgia was subjected to a relationship with the Russian Federation that ranged from cool to hostile, with the recent President of Russia making explicit threats to his Georgian counterpart about the fate of Georgian territories.

   The events of November 2003—the Rose Revolution—and the subsequent election of a new democratic government were not welcome in Moscow, a fact that was quickly made apparent to Georgian authorities. Despite dramatic efforts of the new Georgian Government aimed at establishing friendly relationships with Russian federation - starting with the visit of the newly elected president to Moscow as his first international post-electoral visit and the closure of the border with Northern Caucasus - Russia's increasingly hostile intentions towards the new government were made crystal clear by a series of incidents and statements by senior Russian officials. By December 2006, President Putin felt confident enough to warn his Georgian counterpart that he would create "a northern Cyprus" in Georgia. President Putin has given the same warning to the Secretary General of NATO. History has taught Georgian governments to take Russian threats at their word.

5. Russia's pursuit of Georgia's strategic isolation operated in tandem with Moscow's policy of subverting the independence and sovereignty of Georgia. On this, there was no doubt in the Government of Georgia.

   The Georgian Government, since 2004, has pursued a strategic course that aims to integrate Georgia more fully into Euro-Atlantic institutions and to make it an independent asset for the supply of energy and access to regions beyond the Caspian Sea. While Georgia's strategy was in no way intended as a threat to the Russian Federation, Moscow chose to object with increasing venom.

   In 2006, Russia imposed a full trade, financial, postal, and transport blockade of Georgia (an act of great impact, given that 70% of Georgian exports at the time went to Russia). Moscow also began to discriminate against and to expel ethnic Georgians from the Russian Federation.

   Furthermore, Russian diplomatic efforts to depict Georgia unfavorably in Europe were supported by a sustained and very well-resourced anti-Georgian propaganda campaign.

   Georgian authorities also noted with alarm the degree to which the process leading to the unilateral declaration of independence (UDI) of Kosovo and its subsequent recognition by some key NATO states had angered Russia and placed the territories of Abkhazia and South Ossetia/Tskhinvali region at risk. Georgia expressed its concerns about this at the highest levels. For his part, President Putin informed the Georgian President that Georgia would pay a price for this decision.

Until July 2008, international attention had focused on the military escalation and other provocations in Abkhazia. Then, the Russian Federation shifted its provocations to South Ossetia/Tskhinvali Region. On July 16, there was an attempt to assassinate Dimitry Sanakoev, the unionist South Ossetian leader. Subsequently, there was an escalation of incidents that are fully recorded in the submissions of evidence to the Commission. However, the strategic relevance of the South Ossetian theatre was that it confirmed the worst fears of the Georgian Government: it was a brief and direct route towards the heart of Georgia and the quickest way to split the country, control the highways, debilitate the economy, and to take Tbilisi.

In the days before the full-scale Russian invasion, the provocations in South Ossetia proliferated, with armed attacks and killings, including the killing of two Georgian peacekeepers on August 7, before the outbreak of full-scale hostilities. The propaganda campaign against Georgia in Russia also grew to a fever pitch Russia and its proxies announced the evacuation of women and children from the territory. It is to be noted that during this period Georgia, in an attempt to prevent the further escalation of the situation and to try to deal with the situation through diplomacy, did not recall from Iraq the most combat capable contingent of the Georgian armed forces.

6. In the early morning of August 7, 2008, the Ministry of Internal Affairs of Georgia obtained the first communication intercept indicating that a Russian military unit that included tanks and military trucks loaded with soldiers had entered the Roki Tunnel. In the evening of August 7, the Government of Georgia faced a qualitatively changed situation: despite numerous attempts to decrease tension and a unilateral ceasefire implemented by the Government of Georgia, Georgian-controlled villages, police, and peacekeeping posts were under continuous fire. In this context, civilians in the already cut-off enclave were defenseless and, for the first time, two Georgian peacekeepers were killed as a result of targeted military attacks that afternoon. In addition to publicized reports on the inflow of mercenaries into the region and initial human intelligence reports of a Russian army intrusion, the Government of Georgia obtained solid evidence that a large-scale Russian invasion was in progress. In response to these escalations, and consistent with his constitutional duty (Article 71 of the Georgian Constitution) to protect the sovereignty and territorial integrity of Georgia as well as the security of Georgia's citizens, at 23:35 on August 7, the President of Georgia issued an order to start a defensive operation.

7. The focal point of this campaign was the charge of genocide against Georgia. The purported genocide of 2,000 South Ossetians was the ultimate casus belli invoked by Russia for its invasion; this lie of course was later debunked by the international community and the Russians themselves. But the falsehood had served its purpose and the grave damage—to Georgia and to the international community—had been done.

Given the factors outlined in this note and the relevance of the geographical choice of intervention by Russia, the Government of Georgia could only conclude that it had to react immediately in self-defense to slow down the Russian invasion.

Georgia's use of defensive military force succeeded in retarding the Russian onslaught, thus buying time for the international community to mobilize—leading to the August 12 signing of the August 12 ceasefire agreement negotiated by President Sarkozy of France and signed by

Presidents Medvedev and Saakashvili.

Unfortunately, Russia immediately violated that agreement by recognizing the occupied territories as independent on August 26. In the year since, Russia has remained in continued violation of every one of the six points of the August 12 ceasefire agreement, especially by not withdrawing its forces to the positions they had by 7th of August. Furthermore, Russia recently has sown greater instability in the region by killing the OSCE and UNOMIG missions in Georgia. Moscow's veto of these two missions defied the unanimous view of the rest of the international community and has created additional obstacles to the return of IDPs, the protection of basic human rights, and the negotiation of a lasting settlement to the conflict.

Chronology

Major Hostile Actions by the Russian Federation against Georgia in 2004-2007

GRU Sponsored Terrorist Act in Gori and Sabotage Acts in Shida Kartli Region

- In 2004-2005, under the cover of the Joint Peacekeeping Forces deployed in the Georgian-Ossetian conflict zone, the Russian special services gathered intelligence and organized subversive/terrorist acts against Georgia.

- On February 1, 2005, a white "VAZ-2101" type vehicle exploded in front of the building of Shida Kartli regional division of the Georgian Ministry of Internal Affairs in Gori. The accident left three police officers dead, more than thirty people wounded, buildings and cars in the vicinity damaged.

- The investigation conducted by the Counter-Intelligence Department of the Ministry of Internal Affairs of Georgia found out that this terrorist act was prepared and carried out by employees of Russian special services (namely, GRU and FSB) acting under the cover of the Russian peacekeeping battalion of the JPKF and military advisers to the South Ossetian proxy regime:

  - **Anatoly Sisoev**, GRU Colonel, Military adviser to the South Ossetian de facto president **Eduard Kokoity**;
  - **Mikheil Abramov**, Deputy Commander of the Joint Peacekeeping Forces;
  - **Roman Boyko**, Lieutenant Colonel of the Russian peacekeeping battalion of the JPKF.

- On October 23 2005, the MIA of Georgia arrested **Roman Boyko** and later, as a gesture of good will, handed him over to the Russian embassy in Georgia.

- In 2004, GRU Colonel **Anatoly Ivanovich Sisoev** was sent to Tskhinvali as an adviser to the de facto president of South Ossetia Eduard Kokoity, where he established a subversive-intelligence unit in the proxy regime's Ministry of Defense, the so-called "Ossetian GRU," consisting of up to 120 men, which were sent to North Ossetia and trained by Russian military instructors in subversive activities on the ground of the 58th Russian Army.

- The "Ossetian GRU" carried out the following subversive acts in central Georgia:

  - The explosion of 500 kilowatt electricity lines "Kartli-2" no. 365 and "Liakhvi" no. 57 near village Shavshebi in Gori district on October 9 2004;
  - The explosion of "Grakali-Metekhi" railroad section in Kaspi district on October 9 2004;
  - The explosion of a radio transmission station serving the oil pipeline near village Chorchana in Khashuri distric on November 17 2004.

Russian Military Intelligence Network in Georgia

- On September 28 2006, the Counter-intelligence Department of the Ministry of Internal Affairs of Georgia uncovered the spy network of Russian Military Intelligence (GRU) which acted on the Georgian territory under the cover of the Group of Russian Troops in the Trans-Caucasus.

- The spy network was managed from Armenia by Colonel **Anatoly Sinitsin**, chief of station in Yerevan serving at military division no. 44843 of the Russian armed forces located in Yerevan. Sinitsin, together with Sisoev planned the above-mentioned terrorist act in Gori.

- On 28 September 2006, the MIA detained 4 Russian GRU officers in Tbilisi and Batumi:

  - GRU Vice-Colonel **Alexander Savva**, the chief of the spy network operating in Georgia;
  - GRU Vice-Colonel **Dmitry Kazantsev**;
  - GRU Vice-Colonel **Aleksey Zavgorodny**;
  - GRU Major **Alexander Baranov**.

- GRU Vice-Colonel **Konstantin Pichugin** was hiding in the building of the Russian Military Headquarters in Tbilisi.

- Later, as a gesture of good will the MIA of Georgia handed over the Russian officers to the chairman-in-office of the Organization for Security and Cooperation in Europe Karel De Gucht.

Subversion Plot by Russian Sponsored Political Organizations

- On September 7 2006, the MIA arrested 13 leading members of Moscow's satellite political organizations in Georgia, namely Political Party "Justice," Conservative-Monarchist Party, Caucasian Democratic Institute and Anti-Soros Movement, which had illegally purchased fire arms and were planning to stage the shooting of a protest rally in Tbilisi in order to instigate civil unrest throughout Georgia.

- This plot was masterminded and entirely financed from Russia by Georgian Ex-Minister of State Security in exile **Igor Giorgadze**, wanted by Georgian police and Interpol for organizing a terrorist act against Georgia's former president Eduard Shevardnadze in 1995.

Air and Artillery Attack on Upper Abkhazia

- On 11 March 2007, from 22:10 until 24:00, the Kodori Gorge suffered from simultaneous artillery and air attacks. At least 17 "BM-21/Grad" type missiles were fired from the ground, and at least one "AT-9/Ataka" type guided missile from the air. The target of the air-attack was the administration building in the village of Chkhalta. The targets of the artillery attack were: the administration building in the village of Chkhalta, the storehouse of oil and fuel materials and the police station in the village of Ajara. The highly precise air attack by modern missiles, the night flight of helicopters in a mountainous area and the massive artillery bombing indicate that this was a well-organized and planned military operation, which could have been conducted in this region only by Russian forces.

Tsitelubani Incident

- On August 6, 2007, at approximately 19:30, two Russian frontline SU-24 type aircraft violated Georgian airspace and fired a 1-ton precision-guided anti-radar missile "X-58" that fell near a Georgian village Tsitelubani, located more than 80 kilometers from the Russian-Georgian border, near the town of Gori.

- According to Georgian civil and military radar reports and multiple eye witness accounts, the planes entered Georgian airspace at 19:31 flying at low altitude in a southerly direction over Tskhinvali Region/South Ossetia before launching the missile at the village of Tsitelubani. Georgian radars indicate that the planes took off from the Russian military airbase located in Mozdok, in the Autonomous Republic of North Ossetia, Russia. It must be admitted that Georgian armed forces posess neither "SU-24" type planes, nor "X-58" type missiles.

- No casualties took place as the missile failed to explode on impact. The Georgian Government in cooperation with the OSCE and other members of the international community are currently investigating the incident.

Subversive Group in Upper Abkhazia

- On 20 September 2007, a special task unit of the Ministry of Internal Affairs of Georgia neutralized an armed grouping of 10 people in the Kodori Gorge which had planned an attack on the new road connecting Upper Abkhazia with the rest of Georgia.

- The commander of the grouping and his deputy were killed in the exchange of fire. They were identified as:

  - **Igor Muzavatkin** (Vice-Colonel of Russian armed forces, a former member of the Collective Peacekeeping Forces, who served on the contract basis in the border troops division of the Abkhazian separatist security service); and
  - **Artur Zorin** (Major of Russian armed forces, also a former member of the Collective Peacekeeping Forces).

- Seven members of the subversive group that identified themselves as members of the border troops division of the Abkhazian separatist security service, were arrested and later, as a gesture of good will, released and handed over to the Abkhazian separatist government.

The Chronology of Russian Aggression against Georgia in 2008

Chronology of Events: March-June 2008

- On March 6, Russia withdrew from the 1996 CIS agreement, which prohibited CIS member states from political, military and economic relations with Abkhazia (see annex 1).

- On March 21, Russian State Duma passed a declaration, calling upon the Russian government to actively defend the rights of Russian citizens living in Abkhazia and South Ossetia and to discuss the recognition the independence of these breakaway territories (see annex 2).

- On April 3, Russian President Vladimir Putin sent a letter to the de facto leaders of Abkhazia and South Ossetia in which he mentioned that Georgia's integration into NATO would have negative implications and henceforth Russia's support of Abkhazia and South Ossetia would bear a substantive and not a declarative character (see annex 3).

- On April 16, Russian President Vladimir Putin issued a decree instructing the Russian government to establish direct relations with the de facto authorities of Abkhazia and South Ossetia (see annex 4).

- On April 17, several "Ural" type trucks carrying 300 Russian contract soldiers entered the military base in Ochamchire seaport (Georgian intelligence data, HUMINT).

- On April 20, at 10:00, a Russian fighter plane, attacked and shot down a Georgian Unmanned Aerial Vehicle "Hermes-450" above village Gagida, Gali district. This fact was confirmed by the UN special investigation (see annex 5).

- On April 29, the Russians started to increase their peacekeeping contingent deployed in the Georgian-Abkhazian conflict zone, as stated by the Russian Ministry of Defense and the Russian Ministry of Foreign Affairs (see annexes 6 and 7).

- On April 29, an echelon of 30 train cars crossed the Georgian-Russian border near the river Psou by railway carrying 26 units of camouflaged armor vehicles, among them BMDs, D-30 type howitzers, etc. The echelon had 4 additional passenger cars, carrying soldiers from the Novorossiysk military base. The cargo was unloaded in Sokhumi railway station and from there the soldiers and armament were distributed to Maiak military base in Sokhumi, to Tsebelda military site (in the direction of Kodori Gorge), to Ochamchire seaport, as well as to Tkvarcheli and Gali districts (see annex 8 for photos).

- On May 1, additional checkpoints were opened on almost every strategically important road in Ochamchire and Tkvarcheli districts, among them at villages Nakarghali, Arasadzikhi and Akamara in Abkhazia, Georgia.

- On May 3, 5 units of 120mm artillery systems and several antiaircraft defense systems BUK-M1 were located at the military base in Ochamchire seaport (Georgian intelligence data, HUMINT).

- On May 6, the Russian deployment of additional airborne battalion (at least 400 soldiers) of the Novorossiysk and Pskov Airborne Divisions into Abkhazia that had started on April 29 was

completed. This fact was further confirmed by numerous media reports, including the Russian Defense Ministry's official newspaper "Krasnaya Zvezda" (see annexes 9, 10, 11).

- On May 16, on a road near village Ditsi in Little Liakhvi valley, Tskhinvali Region/South Ossetia, a Georgian police car exploded on mine placed by the de facto regime irregular forces. As a result of the explosion Georgian police officer David Korashvili was injured.

- On May 31, the Russian Ministry of Defense deployed 400 soldiers of Volgograd's 76th Unit of Railway Forces in Abkhazia. These forces began reconstruction of the railway from Sokhumi to Ochamchire, as well as reinforcing platform, thus preparing railway for the transportation and unloading of the heavy military equipment (see annexes 12 and 13).

- In April-June, Russia reinforced the military bases in Sokhumi (Maiak), Bombora (Gudauta), Ochamchire and Okhurei with:

    - 3 BUK air defense systems;
    - 40 D-30 type howitzers;
    - 10 BM-21 "Grad" systems;
    - 20 Shilka, ZU-23-2, ZU-23-4 AA guns;
    - 120 anti-tank missiles.
    - 2 MI-24 helicopters;
    - 50 aviation specialists;
    - 30 military experts;
    - 100 communication and antiaircraft defense experts;

- On June 6, several SU-25 and SU-27 type fighter planes in armed condition were detected at the Bombora military base in Gudauta (Georgian intelligence data, HUMINT).

- On June 14, a 14 year-old resident of village Ergneti Karlo Inauri exploded on a mine placed by South Ossetian de facto regime irregular forces near the administrative border with Tskhinvali Region/South Ossetia. The boy died of severe injuries.

- On June 16, 8 "Ural" type trucks loaded with anti-tank rockets and landmines entered the town of Tskhinvali (Georgian intelligence data, HUMINT).

- On June 23, Georgian Deputy Minister of Foreign Affairs delivered a letter to Russian President Dimitry Medvedev containing additional details in line with the peace initiatives launched earlier by Georgian President Mikheil Saakashvili. Unfortunately, all were rebuffed in the response letter from President Medvedev on July 1.

- On June 25, the Commander of Russian Land Forces, General Alekseі Maslov visited Tskhinvali. Maslov held meetings with the leadership of the Russian peacekeeping forces and the officials of South Ossetian proxy authorities (Georgian intelligence data, HUMINT).

Chronology of Events: July-August 2008

- On July 3, at 10:00, South Ossetian de facto regime irregulars attempted to assassinate Dimitry Sanakoev, the Head of the Temporary Administration of South Ossetia. An explosive device, placed on the Eredvi-Kheiti bypass road near the Tsveriakho Mountain, was set off when Sanakoev's motorcade passed by it. As a result of the explosion, five police officers accompanying Sanakoev were wounded (see annexes 14 and 15). In order to provide protection

to the bypass road used extensively by civilians in the area, a Georgian peacekeeping checkpoint was immediately opened on Sarabuki heights.

- On July 3, at 23:30, South Ossetian de facto regime irregular forces opened fire from automatic rifles and grenade launchers in the direction of the central government controlled villages Nikozi, Ergneti, Eredvi, Zemo Prisi, Vanati, Tamarasheni and Avnevi. At 23:40, Georgian police responded with fire.

- On July 4, 6 artillery guns were transported from Java district to village Dmenisi and handed over to the local unit of South Ossetian de facto regime irregular forces (Georgian intelligence data, SIGINT).

- On July 4-6, 10 armored vehicles entered Tskhinvali Region/South Ossetian from the Russian Federation via the Roki Tunnel (Georgian intelligence data, HUMINT).

- On July 8, additional Russian soldiers, 4 BTR-70 and 4 BRDM type military vehicles and several anti-aircraft systems were deployed at the Okhurei military base in Tkvarcheli district (Georgian intelligence data, HUMINT).

- On July 9, four Russian military aircraft violated Georgian airspace on the eve of the US Secretary of State Condoleezza Rice's visit to Georgia. This fact was confirmed by the Russian Ministry of Foreign Affairs (see annex 16).

- On July 11, a squadron of Su-27 fighters was moved from the Leningrad Military District to the North Caucasus Military District (Georgian intelligence data, HUMINT).

- On July 13-14, 13 T-72 type tanks were reported moving from the town of Alagir, North Ossetia towards the Roki Tunnel, as well as 6 "Ural" type truck loaded with soldiers were driving from village Zaramag, North Ossetia towards the Roki Tunnel (Georgian intelligence data, HUMINT).

- On July 15, several hundred Russian soldiers and 44 military vehicles were observed at the Bombora military base (Georgian intelligence data, HUMINT).

- On July 15 - August 2, Russia launched large-scale military exercises "Caucasus 2008" in the immediate vicinity of Georgia's northern border. 8000 soldiers and 700 armored vehicles mainly from the North Caucasian Military District participated in these trainings, including airborne units, air force units, air defense units, Black Sea and Caspian Sea fleets, federal security service and interior troops. Airborne units from Pskov and Novorossiysk (that later took part in the invasion of Georgia) were practicing at the Roki and Mamisoni passes connecting Russia with Georgia. A leaflet entitled "Know Your Enemy" was distributed to the soldiers participating in the training, listing the composition and armaments of the Georgian Army as their main target. Most of the troops participating in the exercises did not re-deploy from the region after the exercises finished (see annexes 17, 18 and 19). Deputy Commander of Russian Airborne Troops, General Viacheslav Borisov who was put in charge of the Russian armed forces grouping operating on the South Ossetian and central Georgian directions in August 2008 also confirmed that just one week earlier the units under his command had undergone military trainings in those areas, where the actual hostilities took place and hence Russian airborne troops carried out a march on Tskhinvali much better than other units of the Russian army (see annex 19 A).

- On July 18, Abkhazian de facto and Russian authorities rejected a German-mediated peace plan and refused to attend peace talks scheduled in Berlin at the end of July.

- On July 20, the website of Georgian President Mikheil Saakashvili (www.president.gov.ge) was rendered unavailable due to a multi-pronged distributed denial of service (DDoS) attack.

- On July 22-24, the EU tried to hold talks in Brussels between representatives of the Georgian government and the South Ossetian de facto regime with the participation of the Russian Federation. The de facto authorities refused to participate, initially objecting to the title of Minister Yakobashvili – "Minister of Reintegration." In response, the Georgian government appointed Mr. Yakobashvili as a Special Envoy to Conflict Resolution. The de facto authorities once again refused to attend the talks on unspecified grounds.

- At the end of July, OSCE Chairman in Office, Finish Foreign Minister Alexander Stubb, proposed talks in Helsinki in early August between South Ossetian de facto authorities and Georgian government. The de facto regime rejected the proposal.

- On July 23, a group of 120 Russian doctors/medics were reported to have arrived in Tskhinvali and started working at the Tskhinvali hospital (Georgian intelligence data, HUMINT).

- By the end of July (exact date and time unknown), large tents have been set up on the territory of the new Russian military base in the northwestern part of Tskhinvali (for about 1500-2000 persons). According to the information circulating among the Russian peacekeepers, soldiers from the 33rd Motor Rifle Mountain Brigade (centered in Botlikh, Dagestan) were soon to be deployed there (Georgian intelligence data, HUMINT).

July 29

- At 05:00, two tank platoons of South Ossetian de facto regime irregular forces were located close to village Andzisi in the conflict zone (Georgian intelligence data, SIGINT).

- At 10:00, South Ossetian de facto regime irregular forces opened fire at members of the Joint Peacekeeping Forces and an OSCE observer group moving near village Andzisi, Tskhinvali district (see annex 20 for the report).

- At 16:00, South Ossetian de facto regime irregular forces shelled the central government controlled villages in Big Liakhvi valley for 40 minutes, using mortars and grenade launchers.

- At 22:00, South Ossetian de facto regime irregular forces shelled the Georgian peacekeeping checkpoint on Sarabuki heights with 100mm and 120mm artillery. Such large caliber artillery was used for the first time since the hostilities in the 1990s.

August 1

- At 08:05 and again at 08:12, a Toyota pickup truck carrying six police officers of the MIA of Georgia was hit by two remote-control explosive devices on the Eredvi-Kheiti bypass road. Five police officers were severely wounded (see annexes 21 and 22). After this incident the Eredvi-Kheiti bypass road was closed for civilians and the central government controlled villages in Tskhinvali Region/South Ossetia were cut off from the rest of Georgia.

- From 21:30 onwards, South Ossetian de facto regime irregular forces shelled Georgian villages Zemo Nikozi, Kvemo Nikozi, Avnevi, Nuli, Ergneti, Eredvi and Zemo Prisi with mortars and

cannons. The shelling continued overnight and stopped only in the morning on August 2. This fact, as well as the earlier shelling of Georgian peacekeeping checkpoint on Sarabuki heights, was later confirmed by the Joint Peacekeeping Forces in their 4 August report (see annex 23). Six civilians and one police officer were wounded as a result of the shelling (see annexes 24 and 25).

August 2

- At 12:23, South Ossetian de facto regime announced the evacuation of civilian population from the town of Tskhinvali and from the de facto regime controlled villages of the region. The evacuation continued through August 6 (see annexes 26 and 27).

- During the day, Russian newspaper reporters and TV crews began to arrive massively to Tskhinvali. The mobilization of Russian journalists on the territory of South Ossetia continued for the next several days (see annex 28 for the list of journalists and links to their testimonies, as well as an interesting article from RFE/RL).

August 3

- At 06:30, South Ossetian de facto regime irregular forces deployed in village Velebi, Znauri district opened fire towards the Georgian police checkpoint located near village Dvani in Kareli district (see annex 29).

- In a morning interview with Georgian news agency "Medianews," South Ossetian de facto Minister of Internal Affairs Mikhail Mindzaev threatened to bomb "the towns of Gori, Kareli and one of the health-resort zones" in Georgia (see annex 30).

- Units of the separate reconnaissance battalion of the the 19th Motor Rifle Division of the 58th Russian Army was reported to be deployed in Java district through the Roki Tunnel (Georgian intelligence data, HUMINT).

August 4

- During the night, 10 units of armor (BTR/BMP vehicles) were brought into Tskhinvali Region/South Ossetia from the Russian Federation and distributed among the de facto regime irregular forces. Two vehicles were handed over to the de facto regime irregular forces unit located in village Dmenisi, Tskhinvali district (Georgian intelligence data, HUMINT).

- At 07:30, South Ossetian de facto regime irregular forces deployed in village Dmenisi, Tskhinvali district opened fire towards Georgian peacekeeping checkpoint on Sarabuki heights. The exchange of fire continued for 30 minutes. No one was injured.

- In a morning interview with Russian media outlet "Caucasian Knot", head of South Ossetian proxy authorities Eduard Kokoity announced that 300 "volunteers" (i.e. mercenaries) from North Ossetia had already arrived in South Ossetia and their number would eventually increase up to two thousand (see annex 31).

- At 18:40, head of South Ossetian proxy authorities Eduard Kokoity received a telegram from the Commander of Don Cossack Forces and member of Russian State Duma Viktor Vodolatsky promising him military support, while the Commander of the second Don Cossack Forces Nikolai Kozitsin announced that he could send from 10 to 15 thousand "volunteers" (i.e. mercenaries) to South Ossetia (see annex 32).

August 5

- At 00:15, South Ossetian de facto regime irregular forces shot 3 grenades from village Ubiati, Znauri district towards the Georgian police station in village Nuli, Fronc valley. Two of them hit the building.

- At 01:30, South Ossetian de facto regime irregular forces fired at Georgian peacekeepers located on Sarabuki heights. The attack lasted until 06:30 in the morning. Two members of the Georgian battalion of the Joint Peacekeeping Forces were wounded (see annex 33 for the list of casualties among Georgian peacekeepers).

- At 09:01, the MIA of Georgia intercepted a telephone call, according to which the de facto Minister of Internal Affairs of South Ossetia Mikhail Mindzaev ordered a massive attack and the elimination of Georgian village Dvani in Kareli district (see annexes 34 and 35 for the telephone intercept and its transcript).

- From 10:00 to 17:00, the MIA of Georgia organized a tour around the central government controlled villages: Ergneti, Nikozi, Avnevi and Nuli, that experienced excessive damage during the recent attacks by the de facto regime irregular forces. Representatives of international media and foreign diplomatic missions in Georgia, including the Russian Ambassador Viacheslav Kovalenko had an opportunity to visit all Georgian peacekeeping and police checkpoints, where no build-up was observed contrary to Russian officials statements (see annex 36 for media stories).

- At 15:10, approximately 150 additional "volunteers" (i.e. mercenaries) from the North Caucasus arrived in Tskhinvali as reported by the Russian media (see annex 37). The flow of mercenaries from the North Caucasus into Tskhinvali Region/South Ossetia continued through at least August 10. The MIA of Georgia has intercepted official documents of the Prosecutor's office of Russia (North Ossetia) related to the death of one such "volunteer" on the territory of Tskhinvali Region/South Ossetia in August 2008, including testimonies of Russian citizens that entered Tskhinvali Region/South Ossetia, Georgia from North Ossetia, Russia in order to take part in the hostilities as "volunteers" (i.e. mercenaries). In addition to that, a photo taken at the recruitment spot of mercenaries in Vladikavkaz, North Ossetia is also available (see annexes 37 A and B).

- At 18:05, in an interview with Russian radio station "Echo Moskvi," Deputy Commander of Don Cossack Forces Vladimir Voronin confirmed that "volunteer" (i.e. mercenary) battalions had been formed in Southern Russia and were ready to be deployed in South Ossetia, while the representative of South Ossetian de facto authorities in Moscow Dimitry Medoev declared that the first squads of "volunteers" (i.e. mercenaries) from Russia had already reached South Ossetia (see annex 38).

- During the day, 40 units of self-propelled artillery and a reconnaissance battalion of the 33rd Motor Rifle Mountain Brigade from Botlikh, Dagestan were deployed in South Ossetia through the Roki Tunnel, in addition to that 30 artillery guns were brought into Java district. Some units of the 58th Army were reported to be mobilized near the Roki Tunnel in North Ossetia, Russia, including the 135th Separate Motor Rifle Regiment from Prokhladniy, Kabardino-Balkaria and the 693rd Motor Rifle Regiment from Zaramag, North Ossetia (Georgian intelligence data, HUMINT).

- In the evening hours, several tanks and military trucks with armed soldiers were seen moving towards the central government controlled village Avnevi, Frone valley (Georgian intelligence data, HUMINT).

- August 5-6, Georgian President Mikheil Saakashvili sought phone conversation with President Medvedev. All attempts were declined by the Russian side.

August 6

- During the night, several units of armor (including BTR and BMP vehicles, as well as self-propelled artillery systems) were brought into South Ossetia from the Russian Federation and deployed near the southern entrance of the Roki Tunnel (Georgian intelligence data, HUMINT).

- In the morning Russian and local employees working on the Russian military base in Tskhinvali were temporarily dismissed. Shops and other offices were closed, as reported by the de facto regime's local television.

- At 16:00, South Ossetian de facto regime irregular forces opened mortar fire from villages Prinevi, Ubiati, and Khetagurovo (the latter was the main artillery base of the de facto regime irregular forces) at the central government controlled villages Eredvi, Zemo Prisi, Avnevi, Dvani and Nuli. Georgian police and peacekeeping checkpoints in village Nuli were additionally targeted by armored vehicle and machine-gun fire. This attack continued until 19:00.

- At 18:00, South Ossetian de facto regime irregular forces attacked Sarabuki heights, where Georgian peacekeepers were stationed wounding three members of the Georgian battalion of the Joint Peacekeeping Forces (see again annex 33).

- At 20:00, artillery attacks from Khetagurovo on the central government controlled villages Eredvi, Zemo Prisi, Avnevi, Dvani, and Nuli resumed and lasted until 06:00.

- From August 6 onwards no monitoring has been conducted by the Joint Peacekeeping Forces in the conflict zone, despite of the request by the Georgian battalion of the Joint Peacekeeping Forces.

August 7

- At 00:15, South Ossetian de facto regime irregular forces began attacking villages Eredvi, Zemo Prisi and Vanati with artillery, including mortars and grenade launchers. The fighting in this area continued until approximately 10:00 in the morning.

- At 03:25, the MIA of Georgia obtained the first communication intercept according to which a Russian military unit that included tanks and military trucks loaded with soldiers entered the Roki Tunnel (see annexes 39 and 40 for the telephone intercept and its transcript).

- At 03:41, a large number of armored vehicles, tanks and military trucks of the Russian regular army streamed into the Roki Tunnel and deployed in Java district as confirmed by two mobile telephone conversations intercepted by the MIA of Georgia (see annexes 41-46 for the telephone intercepts and their transcripts). Numerous articles in the Russian press also confirm that Russian army units, namely parts of the 693rd and 135th motor rifle regiments of the 58th army, had entered South Ossetia prior to August 8 (see annexes 47-67 for media stories). As reported by South Ossetian de facto regime's main newspaper "Iuznaia Ossetia", on that night

head of South Ossetian proxy authorities Eduard Kokoity travelled from Tskhinvali to Java district "in order to meet with representatives of the Russian Ministry of Defense" (see annex 68).

- At 09:30, the MIA of Georgia intercepted a telephone conversation in which a member of South Ossetian de facto regime irregular forces revealed their plans to attack Georgian villages Avnevi in Frone valley and Dvani in Kareli district (see annexes 69 and 70 for the telephone intercept and its transcript).

- The Ministry of Foreign Affairs of Georgia released an alarmed statement that Russian military hardware and armament, which had been used to raid peaceful villages in Tskhinvali Region/South Ossetia kept penetrating Georgia through the Roki Tunnel. The MFA assessed this as a step of aggression by the Russian Federation. The statement was also distributed by the Georgian Embassy in the European Union (see annex 71).

- In a 10:42 interview with Russian TV and news agencies, head of South Ossetian proxy authorities Eduard Kokoity declared that if the Georgian government did not withdraw its forces from the region, he would start "to wipe them out" (see annexes 72 and 73 for Kokoity's statement), referring to Georgian peacekeepers and police.

- At 11:00, South Ossetian de facto regime irregular forces resumed the shelling of the central government controlled villages Nuli and Avnevi from village Khetagurovo, Znauri district. Georgian police officers returned fire towards Khetagurovo, where the shelling came from.

- At around 12:00, head of Abkhazian proxy authorities Sergey Bagapsh announced that he had put Abkhazian armed forces on alert in order to provide military assistance to South Ossetia and that a battalion from the North Caucasus military district of Russia had already entered Tskhinvali Region (this statement was broadcasted by Russian TV at 17:00, see annex 77).

- At 12:30, Georgian President Mikheil Saakashvili, speaking with journalists at the military hospital in Gori (where he visited the three Georgian peacekeepers wounded on August 6), reaffirmed that despite the deadly attacks on the central government controlled villages, the Georgian government was showing maximum restraint. Saakashvili also called on Russia to "to recall its officials" serving in the proxy regime (see annex 74).

- At 14:00, the Georgian peacekeeping checkpoint in Avnevi was heavily shelled with 100mm and 120mm artillery again by a South Ossetian proxy regime irregular forces unit located in village Khetagurovo, destroying the Georgian peacekeeping unit's armored vehicle, killing two Georgian peacekeepers Shalva Trapaidze and Vitali Takadze and wounding five others (see again annex 33). The shelling continued until 16:00. Georgian peacekeepers and police returned fire in self-defense. Later the MIA of Georgia intercepted a phone call, during which a member of the de facto regime irregular forces confirmed the fact of blowing up an armored vehicle of Georgian peacekeepers in Avnevi with a cannon (see annexes 75 and 76 for the telephone intercept and its transcript).

- At the same time, Georgian authorities received military intelligence that Russian troops (which had never re-deployed from July's North Caucasus military exercises) were put on high alert and have received orders to prepare to move towards the Georgian border.

- After the attack on Avnevi peacekeeping checkpoint and responding to the increasing invasion risk, at 14:30, the Ministry of Defense of Georgia declared the mobilization of its forces,

including armored vehicles, tanks and artillery in the direction of the administrative border of Tskhinvali Region/South Ossetia.

- From about 15:00 to 17:00, Georgian Special Envoy and State Minister for Reintegration Temur Yakobashvili visited the conflict zone to meet with representatives of the proxy authorities. After the refusal, meeting was arranged with the Commander of the Joint Peacekeeping Forces General Marat Kulakhmetov in Tskhinvali, who stated that he could not contact Eduard Kokoity and that Russian peacekeepers could not stop the attacks by the de facto regime irregular forces. Meanwhile, the Special Envoy of the Russian Foreign Ministry Yuri Popov, failed to arrive in Tskhinvali and mediate preliminary agreed ceasefire talks, citing "a flat tire" and refusal by the de facto authorities (in a phone conversation with Yakobashvili).

- At around 17:00, after the Commander of the Joint Peacekeeping Forces Marat Kulakhmetov refused to give additional security guarantees to Georgian peacekeepers stationed in the town of Tskhinvali, the Commander of Georgian peacekeepers Mamuka Kurashvili ordered officers of the Georgian peacekeeping battalion to leave the headquarters of the Joint Peacekeeping Forces in Tskhinvali.

- At 17:10, in spite of casualties among Georgian peacekeepers and the shelling of the central government controlled villages, Georgian law enforcers and peacekeepers unilaterally ceased fire to defuse tensions. This decision was communicated by Georgian State Minister for Reintegration Temur Yakobashvili to the Commander of the Joint Peacekeeping Forces General Marat Kulakhmetov at 17.00.

- At 18:40, Georgian State Minister for Reintegration Temur Yakobashvili said at a press conference in Tbilisi that he still sought to contact South Ossetian de facto authorities, but without success.

- At 19:10, in a nation-wide televised address, President Saakashvili confirmed unilateral ceasefire and called the Russian authorities and de facto regimes for negotiations (see annex 78 for Saakashvili's statement).

- At 19:55, the MIA of Georgia intercepted a phone call, according to which members of South Ossetian de facto regime irregular forces planned an artillery attack on Georgian villages (see annexes 79 and 80 for the telephone intercept and its transcript).

- At 20:30, South Ossetian de facto regime irregular forces resumed the shelling of Georgian peacekeepers and police officers located in village Avnevi, Frone valley. The fire again came from Khetagurovo. The OSCE MMOs confirmed the ceasefire broken at 22:00.

- At 22:30, South Ossetian de facto regime irregular forces fired at the central government controlled villages Zemo Prisi and Tamarsheni in Big Liakhvi valley from Tskhinvali and the mountain of Tliakana.

- At 23:30, South Ossetian de facto regime irregular forces intensified artillery fire on all positions of Georgian police and peacekeepers in Big Liakhvi, Little Liakhvi and Frone valleys, especially villages Avnevi, Nuli, Tamarasheni and Kurta. The police station in Kurta was destroyed.

- At the same time, Georgian government received multiple human intelligence reports that about 150 armored vehicles and trucks with Russian soldiers were approaching the Roki Tunnel from Russia and moving towards Tskhinvali Region/South Ossetia. Later multiple intercepts of

phone conversations among the de facto security and military officials that took place in between 02:20 and 04:30 on August 8 confirm that Russian military columns were stretched from the Roki Tunnel to village Java (see annexes 81-86 for telephone intercepts and their transcripts).

- Late in the evening, a cyber attack was launched against Georgia's governmental and civilian internet facilities. A large number of Georgia's internet servers were seized and placed under external control (see annex 87 for a detailed study of the Russian-sponsored cyber attack against Georgia).

- At 23:35, in response to the intrusion of Russian regular army into Georgia and the continued shelling of the central government controlled villages in the conflict zone, the President of Georgia Mikheil Saakashvili issued three orders to the Joint Staff of the Ministry of Defense: 1) to protect civilians in Tskhinvali Region/South Ossetia; 2) to neutralize the firing positions from which the fire against civilians, Georgian peacekeeping units and police originated; and 3) to halt the movement of regular units of the Russian Federation through the Roki Tunnel inside Tskhinvali Region/South Ossetia. Georgian government forces started military action in order to fulfill the orders of the President.

- At 23:35, Georgian Armed Forces artillery units started firing smoke bombs and, subsequently, at 23:50 opened fire at both fixed and moving targets of enemy forces on the territory of Tskhinvali Region/South Ossetia.

August 8

- At 00:15, Georgian armed forces launched ground operation on the left and right flanks, supported by the artillery.

- At 00:23, the Commander of the Joint Peacekeeping Forces Marat Kulakhmetov in a phone conversation with the Commander of Georgian peacekeepers Mamuka Kurashvili admitted that Russian peacekeepers were providing coordinates of the positions Georgian armed forces to the South Ossetian proxy regime militants' artillery (see annexes 87 A and B for the telephone conversation and its transcript).

- At 02:37, Deputy Minister of Foreign Affairs of Russia Grigory Karasin telephoned Georgian Minister of Foreign Affairs Grigol Vashadze and informed him that Russian armed forces were starting military operation in Tskhinvali Region/South Ossetia citing casualties among Russian peacekeepers as a reason for this decision. Although, the first encounter between Georgian forces and Russian peacekeepers took place at 06:00, at least three hours later than Karasin's phone call.

- At 04:10, Russian ambassador to Georgia Vaicheslav Kovalenko, in the course of a visit to the Georgian Ministry of Foreign Affairs, told Minister Grigol Vashadze that the Russian Ministry of Foreign Affairs was removed from the decision-making process and hence all decisions were made by the General Staff of the Russian Ministry of Defense.

- By 05:00, Georgian armed forces seized control of a significant number of villages around Tskhinvali including Tsinagari, Orchosani, Didmukha, Muguti, Gromi, Okona, Artsevi and part of Dmenisi.

- At 05:20, incoming Russian troops passed village Java crossing the Gupta bridge and advancing on the Dzari bypass road, which is confirmed by a telephone conversation intercepted by the

MIA of Georgia (see annexes 88 and 89 for the telephone intercept and its transcript). At 06:35 Georgian artillery and military aircraft conducted targeted attacks on the Gupta bridge and the moving Russian column (Georgian aviation has made no operational flights since then). Soon after that, two more columns of Russian troops entered the Roki Tunnel and advanced south by the Geri-Dmenisi road.

- By 06:00, Georgian armed forces seized control of village Khetagurovo, by 07:00 of village Znauri and by 08:00 of villages Kokhati.

- At around 06:00, special forces of the MIA of Georgia equipped with "Cobra" type armored vehicles and reinforced by several tanks from the MOD of Georgia, moved from village Zemo Nikozi towards the outskirts of Tskhinvali in order to suppress the fire at that village coming from the proxy regime militants located in the southwestern part of the town, the so called "Shanghai" suburb. The MIA special forces encountered sniper and massive armored vehicle cannon fire from the Russian peacekeeping headquarters "Verkhniy Gorodok" located on the southwestern edge of the town and were compelled to return fire and ask for tank support as well. In fact, the roof of the main building of "Verkhniy Gorodok" was used by enemy for correcting artillery fire against Georgian armed forces, which is confirmed by an article in the South Ossetian press (see annex 90).

- From 09:30 until 11:05, Russian aviation bombed villages in Gori and Kareli districts and the town of Gori.

- At 11:00, special forces of Georgian MIA and MOD with "Cobra" type armored vehicles, reinforced by a tank battalion, entered Tskhinvali from village Zemo Nikozi. They came under fire from different buildings in the town which were used by South Ossetian de facto regime irregular forces for combat purposes (see annexes 91-94 for press articles confirming the usage of peacekeeping, administrative and civilian objects as shields by Russian troops and South Ossetian irregular forces (see also annex 37 A, p.14 and Human Rights Watch "Up In Flames - Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia," pp. 87-127, at http://www.hrw.org/sites/default/files/reports/georgia0109web.pdf).

- Simultaneously, at around 11:00, Russian military aircraft and artillery started to bomb Tskhinvali, as well as other locations in Tskhinvali Region/South Ossetia (see annexes 95 and 96 for articles containing evidence that Russian artillery and aviation bombed Tskhinvali). South Ossetian de facto regime irregular forces even shot down a Russian SU-25 plane, which was bombing Tskhinvali assuming it was Georgian (see annexes 97 and 98). It is a proved fact that Georgian aviation had only undertaken flights at 06:35 and none of its aircraft has been lost.

- By 14:30, Georgian forces took control of most of Tskhinvali - its southern and central parts, while fighting continued in the northern part of the town.

- At 15:00, Georgian armed forces declared a 3-hour unilateral ceasefire to establish a humanitarian corridor. The Russians used the ceasefire to advance towards Tskhinvali by the Dzari road and towards Dmenisi by the Geri-Dmenisi road.

- In between 15:00 to 19:05, Russian aviation bombed the city of Tbilisi (Vaziani) and the towns of Marneuli, Bolnisi and Gori.

- At 18:45, one column of Russian tanks, armored vehicles and trucks approached Tskhinvali by the Dzari road. Two more columns were stopped near village Dmenisi. Russian forces opened

intensive fire on Georgian armed forces located in Dmenisi, in Tskhinvali and on the neighboring heights.

- At 20:30, Georgian forces withdrew from the center of Tskhinvali and regrouped, holding their positions in the southern parts of the town.

- By 22:00, Russian troops approached Big Liakhvi valley from the north, but failed to enter it, suffering heavy losses caused by Georgian artillery fire and also stopped moving on the Dzari road towards Tskhinvali.

- At 23:45, Russian aviation again bombed Tbilisi (Vaziani).

- At 23:50, Russian forces bombed the town of Poti (in western Georgia) with Tochka-U/SS-21 missile.

August 9

- At 00: 40, Russian forces again bombed Poti.

- During the night, Georgian forces maintained control of the southern part of Tskhinvali. Georgian armed forces units stationed in western Georgia, including the brigade at the Senaki military base, were relocated to Tskhinvali Region/South Ossetia in order to support the military operation on the left flank.

- Early in the morning, Russian Prime Minister Vladimir Putin arrived in Vladikavkaz, North Ossetia to oversee the military operation (see annex 99 for the record of this meeting).

- In the morning, Abkhazian de facto authorities demanded UNOMIG to leave Upper Abkhazia as they, together with the Russian army units, were going to start a military operation in order to oust Georgian police from the Gorge. UNOMIG complied and immediately left the area.

- At 09:25, Russian aviation bombed Kopitnari airport near the city of Kutaisi (in western Georgia).

- In between 09:50 and 11:05, Russian aviation bombed the town of Gori and the nearby village Shavshvebi.

- At 11:40, Russian forces, including airborne troops started to enter Tskhinvali from the north-west and from village Tbeti.

- At 12:00-13.00, additional forces of Georgian MOD entered Tskhinvali and encountered massive resistance from Russian troops abusively using armed vehicles with peacekeepers identification marks.

- From 13:00 to 15:00, Georgian and Russian troops engaged in intensive fighting in the center of Tskhinvali, Georgian forces mostly controlled the southern part of the town, while Russian forces amassed in its northern part.

- In between 13:40 and 14:40, Russian military aircraft bombed the central government controlled villages in Upper Abkhazia/Kodori Gorge, including the district's administrative center Chkhalta.

- At 15:50, Abkhazian de facto government announced that it had decided to send its armed forces towards the administrative border and to start a military operation in order to oust Georgian police from Upper Abkhazia/Kodori Gorge (see annex 100).

- At 16:00, Russian Black Sea Fleet entered Georgian territorial waters and started to patrol the coast of Abkhazia (see annex 101).

- In between 16:05 and 18:35, Russian aviation bombed the territory of Oni district (western Georgia).

- At 16:40, Russian navy blocked Moldovan ship "Lotus-1," carrying wheat, from entering the Poti port.

- At 17:00, additional Russian troops entered Tskhinvali. Confronting the Russian air, artillery and ground offensive, Georgian forces maintained control of the southern part of Tskhinvali and the surrounding villages until late in the evening.

- By 21:00, Russian troops advanced on the Geri-Dmenisi road towards Dmenisi.

- By 22:00, Georgian armed forces seized control of villages Tbeti and Galuanti to the west of Tskhinvali.

- Late in the evening, a Russian motorcade consisting of 30 armored vehicles led by the Commander of the 58th Army General Anatoly Khruliov was destroyed by Georgian armed forces at the northwestern entrance of Tskhinvali.

- At 22:20, Russian aviation again bombed Upper Abkhazia/Kodori Gorge.

- At 22:30, Georgian armed forces began a phased retreat from Tskhinvali and during the night re-positioned themselves south of the town.

- At 23:50, Russian aviation bombed the town of Senaki (in western Georgia).

August 10

- During the night and early in the morning, more than 300 Russian tanks and armored vehicles, together with more than 10 000 troops passed through the Roki Tunnel.

- At 04:00, Russian troops occupied Big Liakhvi valley.

- At 05:30, Russian aviation bombed Tbilisi (Vaziani) and Baku-Supsa oil pipeline near Tbilisi.

- In between 06:00 and 11:30, Russian aircraft bombed Upper Abkhazia/Kodori Gorge.

- At 10:00, Georgian armed forces left Frone valley, which was immediately captured by Russian troops.

- By 11:00, Russian Black Sea Fleet ships approached Ochamchire seaport. More than 4000 airborne troops landed on the coast.

- At around 11:00, Georgian police started to evacuate civilian population from Upper Abkhazia/Kodori Gorge.

- In between 12:20 and 15:15, Russian aviation heavily bombed Upper Abkhazia/Kodori Gorge.

- At 14.00, Turkish TV crew, heading towards Tskhinvali, was attacked on the road. Two journalists Levent Ozturk and Gurai Ervin were wounded.

- In the afternoon (exact time unknown) two Georgian journalists Alexander Klimchuk and Giga Chikhladze were taken hostages and murdered by South Ossetian militia in Tskhinvali.

- At 15:00, Russian troops started to advance south from Tskhinvali in the direction of village Megvrekisi, Gori district.

- At 15:10, Russian aviation bombed village Knolevi in Kareli district.

- At 15:30 Russian aviation bombed Gori.

- At 15:40 Russian aviation bombed village Anaklia in Zugididi district.

- At 16:10, Russian aviation bombed Upper Abkhazia/Kodori Gorge.

- At 16:20, Russian aviation again bombed village Anaklia in Zugididi district.

- By 17:00, Russian troops captured village Megvrekisi in Gori district.

- At 17:20, Russian aviation again bombed Upper Abkhazia/Kodori Gorge.

- At 17:40, head of Abkhazian de facto authorities Sergey Bagapsh declared mobilization and martial law on the territory of Abkhazia (see annex 102).

- By 18:30, Russian troops and Abkhazian de facto regime irregular forces deployed along the administrative border at river Enguri (see annex 103).

- At 18:40, Russian aviation bombed Tbilisi (radar near airport).

- At 19:30, the MFA of Georgia handed a diplomatic note to the Russian Embassy offering an immediate Georgian ceasefire.

- At 19:40, Russian aviation bombed Senaki and Upper Abkhazia/Kodori Gorge.

- In between 20:20 and 22:10, Russian aviation bombed Upper Abkhazia/Kodori Gorge.

- At 22:30, Russian troops crossed the administrative border at river Enguri and entered Samegrelo region, which was empty of Georgian armed forces since, as noted above, Georgian regular troops stationed in western Georgia had been relocated to Tskhinvali Region/South Ossetia early in the morning of August 9.

- At 23:55, Russian aviation bombed village Shavshvebi in Gori district.

- By late evening, civilian population began to leave the town of Gori and the villages in Gori district.

August 11

- By 01:00, Russian troops occupied village Kheiti in Small Liakhvi valley and villages Nikozi and Ergneti south to Tskhinvali, as well as advanced towards villages Khviti and Brotsleti in Gori district.
- In between 00:20 and 03:30, Russian aviation bombed Upper Abkhazia/Kodori Gorge.
- In between 02:45 and 03:20, Russian aviation bombed the territory of Khelvachauri district in Adjara (southwestern Georgia).
- At 04:10, Russian aviation bombed Tbilisi (radar near airport) and Shiraki airfield in Kakheti (eastern Georgia).
- At 05:25, Russian aviation bombed Gori.
- At 07:10, Russian aviation bombed Senaki and villages Ganmukhuri and Anaklia in Zugdidi district.
- At 10:00, Russian artillery bombed village Eredvi. Georgian armed forces started to withdraw to the south in Gori district.
- By 11:00, Russian forces occupied the Small Liakhvi valley, including village Eredvi.
- At 11:30, Russian troops started to advance south towards villages Variani and Tkviavi in Gori district, occupying a number of villages on the way, including Khviti, Kelktseuli, Brotsleti and Tirdznisi.
- By 12:00, Georgian police finished the evacuation of civilian population from Upper Abkhazia/Kodori Gorge.
- By 16:45, Russian troops and Abkhazian de facto regime irregular forces occupied village Khureha, Zugdidi district.
- By 17:00, Russian troops entered the town of Zugdidi, occupied most administrative buildings and presented an ultimatum to the local police to surrender weapons (see annexes 104 and 105).
- At 17:00, Georgian armed forces in Gori district started to withdrew south to the town of Gori.
- At 18:10, Russian forces occupied village Shindisi, Gori district.
- At 18:20, South Ossetian de facto regime irregular forces entered village Beloti in Small Liakhvi valley and took the remaining local population as hostages.
- At 19:00, a camp for IDPs was set up in Tbilisi.
- At 19:05, Russian aviation bombed Upper Abkhazia/Kodori Gorge.

- By 19:30, Russian troops entered the town of Senaki in western Georgia and severely damaged the infrastructure of the military base near the town.

- At 20:00, a Russian military column consisting of 70 units of heavy armor and around 600 soldiers moved from Zugdidi district in the direction of the Jvari pass and the town of Khaishi (from where they could eventually access Upper Abkhazia/Kodori Gorge). In order to avoid encirclement by enemy forces, Georgian police started to withdraw from Upper Abkhazia/Kodori Gorge.

- By 20:00, Russian troops continued to move south in Gori district towards the town of Gori and stopped near villages Variani and Tkviavi.

- At 20:25, the Ministry of Economic Development of Georgia was notified that Russian Black Sea Fleet prevented cargo ships "Castor" and "Asha" from entering the Poti port.

- By 22:00, Georgian armed forces withdrew to the town of Mtskheta in order to defend the capital Tbilisi.

August 12

- At 01:30, Russian aviation bombed village Ruisi in Kareli district and the town of Kaspi.

- At 03:00, Georgian police finished withdrawing from Upper Abkhazia/Kodori Gorge.

- At 09:30, Russian aviation bombed Gori.

- At 11:00, Russian airborne troops and Abkhazian de facto regime irregular forces launched a ground attack in Upper Abkhazia/Kodori Gorge.

- At 11:30 and 12:00, Russian forces bombed Baku-Supsa oil pipeline and the town of Gori with Iskander-M/SS-26 missiles. The missiles were dropped on and near the central square of the town, killing 8 civilians and injuring 15. A cameraman of Dutch TV Stan Storimans was killed, Greek TV channel journalist Filios Stangos and Israeli journalists Zadok Yehezkeli were wounded (later Human Rights Watch found out that this was a RBK-250 cluster bomb, containing 30 PTAB 2.5M sub-munitions, see annex 106 for HRW statement).

- At 12:40, Russian President Dimitry Medvedev announced that he had ordered to end the military operation in Georgia.

- At 14:00, Russian aviation bombed villages in Kaspi and Khashuri districts.

- At 15:00, Russian Black Sea Fleet ships attacked and damaged Georgian Coast Guard vessels.

- By 15:30, Russian troops seized control of many villages in Gori and Kareli districts. South Ossetian de facto regime irregular forces started to ravage the occupied Georgian villages, brutally massacring the local population.

- In the afternoon (exact time unknown), a Russian helicopter opened fire at a minibus "Ford-Transit" (no: TBS442) on the main highway near Gori, which was transporting passengers from western Georgia to Tbilisi, killing 9 civilians (see annex 107 for photo).

- By 16:00, Russian troops reached the main highway and cut the road connection between eastern and western Georgia.

- At 16:00, Russian troops entered the town of Gori.

- At 16:30, Russian troops captured TV and Radio transmitter station in village Akhaldaba, Gori district, destroying its equipment, killing one employee: Moris Papuashvili and injuring two: Vakhtang Shavdatuashvili and Merab Khekhelashvili.

- At 17:00, Abkhazian de facto regime irregular forces occupied villages Zemo Ajara and Kvemo Ajara in Upper Abkhazia/Kodori Gorge.

- At 17:30, Abkhazian de facto regime irregular forces occupied village Ganmukhuri, Zugdidi district and organized a checkpoint there.

- At 18:00, Russian Black Sea Fleet ships attacked and sank Georgian ships harbored in the Poti port (see annex 108).

- By 18:30, South Ossetian de facto regime irregular forces ravaged villages Disevi and Karaleti in Gori district, attacking the local civilian population.

- By 19:00, a Russian military column consisting of 70 units of heavy armor and around 600 soldiers moved through the Jvari pass and reached the town of Khaishi (in northwestern Georgia), blocking the road to Upper Abkhazia from the east.

- By 21:30, South Ossetian de facto regime irregular forces brutally assaulted and abused the population of villages Kordi, Mereti and Tkviavi in Gori district.

- At 20:40, Abkhazian de facto regime irregular forces fully occupied Upper Abkhazia/Kodori Gorge.

- At 21:50, Russian troops looted the Senaki military base, taking away arms and equipment.

- At 22: 52, three Turkish journalists were robbed and deprived of their car near village Karaleti, Gori district.

- By 23:00, many villages in Gori district, including Berbuki, Rekha, Sveneti, Kheltubani, Karaleti and others, were reported to be ravaged by South Ossetian de facto regime irregular forces.

- By late evening, the six-point ceasefire plan was successfully brokered by President Nicolas Sarkozy between Presidents of Georgia and Russia.

Chronology of Russian Air Bombings of Georgia in August 2008

Date and time of air bombing	Area
8 Aug – 09:30-09:44	Village Shavshvebi, Gori District
8 Aug – 10:23-10:43	VillageVariani, Kareli District
8 Aug – 10:50-11:04	Village Tkviavi, Gori District

	Town of Gori
8 Aug – 15:07-15:21	City of Tbilisi, Vaziani airdrome and airplane factory
8 Aug – 15:50-16:20	Town of Marneuli Town of Bolnisi
8 Aug – 16:39-17:06	Town of Marneuli
8 Aug – 18:29-18:58	Town of Gori
8-9 Aug – 23:44-00:36	City of Tbilisi, Vaziani airdrome and airplane factory
8 Aug – 23:50	Town of Poti (with "Tochka-U"/SS-21)
8-9 Aug – 23:50-00:23 9 Aug – 00:41-01:04	Town of Poti
9 Aug – 09:23-09:45	Kopitnari Airport near the city of Kutaisi
9 Aug – 09:52-10:24 9 Aug – 10:21-10:46	Town of Gori
9 Aug – 10:29-11:04	Village Shavshvebi, Gori District
9 Aug – 13:42-13:50	Large part of Kodori Gorge, Upper Abkhazia
9 Aug – 14:03-14:11	Village Omarishara, Upper Abkhazia
9 Aug – 14:26-14:39	Village Ajara, Upper Abkhazia
9 Aug – 14:26-14:39	Village Chkhalta, Upper Abkhazia
9 Aug – 16:04-16:14	Village Komandeli, Oni District
9 Aug – 17:39-17:50 9 Aug – 17:39-17:50 9 Aug – 18:24-18:34	Jechora Gorge, Oni District
9 Aug – 22:20-22:30	Village Chkhalta, Upper Abkhazia Village Gentsvisi, Upper Abkhazia
9-10 Aug – 23:50-00:23	Town of Senaki
10 Aug – 05:27-05:47	City of Tbilisi, Vaziani airdrome and airplane factory Baku-Supsa Oil Pipeline, 25 km section
10 Aug – 06:02-09:15	Village Ajara, Upper Abkhazia Village Chkhalta, Upper Abkhazia Village Urta, Zugdidi District
10 Aug – 11:25-11:27	Village Tsedisi, Oni District
10 Aug – 12:22-12:26 10 Aug – 13:51-13:55	Village Chkhalta, Upper Abkhazia
10 Aug – 15:05-15:15	Large part of Kodori Gorge, Upper Abkhazia
10 Aug – 15:09-15:24	Village Knolevi, Kareli District
10 Aug – 15:29-15:39	Town of Gori
10 Aug – 15:40-15:50	Village Anaklia, Zugdidi District
10 Aug – 16:09-16:14	Large part of Kodori Gorge, Upper Abkhazia
10 Aug – 16:20-16:35	Village Anaklia, Zugdidi District
10 Aug – 17:21-17:55	Large part of Kodori Gorge, Upper Abkhazia
10 Aug – 18:42-19:16	City of Tbilisi, Leninisi Radar Station near Tbilisi International Airport
10 Aug – 19:40-20:05	Town of Senaki Parts of Kodori Gorge, Upper Abkhazia
10 Aug – 20:23-20:27	Parts of Kodori Gorge, Upper Abkhazia
10 Aug – 22:03-22:09	Village Gentsvisi, Upper Abkhazia
10 Aug – 23:54-00:00	Village Shavshvebi, Gori District
11 Aug – 00:19-00:39	Parts of Kodori Gorge, Upper Abkhazia
11 Aug – 02:09-02:40	Village Chkhalta, Upper Abkhazia
11 Aug – 02:44-03:20	Village Sharabidzeebi, Khelvachauri District Village Kapandichi, Khelvachauri District Village Makho, Khelvachauri District
11 Aug – 03:03-03:29	Parts of Kodori Gorge, Upper Abkhazia

11 Aug – 04:12-04:50	City of Tbilisi, Leninisi Radar Station near Tbilisi International Airport Shiraki Airfield, Dedoplistskaro District
11 Aug – 05:25-06:15	Town of Gori
11 Aug – 07:10-07:20	Village Ganmukhuri, Zugdidi District Village Anaklia, Zugdidi District Town of Senaki
11 Aug – 19:05-19:10	Parts of Kodori Gorge, Upper Abkhazia
12 Aug – 01:30-02:00	Village Ruisi, Kareli District Town of Kaspi, Railway Station Town of Kaspi, Heidelberg Cement Factory
12 Aug – 09:30-10:55	Town of Gori
12 Aug – 11:30	Baku-Supsa Oil Pipeline, 27 km section (with "Iskander-M"/SS-26)
12 Aug – 12:00 (approx.)	Town of Gori (with "Iskander-M"/SS-26)
12 Aug – 14:00-14:15	Village Agara, Khashuri district Village Sakorinto, Kaspi District
13 Aug – morning, exact time unknown	Village Sakasheti, Gori District Village Okami, Kaspi District
Date and time unknown	Village Karbi, Gori District
Date and time unknown	Oni district (with "Tochka-U"/SS-21), found unexploded
Date and time unknown	Village Sinaguri, Java District (with "Tochka-U"/SS-21), found unexploded

- Russian armed forces used SU-24, SU-25, SU-27 and MIG-29 type military aircraft, as well as strategic bombers TU-22M to attack Georgia.

- Georgian armed forces shot down 14 Russian military aircraft and detained two Russian pilots: Igor Zinov (a pilot of SU-24M) and Viacheslav Malkov (a pilot of TU-22M), which were properly treated at Georgian hospitals and later handed over to the Russian side.

Civilian, Military, Police and Journalist Casualties of the War

Citizens of Georgia killed

Total: **412**
Military: 170*
Civilian: 228
Police: 14**

*among them 10 are missing in action (see annex 109)
**among them 3 are missing in action (see annex 110)

Citizens of Georgia wounded

Total: **1747**
Military: 973
Civilian: 547
Police: 227

Journalists

Killed:	3	(1 international, 2 Georgians).
Wounded:	4	(4 internationals).

Chronology of Events: August 2008 (continued)

August 13

- At 01:05, residents of villages Nikozi, Tkviavi and Karaleti in Gori district were reported taken hostages by South Ossetian de facto regime irregular forces.
- By 07:00, Russian aviation bombed villages in Gori and Kaspi districts.
- At 08:00, residents of village Karaleti in Gori district were reported to be attacked and abused.
- At 09:20, additional Russian troops with armor entered Gori.
- By 12:00, Russian soldiers looted and destroyed the military base of artillery brigade near Gori.
- At 13:00, Russian troops entered village Atotsi, Kareli district. South Ossetian de facto regime irregular forces followed them and ravaged the village.
- At 13:05, Russian soldiers entered village Pakhulani, Tsalenjikha district.
- At 14:00, Russian troops blew up three Georgian Coast Guard vessels in the Poti port.
- By 15:00, numerous cases of looting reported in Gori.
- At 16:10, Russian troops started to move from Gori on the main highway and turned to the left towards village Orchosani, Akahlgori district.
- At 17:15, atrocities by South Ossetian de facto regime irregular forces were reported in villages Tseronisi and Knolevi, Kareli district.
- By 20:00, population fled from the town of Kareli and villages Breti and Aradeti in Kareli district. The abandoned villages were looted by South Ossetian de facto regime irregular forces.

August 14

- By 11:00, Russian troops continued destroying Georgian military installations in Senaki.
- At 12:00, additional Russian troops entered Zugdidi and Poti.
- At 12:05, South Ossetian de facto regime irregular forces robbed three journalists of Canadian TV channel CBC near the town of Gori, took away their car, equipment and passports. The accident happened in the presence of Russian soldiers, who did not react.
- At 14:00, additional Russian troops entered Gori.

- At 14:40, additional Russian troops entered village Mejvriskhevi in Gori district and villages Ruisi and Tsveri in Kareli district.

- At 15:40, Russian soldiers robbed several Georgian police officers and took away their car near village Doghlauri, Kareli district.

- At 16:00, four Israeli journalists, including "Haaretz" correspondent Anshel Pfeffer and photographer Nir Kafri, were robbed by Russian soldiers in Gori.

- At 16:30, looting by South Ossetian irregulars reported in villages Brotsleti, Mejvriskhevi, Gorijvari in Gori district and Breti in Kareli district.

- At 17:00, a journalist of the Georgian Public Broadcasting company Tamar Urushadze was wounded by a direct sniper shot in a hand during a live broadcast near Gori.

- At 18:30, lootings reported from villages Agara and Dzevera in Kareli district.

- By 19:10, Russian troops strengthened their checkpoints in Zugdidi.

- In the evening (exact time unknown) South Ossetian de facto regime irregular forces robbed three Czech journalists, including Marek Gureba, near Gori, took away their car and equipment.

- At 22:10, about 100 armored vehicles and trucks of Russian army moved from Zugdidi to Senaki.

- At 23:50, looting and abuses of civilians reported from villages Ruisi in Gori district and Mokhisi in Khashuri district.

August 15

- In a 15 August interview with Russian newspaper "Kommersant," head of South Ossetian de facto authorities Eduard Kokoity declared publicly that it was their goal to purge the Georgian enclaves in South Ossetia so as not to allow ethnic Georgians to ever return to their homes (see annex 111 for Kokoity's statement, as well as annex 112 for a similar statement by the de facto parliament speaker Znaur Gasiev).

- At 08:00, Russian troops with 14 armored vehicles and 4 trucks moved from Senaki and stopped at river Abashistskali, in 40 kms west of the city of Kutaisi.

- At 09:30 about 20 Russian military trucks with soldiers moved from Senaki to Poti.

- At 10:30, South Ossetian de facto regime irregular forces robbed Georgian freelance journalist Margarita Akhvlediani near village Sagolasheni, Kareli district, taking away her car, camera and other belongings.

- At 13:00, Russian soldiers detained two journalists in Poti: Lasha Berulava, reporter of radio "Imedi" and Murad Fartsvania, cameraman of TV Company "Odishi." They were later released.

- At 15:30, several Russian helicopters flew over the Borjomi district and dropped fire setting bombs near village Tsagveri (The fire quickly spread in the Borjomi-Kharagauli National Park

and despite the huge efforts taken ultimately spread over 950 hectares of forest land, totally destroying 250 hectares).

- At 16:10, four members of Namgalauri family were kidnapped from village Ghogheti, Kareli district and taken towards village Znauri.

- By 17:00, Russian troops robbed the buildings of Georgian Coast Guard in Poti and drove away several boats towards the Abkhazian coast.

- At 18:30, Russian troops – 9 armored vehicles accompanied by 3 Mi-24 helicopters – started to move across the main highway towards Tbilisi. They stopped and opened a checkpoint near village Igoeti, Kaspi district – in 20 kms from Tbilisi.

- At 21:00, Russian troops entered the town of Khashuri (in central Georgia) and opened a checkpoint there. About 10 Tanks were in the observed in the town.

- At 21:50, Russian troops continued their movement from Khashuri and entered the nearby town of Surami on the main highway.

- At 23:30, Russian troops continued to move west from Khashuri and Surami. As reported by the local population, they intruded into the houses and deprived the population of food. Soon they turned back and stopped in Khashuri.

August 16

- At 00:30, looting and abuses of civilians by South Ossetian de facto regime irregular forces reported from villages Abisi, Koda, Ptsa in Kareli district.

- At 08:45, an additional column of Russian troops on tanks, armored vehicles and trucks entered village Karaleti, Gori district.

- At 10:15, 10 tanks of the Russian army headed from Igoeti towards Khashuri and seven towards Znauri, while 4 armored vehicles, one crane and 10 army trucks (8 Urals, 2 Kamazs) entered the Poti port.

- At 10:30, Russian aviation dropped fire-setting bombs near village Khandaki in Kaspi district, setting the nearby forest on fire.

- At 12:30, Russian troops blew up the key railway bridge near village Grakali, Kaspi district, cutting the railway connection between eastern and western Georgia.

- At 13:00, two Russian trucks with soldiers moved from Surami through the Rikoti Tunnel (in central Georgia) and passed village Khevi, Kharagauli district (in western Georgia). They were stopped by the patrol police of the MIA of Georgia near the town of Zestaponi.

- By 14:30, 8 Russian armored vehicles with troops moved from Khashuri towards the town of Sachkhere (in western Georgia), but were stopped near village Gomi by the patrol police of the MIA of Georgia.

- At 16:00, Russians denied to provide permission to the Turkish and Ukrainian planes to enter Georgian airspace in order to take part in putting down the forest fires in Borjomi district.

- By 18:00, Russian troops with tanks and armored vehicles entered the town of Akhalgori, the center of Akhalgori district, in 40 kms north-west of Tbilisi.

- At 18:30, Russian aviation dropped fire-setting bombs in the forests around Surami, Khashuri district.

- At 20:00, Russian troops were reported to have started proposing Russian passports to the local population in Akhalgori district.

- At 21:15, additional Russian armored vehicles were deployed at the entrance of the town of Akhalgori.

August 17

- At 10:45, 21 Russian military trucks and 4 armored vehicles accompanied by 1 helicopter entered the Senaki military base.

- At 11:25, about 100 members of South Ossetian de facto regime irregular forces entered the town of Akhalgori.

- At 11:30, some Russian troops moved towards villages Reka and Menji near Senaki.

- At 13:20, Russian MOD announced that it had seized control over the property of Enguri hydropower plant.

- At 13:25, 8 Russian military helicopters landed at the Senaki military base.

- At 14:05, Russian troops mined roads in Mestia district (in northwestern Georgia).

- At 16:30, a Russian armored vehicle approached the Supsa oil terminal.

- At 19:30, Russian troops mined two bridges near the town of Kaspi.

August 18

- At 11:00, Russian troops stationed at village Igoeti blocked the road leading to the town of Kaspi.

- At 13:00, Russian troops started to move towards the towns of Sachkhere (in western Georgia) and Borjomi (in southern Georgia). They were stopped near Borjomi by the Patrol Police of the MIA of Georgia, but they managed to pass village Gomi and reach the Jvari pass in Sachkere district and got stationed there.

- By 16:00, Russian soldiers exploded barracks and other installations at the Senaki military base.

- At 17:30, Russian armored vehicles began movement from village Igoeti towards the town of Akhalgori. Georgian police officers tried to stop them near village Lamiskana, but the Russians crashed Georgian patrol police cars at the roadblock and continued their way towards Akhalgori (see annex 113 for video).

- At 17:30, a Russian military aircraft entered Georgian airspace near Stepantsminda, Kasbegi district (in northeastern Georgia), flew towards the Zhinvali dam, flew over it and returned to Russia.

August 19

- At 01:00, 20 servicemen of the MOD of Georgia entered the Poti port in order to protect its infrastructure from looting. At 08:30, Russian troops entered the port, disarmed Georgian soldiers and captured them.

- At 12:30, Russian troops loaded concrete blocks on rails near village Gomi, blocking the possible re-launch of rail transport.

- At 13:20, Russian troops lead 6 blindfolded Georgian soldiers and six US owned Hummer vehicles from the Poti port to the military base in Senaki.

- At 14:50, some Russian troops moved from village Gomi towards the town of Sachkere and stopped at the Jvari pass.

August 20

- At 09:40 South Ossetian de facto authorities announced the creation of their administration in Akhalgori district (which they call Leningori), naming Valeri Karaev as the head of the de facto administration.

- At 11:00, Russian troops occupied village Perevi in Sachkhere district (in western Georgia), close to the administrative border with South Ossetia. They deployed over 50 soldiers and 3 tanks there.

- By 11:00, Russian troops did not allow the trucks with humanitarian aid to enter village Karaleti in Gori district.

- At 12:00, Russian troops arrested the governor of Shida Kartli region Lado Vardzelashvili at one of the illegal Russian checkpoints near the town of Gori, as he was trying to release the trucks with humanitarian aid to the local population. He was released from detention after two hours.

- At 14:00, houses were reported put on fire by South Ossetian de facto regime irregular forces in village Dzevera, Gori district.

- At 15:30, Russian troops organized a checkpoint at the entrance of the town of Poti.

- At 16:00, Russian troops entered village Chogha in Chkhorotsku district (in western Georgia), with armored vehicles and started digging trenches.

- At 18:30, Russian military aircraft dropped fire-setting bombs in the forest near village Kiketi, in 10 kms from Tbilisi.

August 21

- At 10:30, Russian troops started digging entrenchments in the town of Poti. Russian armored vehicles and "Ural" type trucks were reported deployed at Nabada, at the entrance of the town.

- At 10:35, French ambassador to Georgia Eric Fournier was blocked near Gori by Russian troops on his way from Sachkhere to Tbilisi. He was allowed to continue his drive only by 13:00.

- At 14:00, Russian embassy in Georgia issued a note to the MFA of Georgia, according to which the Russian Ministry of Defense had to be notified in advance of any planned travel of all delegations to the occupied town of Gori.

- At 15:00, the deputy chief of the general staff of the Russian armed forces Anatoly Nogovitsin declared that Russian armed forces would establish two lines of checkpoints in "a security zone" near South Ossetia. The first line would include eight checkpoints across the zone of responsibility of the Russian peacekeepers, while the second line – involving 10 checkpoints – would be set across the administrative border of South Ossetia. 272 soldiers would be deployed on these eight checkpoints. The town of Gori would not be included in the zone."

- At 16:30, Russian foreign minister Sergey Lavrov declared that Russia would create 8 "peacekeeping" checkpoints in Georgia manned by 500 "peacekeepers."

- At 19:30, Russian troops released 10 soldiers out of 20 captured on August 19 in the Poti port.

- At 21:00, the commander of Russian ground forces, General Vladimir Boldirev declared that the process of withdrawal of Russian troops from the territory of Georgia would take 10 days and that the remaining "peacekeeping" checkpoints would start operating from August 22.

- At 23:20, Russian Defense Minister Anatoly Serdiukov announced that Russian troops would start to withdraw towards South Ossetia and Abkhazia at 06:00 next morning.

August 22

- At 12:00, the deputy chief of the general staff of the Russian armed forces Anatoly Nogovitsin announced the establishment of Russian military checkpoints around South Ossetia and Abkhazia, labeling these territories as "security/buffer zones." According to him, the borderline of the zone near Abkhazia would go across the settlements: Nabada, Chaladidi, Senaki, Kvira, Khudoni, Jikmur, Ochamchire and Anaklia, while the borderline of the zone near would go across the settlements: Perevi, Ghodora, Ali, Variani, Ikoti, Tsiara and Ptsa.

- At 12:30, Russian troops started withdrawing from Igoeti towards Gori. Russian forces also began to leave the local administration and police buildings in Zugdidi.

- At 14:00, about 100 Russian armored vehicles started moving from Senaki towards Zugdidi.

- At 19:30, Russian troops exploded the remaining installations at the military base near Gori.

- At 20:00, Russian troops started leaving Gori and Khashuri in eastern Georgia.

- By late night, Russian forces fully withdrew from the town of Gori.

Chronology of Occupation: August 23 – October 8

On August 23, Russian forces withdrew from the town of Zugdidi, but remained close to it. Russian forces remained in and around the Poti port. They established re-enforced checkpoints and conducted routine and illegal patrols of the town and the surrounding villages.

On August 23, Russian occupational forces organized 28 illegal checkpoints deep inside Georgian territory:

- In eastern Georgia (Shida Kartli and Mtskheta Mtianeti regions) Russian troops got stationed in/near the following villages:

  1. Perevi (Sachkhere district)
  2. Ghodora (Sachkhere district)
  3. Ali (Khashuri district)
  4. Ptsa (Kareli district)
  5. Variani (Gori district)
  6. Karaleti (Gori district)
  7. Shavshvebi (Gori district)
  8. Ergneti (Gori district)
  9. Ikoti (Akhalgori district)
  10. Between Meghvrekisi and Brotsleti (Gori district)
  11. Odzisi (Akhalgori district)
  12. Mosabruni (Akhalgori district)

- In western Georgia (in Samegrelo-Zemo Svaneti and Upper Abkhazia regions) Russian troops got stationed in/near the following villages:

  13. Teklati (near Senaki on the main east/west highway)
  14. Pirveli Maisi (Khobi district)
  15. Between Chaladidi and Shua Khorga (Khobi district, near Poti)
  16. Nabada (at the entrance of Poti)
  17. Menji (Senaki district)
  18. Kantisubani (on the road between Tsalenjikha and Chkhorotsku)
  19. Chale and Muzhava crossroads (Tsalenjikha district)
  20. Mount Kvira (Tsalenjikha district)
  21. Chkhorotsku (Chkhorotsku district)
  22. Anaklia (Zugdidi district)
  23. Khudoni (Mestia district)
  24. Gentsvisi (Upper Abkhazia/Kodori Gorge)
  25. Omarishara (Upper Abkhazia/Kodori Gorge)
  26. Sakeni (Upper Abkhazia/Kodori Gorge)
  27. Chkhalta (Upper Abkhazia/Kodori Gorge)
  28. Kvabchara (Upper Abkhazia/Kodori Gorge)

(See annex 114 for the map of checkpoints)

- On August 24, at 10:30, a train carrying 34 tanks of crude oil from Azerbaijan to Batumi exploded on a Russian planted land mine near village Skra, 5 km west of Gori. Other mines and buried artillery shells were subsequently found at other spots along the tracks.

- On August 24, at 11:00, USS "McFaul" loaded with humanitarian aid entered the Batumi port.

- On August 24, at 11:10, one civilian was killed and one was wounded as a result of land mine explosions: Nana Matrasidze died at the northern entrance of the town of Gori and Mikheil Kaidarashvili was wounded in village Tirdznisi.

- On August 25, Russian troops dug entrenchments in village Chuberi near the Enguri power plant. Military presence of Russian troops was also reported at the dam infrastructure of power plant.

- On August 25, at 10:00 Russian soldiers with two armored vehicles entered the territory of Coast Guard infrastructure in the Poti port. They stole office equipment and air conditioners.

- On August 25, both houses of the Russian Parliament passed unanimous resolutions calling on the President of Russia to recognize the independence of Abkhazia and South Ossetia.

- On August 26, Russian President Dimitry Medvedev signed two presidential decrees, recognizing South Ossetia and Abkhazia as independent states, sanctioning the drafting of "treaties of friendship, cooperation and mutual assistance" with the "new states" (see annex 115).

- On August 26, Russian warships docked in Sokhumi, including the flagship of Russia's Black Sea fleet, guided missile cruiser "Moscow."

- On August 28, Georgian Parliament passed a unanimous resolution, declaring the Russian armed forces deployed on the territory of Georgia as occupational forces and South Ossetia and Abkhazia as Russian occupied territories.

On September 13, Russian troops pulled out of five locations in western Georgia, including Poti, but remained at 23 illegal checkpoints:

- In eastern Georgia (Shida Kartli and Mtskheta Mtianeti regions) Russian troops were left in or near the following villages:

  1. Perevi (Sachkhere district)
  2. Ghodora (Sachkhere district)
  3. Ali (Khashuri district)
  4. Ptsa (Kareli district)
  5. Variani (Gori district)
  6. Karaleti (Gori district)
  7. Shavshvebi (Gori district)
  8. Ergneti (Gori district)
  9. Ikoti (Akhalgori district)
  10. Between Meghvrekisi and Brotsleti (Gori district)
  11. Odzisi (Akhalgori district)
  12. Mosabruni (Akhalgori district)

- In western Georgia (in Samegrelo-Zemo Svaneti and Upper Abkhazia regions) Russian troops were left in or near the following villages:

  13. Kantisubani (on the road between Tsalenjikha and Chkhorotsku)
  14. Chale and Muzhava crossroads (Tsalenjikha district)
  15. Mount Kvira (Tsalenjikha district)
  16. Chkhorotsku (Chkhorotsku district)

17. Anaklia (Zugdidi district)
18. Khudoni (Mestia district)
19. Gentsvisi (Upper Abkhazia/Kodori Gorge)
20. Omarishara (Upper Abkhazia/Kodori Gorge)
21. Sakeni (Upper Abkhazia/Kodori Gorge)
22. Chkhalta (Upper Abkhazia/Kodori Gorge)
23. Kvabchara (Upper Abkhazia/Kodori Gorge)

(See annex 116 for the map of checkpoints)

Thus, Georgian government lost control over 189 villages, which it used to administer before the August war:

Big Liakhvi valley

1. Tamarasheni
2. Zemo Achabeti
3. Kvemo Achabeti
4. Kurta
5. Kekhvi
6. Kheiti
7. Kemerti
8. Sveri
9. Dzartsemi

Little Liakhvi valley

10. Eredvi
11. Vanati
12. Beloti
13. Zemo Prisi
14. Satskheneti
15. Atsriskhevi
16. Argvitsi
17. Berula
18. Disevi
19. Ksuisi
20. Charebi

Frone valley

21. Avnevi
22. Nuli

Akhalgori district

23. Akhaldaba
24. Akhalgori
25. Akhmaji
26. Balaani
27. Bazuani

28. Bezhanaantkari
29. Bidkhiani
30. Chigoiani
31. Chitiani
32. Chorchani
33. Tskhavati
34. Dabakneti
35. Dadianeti
36. Doretkari
37. Eloiani
38. Ereda
39. Garubani
40. Gavazi
41. Gdu
42. Gezevreti
43. Gudatsveri
44. Ikoti
45. Jvarisubani
46. Korinta
47. Largvisi
48. Martiani
49. Makhiareti
50. Midelaani
51. Morbedaani
52. Mosabruni
53. Mshvelieti
54. Mskhlebi
55. Nakhidi
56. Okhiri
57. Pavliani
58. Pirveli Sadzeguri
59. Karaletkari
60. Kenkaani
61. Kurta
62. Kvemo Alevi
63. Shua Alevi
64. Zemo Alevi
65. Zemo Boli
66. Kvemo Boli
67. Zemo Gru
68. Kvemo Gru
69. Tokhta
70. Ukanamkhari
71. Ukanubani
72. Vashlovani
73. Tsiptauri
74. Tsirkoli
75. Tsikhisopeli

76. Chorchokhi
77. Kharbali
78. Kharkelani
79. Khozueti
80. Kanchaveti
81. Kochiani
82. Kveldaba
83. Dzeglevi
84. Zodekhi
85. Boselta
86. Kodijvari
87. Garueti
88. Salbieri
89. Delkani
90. Nagomevi
91. Tsikhisubani
92. Tsigriantkari
93. Petriani
94. Gremiskhevi
95. Dzveli Burghuli
96. Akhali Burghuli
97. Mikeliani
98. Mukhuji
99. Tinikaani
100. Mamulaani
101. Revaziantkari
102. Shaliantkari
103. Khudaliani
104. Karkushaani
105. Tkhilovani

Gori district

106. Variani
107. Sakasheti
108. Dzlevijvari
109. Kelktseuli
110. Pkhvenisi
111. Zemo Khviti
112. Kvemo Khviti
113. Zemo Nikozi
114. Kvemo Nikozi
115. Ergneti
116. Ditsi
117. Arashenda
118. Kordi
119. Mereti
120. Karbi
121. Kere
122. Plavi
123. Plavismani
124. Megvrikisi

125. Tirdznisi
126. Brotsleti
127. Tergvisi
128. Tkviavi
129. Karaleti
130. Kveshi
131. Marana
132. Shindisi
133. Dzevera
134. Shertuli
135. Kitsnisi
136. Satemo
137. Garejvari
138. Adzvi
139. Kvemo Artsevi
140. Arbo

Kareli district

141. Dvani
142. Takhtidziri
143. Dirbi
144. Tsveri
145. Breti
146. Ptsa
147. Ghogeti
148. Tamarasheni
149. Tseronisi
150. Avlevi
151. Knolevi
152. Atotsi
153. Koda
154. Bredza
155. Abisi
156. Satsikhuri
157. Abano

Khashuri district

158. Chorchana
159. Kobi
160. Titvinitskaro
161. Tsagvali
162. Satsikhuri
163. Tkotsa
164. Kindzati
165. Shakshaketi

Zugdidi district

166. Ganmukhuri
167. Khurcha

Upper Abkhazia/Kodori Gorge

168. Sakeni
169. Omarishara
170. Gvandra
171. Left Gentsvishi
172. Right Gentsvishi
173. Khutia
174. Zemo Ajara
175. Kvemo Ajara
176. Nakhari
177. Mramba
178. Khetskvara
179. Left Ptish
180. Right Ptish
181. Chkhalta
182. Budzguri
183. Shabatkvara
184. Zemo Zima
185. Kvemo Zima
186. Kvabchara
187. Buchukuri
188. Adzgara
189. Tvibrasheni

On September 17, Russian president Dimitry Medvedev signed the treaties of "friendship, cooperation and mutual assistance" with the de facto authorities of Abkhazia and South Ossetia.

On October 8, Russian forces withdrew from the so-called "security/buffer zones," but are still occupying South Ossetia and Abkhazia, including Big Liakhvi valley, Little Liakhvi valley, Frone valley, Akhalgori district and Upper Abkhazia/Kodori Gorge, thus violating the August 12 cease-fire agreement.

At present, Georgian government cannot exercise control over 128 villages, which used to be under its administration prior to the August war:

Big Liakhvi valley

1. Tamarasheni
2. Zemo Achabeti
3. Kvemo Achabeti
4. Kurta
5. Kekhvi
6. Kheiti
7. Kemerti
8. Sveri
9. Dzartsemi

Little Liakhvi valley

10. Eredvi

11. Vanati
12. Beloti
13. Zemo Prisi
14. Satskheneti
15. Atsriskhevi
16. Argvitsi
17. Berula
18. Disevi
19. Ksuisi
20. Charebi

Frone valley

21. Avnevi
22. Nuli

Akhalgori district

23. Akhaldaba
24. Akhalgori
25. Akhmaji
26. Balaani
27. Bazuani
28. Bezhanaantkari
29. Bidkhiani
30. Chigoiani
31. Chitiani
32. Chorchani
33. Tskhavati
34. Dabakneti
35. Dadianeti
36. Doretkari
37. Eloiani
38. Ereda
39. Garubani
40. Gavazi
41. Gdu
42. Gezevreti
43. Gudatsveri
44. Ikoti
45. Jvarisubani
46. Korinta
47. Largvisi
48. Martiani
49. Makhiareti
50. Midclaani

51. Morbedaani
52. Mosabruni
53. Mshvelieti
54. Mskhlebi
55. Nakhidi
56. Okhiri
57. Pavliani
58. Pirveli Sadzeguri
59. Karaletkari
60. Kenkaani
61. Kurta
62. Kvemo Alevi
63. Shua Alevi
64. Zemo Alevi
65. Zemo Boli
66. Kvemo Boli
67. Zemo Gru
68. Kvemo Gru
69. Tokhta
70. Ukanamkhari
71. Ukanubani
72. Vashlovani
73. Tsiptauri
74. Tsirkoli
75. Tsikhisopeli
76. Chorchokhi
77. Kharbali
78. Kharkelani
79. Khozueti
80. Kanchaveti
81. Kochiani
82. Kveldaba
83. Dzeglevi
84. Zodekhi
85. Boselta
86. Kodijvari
87. Garueti
88. Salbieri
89. Delkani
90. Nagomevi
91. Tsikhisubani
92. Tsigriantkari
93. Petriani
94. Gremiskhevi
95. Dzveli Burghuli
96. Akhali Burghuli
97. Mikeliani
98. Mukhuji
99. Tinikaani
100. Mamulaani
101. Revaziantkari
102. Shaliantkari

103. Khudaliani
104. Karkushaani
105. Tkhilovani

Sachkhere District

106. Perevi

Upper Abkhazia/Kodori Gorge

107. Sakeni
108. Omarishara
109. Gvandra
110. Left Gentsvishi
111. Right Gentsvishi
112. Khutia
113. Zemo Ajara
114. Kvemo Ajara
115. Nakhari
116. Mramba
117. Khetskvara
118. Left Ptish
119. Right Ptish
120. Chkhalta
121. Budzguri
122. Shabatkvara
123. Zemo Zima
124. Kvemo Zima
125. Kvabchara
126. Buchukuri
127. Adzgara
128. Tvibrasheni

Military aspects – questions and answers

First set of questions to the Governments of the Russian Federation and Georgia, related to military issues

1. There have been various accounts of the chronology of the conflict in August 2008. What is your understanding of the order in which events took place?

2. What was the rationale for Georgian operations in the Tskhinvali region on the 7th and 8th of August 2008? When did operations start towards the City of Tskhinvali? When were the Russian troops deployed from the Russian Federation into the Roki tunnel? When did they move into the Tskhinvali region? Were any Russian units deployed in the Tskhinvali region prior to 7th August 2008?

3. What were roles and activities of the components of the Joint Peacekeeping Forces (which had a mandate in the Tskhinvali region) as well as those of the CIS Peacekeeping Force (which had a mandate in the Georgian-Abkhaz conflict zone) in August 2008?

4. What was the timing of deployments/operations, in the Upper Kodori Valley? And which Forces were involved?

5. What types of units were used and how many troops were deployed in general and for particular operations? What percentage were conscripts and reservists?

6. What were the organization and the chain of command and control?

7. What were the levels of decisions for the choice of targets and assets engaged?

8. What training had been given to troops evolved in the operations on the International Law of Conflict? What plans were made for the protection of civilians before military operations began? What did the regular forces do in order to prevent human rights violations, including looting, burning of houses etc., during the hostilities of August 2008 and afterwards?

9. What military preparations were made prior to August 2008?

10. What plans were made for a withdrawal and redeployment of Forces from the zone of conflict ? What was the sequence and timing of any such withdrawal or redeployment ?

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For the answer to question 1. related to military issues,
see the chronology in this annex under Georgia, chronology

2. What was the rationale for Georgian operations in the Tskhinvali region on the 7th and 8th August 2008? When did operations start towards the City of Tskhinvali from the "First Set Questions to the Governments of the Russian Federation and Georgia Related to Military Issues? When were the Russian troops deployed from the Russian Federation into Roki Tunnel? When did they move into Tskhinvali region? Where any Russian units deployed in the Tskhinvali region prior to 7th August 2008?

2.1. What was the rationale for Georgian operations in the Tskhinvali region on the 7th and 8th August 2008? When did operations start towards the City of Tskhinvali from the "First Set Questions to the Governments of the Russian Federation and Georgia Related to Military Issues?

Russia's aggressive actions with regard to Abkhazia, Georgia and the Tskhinvali Region/South Ossetia took a qualitatively more aggressive turn in the beginning of 2008, following the recognition of Kosovo. Immediately prior to declaration of Kosovo's independence, then Russian President Vladimir Putin declared that Russia had "pre-designed plans" as a reaction to recognition of Kosovo.[1] Russian actions became more focused and intense, and consisted of a series of escalating but inter-linked interventions. These included: hostile political steps (inter alia, the establishment of official links with proxy regimes) accompanied by direct military actions and interventions (i.e. the shooting down of an unmanned, unarmed Georgian drone by a Russian fighter jet), illegal deployment of new Russian troops in Abkhazia, i.e. paratroopers and railway troops as well as construction of fortifications in eastern part of the province. Until June 2008, Russian actions were mostly focused on Abkhazia, Georgia.

The situation in the Tskhinvali Region/ South Ossetia escalated significantly in the beginning of July 2008 – in parallel to completion of offensive military infrastructure projects in Abkhazia – when a terrorist attack took place, aimed at the elimination of the Head of the Provisional Administration of South Ossetia, Mr. Dimitry Sanakoev. This act was accompanied by substantial increases in the scale and intensity of attacks by proxy militants on Georgian government controlled villages,[2] Georgian police, and peacekeepers. These acts resulted in casualties and fatalities (mortars of 120 mm caliber, prohibited under then existing agreements were used in the shelling for the first time since early 1990s). In parallel, the flow of mercenaries into the Tskhinvali Region/South Ossetia increased, as did violations of Georgian airspace by Russian military aircraft. In a symptomatic move, on July 9, four Russian military aircraft violated Georgian airspace on the eve of the visit of US Secretary of State Condoleezza Rice to Georgia. This fact was confirmed by the Russian Ministry of Foreign Affairs.

Finally, there was a marked increase in the deployment of military hardware and units of the regular Russian army. Specifically a large number of Russian military personnel were mobilized close to the Russia-Georgia border for military exercises titled, "Caucasus 2008". During those exercises more 8,000 troops (including 58th Army, North Caucasus Military District, units of Airborne

[1] See the record of Putin's speech: http://www.kremlin.ru/appears/2008/02/14/1327_type63380type82634_160108.shtml

[2] Georgian Government was aware that those were targeted attacks on the Georgian-controlled villages aiming at maximum destruction. For example, the proxy Interior Minister Mikhail Mindzaev instructed his subordinate to wipe out a Georgian-government controlled village. The intercept and transcript of this phone conversation can be found in annex 34 of the answer to question 1 of the military set of questions.

Troops, 4th Russian Air Army and air defence) and at least 700 of heavy equipment and 30 aircraft simulated an invasion of " a neighboring state". Although the exercises were completed on August 2, those forces never re-deployed. .

On August 1, 2008 an explosion took place at the Eredvi-Kheiti bypass road, which was accompanied by sustained shelling of the Sarabuki Georgian Peacekeepers' Post whose role was to guard the road. As a result of this aggression the Georgian enclave north of Tskhinvali, with a population of more than 10,000 people, was cut off from the rest of Georgia. This led to a situation wherein it was impossible to provide security to the population of the enclave in the face of intensified shelling and subsequent inflow of Russian regular army units advancing in the direction of those settlements.

In the evening of August 7, the Government of Georgia faced a qualitatively new situation: despite numerous attempts to decrease tension and a unilateral ceasefire implemented by the Government of Georgia, Georgian-controlled villages, police, and peacekeeping posts were under continuous fire. In this context, civilians in the already cut-off enclave were defenseless and for the first time two Georgian peacekeepers were killed[3] as a result of targeted military attacks that afternoon. Commenting on the alarming and unprecedented rise in violence Proxy leader Eduard Kokoity threatened to "wipe out" the Georgian enclaves unless Georgian law enforcement personnel left the region. In addition to publicized reports on the inflow of mercenaries into the region and initial human intelligence reports of a Russian army intrusion, the Government of Georgia obtained solid evidence that a large-scale Russian invasion was in progress *(for more detail and evidence, please see response and annexes to question 1 of the military set of questions).*

Based on the above series of life threatening escalations, and consistent with his constitutional duty (Article 71 of the Georgian Constitution) to protect the sovereignty and territorial integrity of Georgia as well as the security of Georgia's citizens[4], at 23:35 on August 7, the President of Georgia issued an order to start a defensive operation with the following objectives:

- Protection of civilians in the Tskhinvali Region/South Ossetia;
- Neutralization of the firing positions from which fire against civilians, Georgian peacekeeping units and police originated;
- Halting of the movement of regular units of the Russian Federation through the Roki tunnel inside the Tskhinvali Region/South Ossetia.

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[3] Two Georgian peacekeepers Shalva Trapaidze and Vitali Takadze were killed and five wounded (see annex 33 of the answer to question 1 of the military set of questions) on August 7 at around 14:00 as a Georgian peacekeepers checkpoint was shelled with 100 and 120mm artillery o from the proxy regime-controlled village Khetagurovo. A proxy militant reported to superiors the fact of killing Georgian peacekeepers in a telephone conversation also intercepted by the Georgian Ministry of Internal Affairs on 07.08.2008. The transcript of this conversation can be found in annex 75 of the answer to question 1 of the military set of questions.

[4] All movements by the Georgian troops were taking place on the territory of Georgia as established and recognized by international treaties and UN SC resolutions 1808, 1781, 1752, 1716, 1666, 1656, 1615, 1582, 1554, 1524, 1494, 1462, 1427, 1393, 1364, 1339, 1311, 1287, 1255, 1225, 1187, 1150, 1124, 1096, 993, 971, 937, 934, 906, 901, 896, 892, 881, 876, 858, 854, 849 within the constitutional limits and under the right to self-protect as defined by Article 51 of UN Charter.

An operative group was formed to carry out the orders and subsequent operation. The commander of the Land Forces was appointed as the commander of the operative group. The command headquarters was ordered to carry out the operation.

Upon discussion of the Operational Plan, concrete actions were identified, according to which, after receiving orders, the operational group was set to immediately start movement, with artillery and air support:

- The 4th Infantry Brigade was to operate on the left flank with the following objective: 1st phase - advance towards Khetagurovo, Tbeti and Znauri directions; ensure blockage of the Dzara by-pass road. Afterwards (2nd phase) continue advancement to take dominant heights at the edge of the Kusireti-Gupta Bridge and not allow regular units of the Russian Federation to enter Tskhinvali, Znauri and the Didi Liakhvi Gorge villages.

- The 3rd Infantry Brigade was to operate on the right flank with the objective: Ist phase – advance towards Tirdznisi, Eredvi, and Sarabuki directions, take defensive positions at the natural boundary of Frisi-Zemo Kokhati with the aim to protect civilians and the Eredvi-Kheiti bypass road. Subsequently (2nd phase) continue to advance towards the proxy militant-controlled Tliakana dominant height, take the height and establish defensive positions on the edge of Tliakana-Didkhevi in order not to allow the enemy to enter the region through the Geri bypass road, protect civilians, defend by-pass roads in the Didi Liakhvi Gorge and ensure secure the evacuation of civilians from the theatre of military operations.

After these objectives were fulfilled by the 3rd and 4th Infantry Brigades (3rd phase), the plan was to enter Tskhinvali from the central direction utilizing Ministry of Interior special units, supported by a Separate Light Infantry Battalion of the Armed Forces and a subordinated single tank battalion to neutralize firing positions within the city and reach the Georgian enclave north of the town.

Air Force objectives were defined as:

- Destruction by SU-25 ground attack aircraft of the Gupta Bridge, including personnel and armor on the move in its vicinity.

- Possible contact line with the enemy was defined for MI-24 attack helicopters between the village of Khetagurovo and South–Eastern limits of Tskhinvali with possible engagement upon necessity.

Artillery units were grouped into I and II artillery groupings with the following objectives:

- Fire support to the 3rd and 4th Infantry Brigades;
- Destruction of already identified and newly detected firing positions; and
- Neutralization of convoys of Russian regular forces moving on the by-pass roads.

On August 7, after receiving the order from the Commander-in-Chief of Georgia, the Georgian Armed Forces artillery units started firing smoke bombs and subsequently at 23:50 began firing.

On august 8, at 00.15, the units concerned started movement from their deployment places towards the directions identified:

- On the left flank the 4th Infantry Brigade moved without particular resistance and in the morning, by 08.00 completed the first phase of the operation and started carrying the second phase. Meanwhile Russian regular forces started intensive movement on the Dzara by-pass road. Simultaneously, massive artillery and aviation attacks were launched against the positions of the 4th Infantry Brigade. These attacks were carried out from the north (in particular from the village of Kusureti) resulting in significant combat losses of the 4th Brigade.

- On the right flank the 3rd Infantry Brigade moved in the pre-identified direction, but heavy artillery fire hampered their advance. Due to this, the 3rd Infantry Brigade finished the first phase of the operation an hour (at 09.00) later and did not succeed in occupying the dominant heights during the designated period. This fact directly jeopardized the safe evacuation of civilians from the Didi Liakhvi gorge.

During their movement on the right and left flanks, Georgian units came under intensive fire originating from Tskhinvali. In parallel, fire from Tskhinvali was targeting the villages of Tamarasheni, Ergneti and Zemo (Upper) Nikozi.

At around 06:00, special forces of the MIA of Georgia equipped with Cobra type armored vehicles and reinforced by several tanks from the MOD of Georgia, moved from village Zemo Nikozi towards the outskirts of Tskhinvali in order to suppress the fire at that village coming from the proxy regime militants located in the southwestern part of the town, the so called "Shanghai" suburb. The MIA Special Forces encountered sniper and massive armored vehicle cannon fire from the Russian peacekeeping headquarters "Verkhniy Gorodok" located on the southwestern edge of the town and were compelled to return fire and ask for tank support as well. In fact, the roof of the main building of "Verkhniy Gorodok" was used by enemy for correcting artillery fire against Georgian armed forces, which is confirmed by an article in the South Ossetian press.[5] It should be noted that earlier, at 00:23, commander of the JPKF Marat Kulakhmetov in phone conversation with the head of the Georgian peacekeeping contingent Gen Kurashvili admitted that the Russian peacekeepers had been providing coordinates for artillery shelling to the proxy militants.[6]

The Separate Light Infantry Battalion and a single Tank Company of the Separate Armored Battalion were made available for their reinforcement. As soon as forward units entered the city of Tskhinvali at 11 am, they came under intensive air and artillery bombardment in the southern part of the city. The bombardment widened along with movement of the units in the city and gradually covered the entire city. Due to the character of the battle and presence of multiple reinforced firing positions of the enemy inside the city, Ministry of Interior units were reinforced by additional forces (the 4th Brigade). Prior to that, the decision was made to introduce the 2nd Infantry Brigade, stationed

[5] See annex 90 of the answer to question 1 of the military set of questions.
[6] See annexes 87 A and B of the answer to question 1 of the military set of questions.

in Senaki, Western Georgia, to replace the 4th Brigade on the left flank, upon its transfer to Tskhinvali *(for a detailed chronology as well as evidence, please see responses and annexes to question 1 of the military set of questions).*

2.2. When were the Russian troops deployed from the Russian Federation into Roki Tunnel? When did they move into Tskhinvali region? Where any Russian units deployed in the Tskhinvali region prior to 7th August 2008?

Prior to August 7 – in addition to the Russian Peacekeepers that were in place since 1992 and mercenaries from the Russian Federation – Russian military deployments in the region took place in several forms. First, Russia continuously used rotation of the peacekeepers as a pretext and mechanism to deploy units in the region that were subsequently used during the invasion (such as the GRU-subordinated "Vostok" battalion). During such rotations, specific units were tasked with the aim to study the terrain and reconnaissance for possible future combat. Second, two military bases were constructed in Java (Ugardanta) and Tskhinvali in 2007 and 2008 without the consent of the Government of Georgia. Of particular interest is the Java base. Left outside the reach of any monitoring mechanism, Russia deployed both artillery and tanks in the base months in advance of the war.

Gen Viacheslav Borisov, Deputy Commander of the Russian Airborne Troops, in a recent interview to Echo Moskvy radio station pointed out that the success of airborne troops was due to their direct presence "in the same areas... a week before August 7th" that he was in charge of "South Ossetian and Georgian sectors" and the fact that they were already on the move prior to the beginning of the active phase of hostilities.[7]

From July 4-6, 10 armored vehicles entered the Tskhinvali Region/South Ossetia from the Russian Federation via the Roki Tunnel (Georgian intelligence data, HUMINT).Then from July 13-14, 13 T-72 type tanks were reported moving from the town of Alagir, North Ossetia towards the Roki Tunnel, as well as 6 "Ural" type trucks loaded with soldiers were driving from the village of Zaramag, North Ossetia towards the Roki Tunnel (Georgian intelligence data, HUMINT).

By the end of July (exact date and time unknown), large tents were set up on the territory of the new Russian military base in the northwestern part of Tskhinvali (for about 1,500-2,000 persons). According to information from Russian peacekeepers, soldiers from the 33rd Motor Rifle Mountain Brigade (centered in Botlikh, Dagestan) were soon to be deployed there (Georgian intelligence data, HUMINT).

Following these steps, on August 3, units of the separate reconnaissance battalion of the the 19th Motor Rifle Division of the 58th Russian Army were reported to be deployed in the Java district through the Roki Tunnel (Georgian intelligence data, HUMINT).

On August 4, during the night, 10 units of armor (BTR/BMP vehicles) were brought into the Tskhinvali Region/South Ossetia from the Russian Federation and distributed among the de facto

[7] Radio "Echo Moskvi", Program "Military Advice," 06.06.2009, http://www.echo.msk.ru/programs/voensovet/596473-echo/ (see attached)

regime irregular forces. Two vehicles were handed over to the de facto regime irregular forces unit located in the village of Dmenisi, Tskhinvali district (Georgian intelligence data, HUMINT).

On August 5, during the day, 40 units of self-propelled artillery and a reconnaissance battalion of the 33rd Motor Rifle Mountain Brigade from Botlikh, Dagestan were deployed in South Ossetia through the Roki Tunnel, and 30 artillery guns were brought into the Java district. Some units of the 58th Army were reported to be mobilized near the Roki Tunnel in North Ossetia, Russia, including the 135th Separate Motor Rifle Regiment from Prokhladniy, Kabardino-Balkaria and the 693rd Motor Rifle Regiment from Zaramag, North Ossetia (Georgian intelligence data, HUMINT).

On August 6, during the night, several units of armor (including BTR 's and BMP vehicles, as well as self-propelled artillery systems) were brought into South Ossetia from the Russian Federation and deployed near the southern entrance to the Roki Tunnel (Georgian intelligence data, HUMINT).

On August 7, at 03:25, the MIA of Georgia obtained the first communication intercept according to which a Russian military unit that included tanks and military trucks loaded with soldiers entered the Roki Tunnel.[8] At 03:41, a large number of armored vehicles, tanks and military trucks of the Russian regular army streamed into the Roki Tunnel and were deployed in the Java district. This is confirmed by two mobile telephone conversations intercepted by the MIA of Georgia.[9] Numerous articles in the Russian press also confirm that Russian army units, namely parts of the 693rd and 135th motor rifle regiments of the 58th army, had entered South Ossetia prior to August 8.[10] As reported by the South Ossetian de facto regime's main newspaper "Iuznaia Ossetia", on that night the head of South Ossetian proxy authorities, Eduard Kokoity travelled from Tskhinvali to the Java district "in order to meet with representatives of the Russian Ministry of Defence."[11] Significantly, Russia has not disputed the authenticity of the intercepts. Russia initially denied existence of any such convoys. After facing the evidence, however, the Russian military claimed this movement of troops was part of "normal rotation".[12] The Russian explanation that these calls refer to a routine rotation of their peacekeeping troops is false. According to the peace agreement in force at that time, any rotation should have happened during daylight, no peacekeeping units were allowed to possess tanks and all relevant parties should have been notified (i.e. the Georgian Government and OSCE) a month in advance. None of this happened. The previous rotation of Russian forces was in May 2008.

On August 7, at around 12:00, head of Abkhazian proxy authorities Sergey Bagapsh announced that he had put Abkhazian armed forces on alert in order to provide military assistance to South Ossetia and that a battalion from the North Caucasus military district of Russia had already entered Tskhinvali Region (this statement was broadcasted by Russian TV at 17:00).[13]

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[8] See annexes 39 and 40 of the answer to question 1 of the military set of questions.
[9] See annexes 41-46 of the answer to question 1 of the military set of questions.
[10] See annexes 47-67 of the answer to question 1 of the military set of questions.
[11] See annex 68 of the answer to question 1 of the military set of questions.
[12] "Georgia Offers Fresh Evidence on War's Start," by Dan Bilefsky, C.J. Chivers, Tom Shanker and Michael Schwirtz *The New York Times*, Sept. 16, 2008.
http://www.nytimes.com/2008/09/16/world/europe/16georgia.html?partner=rssnyt&emc=rss (see attached)
[13] See annex 77 of the answer to question 1 of the military set of questions.

On August 7, during the day, Georgian authorities received military intelligence that Russian troops (which had never re-deployed from July's North Caucasus military exercises) were put on high alert and had received orders to prepare to move towards the Georgian border.

On August 7, late in the evening, the Georgian government received multiple human intelligence reports that about 150 armored vehicles and trucks with Russian soldiers were approaching the Roki Tunnel from Russia and moving towards the Tskhinvali Region/South Ossetia. Later, multiple signal intercepts of phone conversations among the de facto security and military officials that took place between 02:20 and 04:30 on August 8 confirm that Russian military columns were stretched from the Roki Tunnel to the village of Java[14]

On August 8, at 05:20, incoming Russian troops passed the village of Java crossing the Gupta Bridge and advanced on the Dzari bypass road, which is confirmed by a telephone conversation intercepted by the Ministry of Interior of Georgia.[15] Soon after that, two more columns of Russian troops entered the Roki Tunnel and advanced south by the Geri-Dmenisi road.

On August 8, at 18:45, one column of Russian tanks, armored vehicles and trucks approached Tskhinvali by the Dzara road. Two more columns were stopped near the village of Dmenisi. Russian forces opened intensive fire on Georgian armed forces located in Dmenisi, in Tskhinvali and on the neighboring heights.

On August 8, by 22:00, Russian troops approached the Big Liakhvi valley from the north, but failed to enter it, suffering heavy losses caused by Georgian artillery fire and also stopped moving on the Dzara road towards Tskhinvali.

On August 9, at 11:40, Russian forces, including airborne troops started to enter Tskhinvali from the north-west and from village Tbeti.

On August 9, at 17:00, additional Russian troops entered Tskhinvali.

On August 10, early in the morning more than 300 Russian tanks and armored vehicles, together with more than 10 000 Russian troops passed through the Roki Tunnel.

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[14] See annexes 81-86 of the answer to question 1 of the military set of questions.
[15] See annexes 88 and 89 of the answer to question 1 of the military set of questions.

3. What were the roles and activites of the components of the Joint Peacekeeping Forces (which had a mandate in the Tskhinvali Region) as well as those of the CIS Peacekeeping Forces (which had a mandate in the Georgian-Abkhaz conflict zone) in August 2008?

The Joint Peacekeeping Forces, which were deployed in the Georgian-Ossetian conflict zone on the basis of the 1992 Sochi Agreement between Russia and Georgia, consisted of three peacekeeping battalions: the Russian battalion, the Georgian battalion and the battalion of North Ossetia, Russian Federation (which was in fact staffed by South Ossetian militia fighters[1]). Each batallion was manned by 500 soldiers (in an emergency situation the personnel of each battalion could be increased up to 900 soldiers).

The Joint Peacekeeping Forces had two headquarters in the Tskhinvali Region/South Ossetia, in what is commonly called "Nizhniy Godorodok" in the central part of the town of Tskhinvali, where the Commander of the JPKF had his office and at "Verkhniy Gorodok" in the southwestern part of the town.

By August 2008, the peacekeepers were stationed at 14 checkpoints in the following villages of Tskhinvali Region/South Ossetia.

Joint Checkpoints

1. Kekhvi (1 Russian platoon, observers: 1 Russian, 1 Georgian, 1 Ossetian).
2. Frisi (1 Russian platoon, observers: 1 Russian, 1 Georgian, 1 Ossetian).
3. Tstveriakho (1 Russian platoon, 1 Georgian platoon, observers: 1 Russian, 1 Georgian, 1 Ossetian).
4. Megvrekisi (1 Russian platoon, observers: 1 Russian, 1 Georgian, 1 Ossetian).
5. Vanati (1 Russian platoon, observers: 1 Russian, 1 Georgian, 1 Ossetian).
6. Kverneti (1 Russian platoon, observers: 1 Russian, 1 Georgian, 1 Ossetian).
7. Tamarasheni (1 Russian platoon, observers: 1 Russian, 1 Georgian, 1 Ossetian).
8. Artsevi (1 Russian platoon, observers: 1 Russian, 1 Georgian).
9. Avnevi (1 Russian platoon, observers: 1 Russian, 1 Georgian).

Russian Checkpoints

10. Eredvi (1 Russian platoon).

Georgian Checkpoints

11. Avnevi (1 Georgian platoon).
12. Sarabuki (1 Georgian platoon).
13. Kekhvi (6 Georgian peacekeepers).
14. Tamarasheni (6 Georgian peacekeepers).

[1] See: International Crisis Group, Georgia's South Ossetia Conflict: Make Haste Slowly, pp. 17-18.

When tensions in the conflict zone started to mount in July 2008, the Joint Peacekeeping Forces, as on many occasions before (*see answer to question 3 of the legal set of questions and annex 1 the Georgian MIA report on the JPKF activities in August 2004*) failed to abide by their mandate in terms of reporting on and curbing the illegal activities of South Ossetian de facto regime irregular forces, which were engaged in an illegal military build-up in the conflict zone. In addition, these forces were regularly firing in the direction of Georgian government controlled villages in Big Liakhvi, Small Liakhvi and the Frone valleys, as well as towards the villages south of the administrative border of the Tskhinvali Region/South Ossetia.

On July 29, at 16:00, South Ossetian de facto regime irregular forces shelled the central government controlled villages in Big Liakhvi valley for 40 minutes, using mortars and grenade launchers and at 22:00 shelled the Georgian peacekeeping checkpoint on the Sarabuki heights with 100mm and 120mm artillery. On August 1, from 21:30 onwards, South Ossetian de facto regime irregular forces shelled the Georgian villages of Zemo Nikozi, Kvemo Nikozi, Avnevi, Nuli, Ergneti, Eredvi and Zemo Prisi with large caliber artillery. The shelling continued overnight and stopped only in the morning on August 2.

On August 2 and 3, the JPKF conducted monitoring of most of the villages damaged by the shelling and on August 4 issued a report confirming the fact of the shelling of Zemo Nikozi, Kvemo Nikozi, Nuli, Eredvi and Zemo Prisi with 82mm artillery, as well as the earlier shelling of Georgian peacekeepers on the Sarabuki heights with 100 mm and higher caliber artillery.[2] However, the JPKF report did not specify who had shelled these villages although the leadership of the North Ossetian peacekeeping battalion and, presumably, the commander of the JPKF knew perfectly well that only South Ossetian proxy regime irregular forces could have been responsible for this shelling on Georgian-controlled villages.

Numerous telephone conversations intercepted by the Ministry of Internal Affairs of Georgia reveal that Russian and Ossetian peacekeepers were aware of these violations, but did not report them and on several occasions even collaborated to hide the evidence of these violations. Moreover, at times South Ossetian de facto regime irregular forces and "North Ossetian" peacekeepers coordinated their attacks on Georgian peacekeepers and police. The most vivid examples of such violations are listed below:

- On July 29, at 22:40, a duty officer of the North Ossetian peacekeeping battalion, Mr. Ruslan Makeev informed the Senior Commander of North Ossetian peacekeepers, Mr. Kazbeg Friev that a unit of the North Ossetian peacekeeping battalion had opened fire towards the Georgian peacekeeping battalion.
- On July 30, at 10:42, Mr. Alik Lagkoev, the chief military observer in the North Ossetian peacekeeping battalion telephoned a duty officer at the South Ossetian de facto Ministry of Defense and warned them that monitoring was going to be conducted by the JPKF in the area close to the Sarabuki heights.
- On August 1, at 22:57, Mr. Arsen Kvezerov, deputy Commander of the 7th battalion of the South Ossetian de facto Ministry of Defense told Mr. Philip Khachirov, the head of North Ossetian peacekeeping battalion to pass a request to militants to support his fire and offered to give the coordinates of either Georgian police or Georgian peacekeepers.

[2] See annex 23 of the answer to the question 1 of the military set of questions.

- On August 2, at 21:01, Mr. Arsen Kvezerov, Deputy Commander of the 7th battalion of the South Ossetian de facto Ministry of Defense and Mr. Philip Khachirov, Head of the North Ossetian peacekeeping battalion discussed a scheme for the future shelling of positions of Georgian peacekeepers and police.
- On August 4, at 14:44, the Senior Commander of Georgian peacekeepers, General Mamuka Kurashvili contacted the Commander of the JPKF General Marat Kulakhmetov on the phone and asked him to conduct additional monitoring of the places from where the Sarabuki heights might have been shelled since he was sure that the trace left by a 100mm shell on the Sarabuki heights could show the direction from where it originated. At 15:34, the de facto Defense Minister of South Ossetia, Russian Colonel Vasily Lunev, who was already informed that the shells were traceable, telephoned Mr. Valeri Kokoev, the Commander of the 7th battalion of the South Ossetian de facto Ministry of Defense that was responsible for the shelling, and instructed him to change something on the firing position in order to conceal the trace.
- On August 6, at 11:58, a person named Alan reported to Mr. Alik Lagkoev, the chief military observer in the North Ossetian peacekeeping battalion that "their people" shelled the positions of either Georgian police or Georgian peacekeepers. Mr. Lagkoev has never reported this fact.
- On August 6, at 19:06, Mr. Alik Lagkoev, the chief military observer in the North Ossetian peacekeeping battalion asked Mr. Ibragim Gasceev, the de facto Deputy Defense Minister of South Ossetia to report about the results of shelling of an armored vehicle of the Georgian peacekeeping battalion.
- On August 6, at 21:18, Mr. Valeri Kokoev, the Commander of the 7th battalion of South Ossetian de facto Ministry of Defense informed the Senior Commander of North Ossetian peacekeepers Mr. Kazbeg Friev that during the night "something" was going to be brought into the area. Mr. Friev interrupted and warned him not to talk about this via Georgian mobile communications.
- On August 7, at 00:22, Mr. Alik Lagkoev, the chief military observer in the North Ossetian peacekeeping battalion asked Mr. Ibragim Gaseev, the de facto Deputy Defense Minister of South Ossetia to correct their artillery fire at Georgian peacekeepers because some of the shells mistakenly fell near the location of Russian peacekeepers.
- On August 7, at 06:51, Mr. Philip Khachirov, Head of the North Ossetian peacekeeping battalion gave advice to Mr. Arsen Kvezerov, Deputy Commander of the 7th battalion of the South Ossetian de facto Ministry of Defense in choosing targets for their artillery attack.

(See annexes 2-23 for these telephone intercepts and their transcripts)

From August 6 onwards no monitoring was conducted by the JPKF in the conflict zone, despite requests by the Georgian battalion of the Joint Peacekeeping Forces. On August 7, at 14:00, the Georgian peacekeeping checkpoint in Avnevi was heavily shelled with 100mm and 120mm artillery, by South Ossetian proxy regime irregular forces located in the village of Khetagurovo, destroying the Georgian peacekeeping unit's armored vehicle, killing two Georgian peacekeepers, Mr. Shalva Trapaidze and Mr. Vitali Takadze and wounding five others.[3] Georgian peacekeepers returned fire in self-defence. Later the Ministry of Internal Affairs of Georgia intercepted a phone call, during which a member of the de facto regime irregular forces confirmed the fact of blowing up an armored

[3] See annex 33 of the answer to the question 1 of the military set of questions for the list of casualties among Georgian peacekeepers.

vehicle of Georgian peacekeepers in Avnevi with a cannon.[4] At around 17:00, after the Commander of the JPKF Marat Kulakhmetov refused to give additional security guarantees to Georgian peacekeepers in Tskhinvali. The Commander of Georgian peacekeepers Mamuka Kurashvili ordered officers of the Georgian peacekeeping battalion to leave the headquarters of the JPKF in Tskhinvali. At 17:10, despite casualties among Georgian peacekeepers and the shelling of central government controlled villages, Georgian peacekeepers unilaterally ceased fire to defuse tensions. This decision was communicated by the Georgian State Minister for Reintegration, Mr. Temur Yakobashvili to the Commander of the JPKF General Marat Kulakhmetov at 17.00.

In the evening of August 7, at 20:30, South Ossetian de facto regime irregular forces resumed their shelling of Georgian peacekeepers and police officers located in the village of Avnevi, and the Frone valley and at 23:30, intensified their artillery fire on all positions of Georgian peacekeepers and police in Big Liakhvi, Little Liakhvi and the Frone valleys.

From August 8 to 9, the Georgian peacekeeping battalion continued to serve at its checkpoints until the evacuation of the civilian population from Big Liakhvi, Little Liakhvi and the Frone valleys was completed in the afternoon of August 9. It is important to note that none of the checkpoints of the Russian and North Ossetian peacekeeping battalions located outside the town of Tskhinvali were targeted by the Georgian armed forces. The situation at such major locations of the JPKF units such as Tstveriakho mountain, the villages of Megvrekisi and Artsevi remained calm despite the ongoing hostilities. However, the situation was different in Tskhinvali.

Units of Russian and North Ossetian battalions of the JPKF located at their headquarters in "Nizhniy Godorodok" (in the central part of Tskhinvali) and "Verkhniy Gorodok" (in the southwestern part of Tskhinvali) were actively involved in the hostilities. On multiple occasions, they contributed to the war effort of the Russian Army and South Ossetian militants by providing peacekeepers' facilities and infrastructure to high-ranking officials of the proxy regime and representatives of the de facto regime irregular forces. Moreover, these headquarters were used for directing aerial bombardments and artillery fire of the Russian Army and South Ossetian militants against Georgian government forces.

It should be noted that earlier, at 00:23, the Commander of the JPKF, General Marat Kulakhmetov a in telephone conversation with the Head of the Georgian peacekeeping contingent Gen Kurashvili admitted that the Russian peacekeepers had been providing coordinates for artillery shelling to the proxy militants.[5] Importantly, the above took place well before any Russian claims of alleged Georgian attacks on peacekeepers.

On August 8, at around 06:00, Georgian Ministry of Internal Affairs special forces equipped with "Cobra" type armored vehicles and reinforced by several tanks from the Ministry of Defence of Georgia, moved from the village of Zemo Nikozi towards the outskirts of Tskhinvali in order to suppress the fire opened at that village by the de facto regime irregular forces located in the southwestern part of the town, the so called "Shanghai" district. The Ministry of Internal Affairs Special Forces encountered sniper and massive armoured vehicle cannon fire from the Russian peacekeeping headquarters "Verkhniy Gorodok" located on the southwestern edge of the town and

[4] See annexes 75 and 76 of the answer to the question 1 of the military set of questions for the telephone intercept and its transcript.

[5] See annex 87 A and B of the answer to the question 1 of the military set of questions for the telephone intercept and its transcript.

were compelled to return fire and ask for tank support. In fact, the roof of the main building of "Verkhniy Gorodok" was used by South Ossetian de facto regime irregular forces for correcting their artillery fire against Georgian armed forces, which is confirmed by an article in the South Ossetian press.[6] In the result of fire returned by Georgian forces towards the headquarters, a lieutenant of the Russian Artillery Intelligence Division Oleg Golovanov was severely wounded and later died. According to the article, "[h]is surveillance post was located on the roof of the Russian Peacekeeping Battalion building in the southern outskirt of the town" from where "Oleg corrected artillery fire."[7]

According to an interview of Colonel Kazbek Friev, the Commander of North Ossetian peacekeepers to the South Ossetian de facto regime's radio, parts of the battalion under his command "have taken pre-planned positions and acted jointly with the battalions of the Ministry of Defense [of Russia]" and "were halting the advancement of Georgian troops."[8] Colonel Friev also states that the mission of the peacekeepers was "not to allow Georgians to pass through the town." He organized positions of his soldiers and armored vehicles (BMPs and BTRs) in Tskhinvali, namely, in Shanghai, Tsarz and the Mamisaantubani districts in the south of the town. As mentioned above, they acted jointly with Russian Ministry of Defense troops.[9]

Since late afternoon on August 7, 2008, part of the leadership of the de facto regime, particularly "all the power ministers" started to gather at the peacekeepers' headquarters at "Nizhniy Gorodok." Parts of the scattered irregular forces also gathered at this place, which was used as one of the centers for "coordinating the town's defense effort."[10]

The JPKF headquarters "Nizhniy Gorodok" was the place where Anatoly Barankevich, the Security Council Chairman in the South Ossetian proxy regime, appeared to request help.[11] According to Barankevich, he "proposed to Kulakhmetov [the Commander of the JPKF] to hold the circle of defense together, and to stand until Russian troops approached." Simultaneously, on the territory of the peacekeepers' base he was provided with a mobile phone by which he contacted the Russian leadership and demanded "the promised reinforcements." Mr. Barankevich, aided by a number of South Ossetian militants, also decided to secure the roads to the JPKF headquarters. For that purpose, they occupied the surrounding houses, from where they ambushed and attacked Georgian police and military moving around the town.[12]

Despite the above-mentioned evidence, which was apparent on the ground during the military operation, Georgian armed forces never opened fire towards "Nizhniy Gorodok." The latter area, as well the town of Tskhinvali in general, came under heavy Russian artillery fire upon the entry of the Georgian forces into the town. The analysis of the footage broadcasted by the Russian NTV (see annex 24) shows that the GRAD missile that exploded next to the peacekeepers' headquarters came

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[6] See annex 90 of the answer to the question 1 of the military set of questions., http://osradio.ru/genocid/10778-oleg-galavanov-pogib-projaviv-muzhestvo-i-geroizm.html
[7] Ibid.
[8] See annex 91 of the answer to the question 1 of the military set of questions., http://osradio.ru/news/all/eid/15376.html
[9] Ibid.
[10] Ibid.
[11] See annexes 93 and 94 of the answer to the question 1 of the military set of questions.http://www.izvestia.ru/special/article3119348/index.html, http://www.kommersant.ru/doc.aspx?DocsID=1089120
[12] Ibid.

from the north. In another open source interview, a Russian soldier admits firing GRADs at the town of Tskhinvali.[13]

In spite of the overwhelming evidence of the direct involvement of the peacekeepers in the hostilities, Georgian armed forces treated them with due precautions, and never launched an offensive unless the hostile activities were initiated by peacekeepers or persons or vehicles wearing peacekeepers identifications. For instance, on the morning of August 9, at 12:00-13:00, the 41st Battalion of the 4th Infantry Brigade of the Georgian armed forces was moving into the town of Tskhinvali in order to reinforce the MIA special forces. Immediately before they entered the town a chain of armored vehicles and tanks full of armed persons appeared. The chief of the Battalion ordered the troops to allow the chain of vehicles and tanks to come unhindered until they reached visible distance in order to confirm their identification. Soon it became known that the tanks and armored vehicles had easily identifiable sign of Russian Peacekeeping Forces (yellow "MC" on the blue background). The Commander of the Battalion ordered to withhold fire and to allow the peacekeepers to pass. The column penetrated deep into the 41st Battalion and suddenly attacked the Georgian unit with automatic rifle fire and hand-grenades. The Commander of the Battalion, Major Shalva Dolidze, as well as several other members of the Battalion died and dozens of Georgian soldiers were wounded.

In the course of the hostilities, it became finally evident that Russian armed forces were using the Russian peacekeeping battalion of the JPKF to conduct reconnaissance of the area long before the invasion. For example, units of the Special Battalion "Vostok" (centered in Gudermes, Chechnya, under the GRU command) were first deployed in the Tskhinvali Region/South Ossetia as part of the JPKF in the summer of 2007 and underwent at least two rotations since then. The Group Commander of the "Vostok" battalion, Mr. Rasul Baimuradov, who was in charge of these units in 2007, led his group into the battle as part of Russian regular troops in August 2008 (see annex 25 for a video of Baimuradov as a peacekeeper in Tskinvali Region in 2007, annexes 26-28 for photos and a video of Baimuradov in Tskhinvali in 2008 and annex 29 for a video of his testimony).

On August 10, Russian armed forces, mostly with peacekeeper identification marks, started the occupation of western Georgia.

By August 2008, the Collective Peacekeeping Forces, which were deployed in the Georgian-Abkhazian conflict zone on the basis of the 1994 Moscow Agreement between Russia and Georgia, were stationed on the following checkpoints: no. 301 Rukhi; no. 302 Khudoni; no. 304 Eristskali; no. 305 Fakhulani; no. 306 Shamgona; no. 306a Shamgona; no. 308 Ganmukhuri; no. 309 (base) Anaklia; no. 310 Knurcha; no. 311 (base) Rikhe; no. 312 (base) Potskho-Etseri; no. 201 Chuburkhinji; no. 202 (base) Tagiloni; no. 203 Tkvarcheli, mine no. 5; no. 204 (base) Enguri power plant; no. 205 Saberio, Samkervalo settlement; no. 206 Enguri power plant, settlement Najikhuri; no. 207 (base) Kvishona; no. 208 Meore Otobaia; no. 209 Nabakevi; no. 210 Pichori; no. 211 Samarkvalo; no. 101 bridge on Gali canal; no. 102 (base) Rechkhi; no. 103 Repho-Etseri; no. 104 Primorski; no. 105 Zemo Bargebi; no. 106 (base) Kvemo Lata; no. 107 Zemo Lata; no. 108 Kvemo Gumurishi; no.109 Sida.

On August 10 2008, at about 22:30 Russian troops, including Russian Peacekeepers and Abkhazian de facto regime irregular forces crossed the administrative border at the Enguri River and entered

[13] See annexes 95 and 96 of the answer to the question 1 of the military set of questions.

the Zugdidi district. Russian "peacekeepers" occupied most administrative buildings in the town of Zugdidi and presented an ultimatum to the local police to surrender their weapons.[14] The occupation of the towns of Zugdidi, Senaki and Poti, villages in Khobi and Tsalenjikha districts by the "peacekeepers" was finalized by August 12.

On August 12, at 11:00, Russian airborne troops and Abkhazian de facto regime irregular forces launched a ground attack in the Upper Abkhazia/Kodori Gorge. The operation to occupy the Kodori Gorge was planned by Mr. Aleksandr Pavliushko, de facto Deputy Minister of Defense of Abkhazia since April 30, 2008, who used to serve as the Head of Russian peacekeepers' staff in the Collective Peacekeeping Forces.From his experience as a peacekeeper frequently accompanying UNOMIG observers in Kodori Gorge in 2006-2008, he knew every location of Georgian police in the area (see annexes 30 and 31 for photo and video).

Thus, Russian Peacekeeping forces have actively participated in the military invasion and occupation of Georgia. Russian peacekeepers were present at many checkpoints of the Russian occupying forces throughout August 2008, which was a clear violation of their peacekeeping mandate and the basic norms of international law.

A huge amount of evidence showing different kinds of violations by Russian peacekeepers of their mandate, including how Russian peacekeepers were looting a Georgian military base in Senaki and the Coast Guard's buildings in Poti, can be found in the footage of Georgian TV (see annexes 32- 33 for the TV footage and its description).

The Russian Federation had repeatedly asserted that the attack on Russian peacekeepers was one of the principal reasons for their invasion. At 02:37 in the morning of the August 8, Russian Deputy Foreign Minister, Gregory Karasin telephoned his Georgian Minister of Foreign Affairs Gregory Vashadze and informed him that Russia will respond militarily to the death of its peacekeepers in Tskhinvali. About hour and half later, the Russian ambassador to Georgia, Viacheslav Kovalenko visited Georgia's Ministry of Foreign Affairs to officially convey the same message. Although, the first encounter between Georgian forces and Russian peacekeepers took place at 06:00, at least three hours later than Karasin's phone call.

The evidence herein shows that Russian peacekeepers both in Abkhazia and Tskhinvali Region/South Ossetia not only fell short of fulfilling their mandate but guided and assisted proxy militaries before the war and directly participated in the hostilities during the active phase of the Russian invasion.

[14] See annexes 104 and 105 of the answer to the question 1 of the military set of questions.

4. What was the timing of deployments/operations in Upper Kodori Valley? And which Forces were involved?

Georgian Police Presence in Upper Abkhazia

July 2006 - August 2008

Restoring Law and Order in the Kodori Gorge

1. By July 2006, the Kodori Gorge was controlled by an illegal armed grouping led by the former governor of the Gorge, Emzar Kvitsiani (dismissed in December 2004) and his nephew Bacho Argvliani. This group, which included members of the former militia battalion "Monadire" (abolished in April 2005), was involved in illegal arms trade, hostage taking and human trafficking. Mr. Kvitsiani and his relatives also appropriated humanitarian aid, which the Georgian government used to send to the population of the region. UNOMIG suspended monitoring of the Kodori Gorge since the hostage-taking incident in June 2003.

2. In July 2006, the Georgian government proposed that Emzar Kvitsiani lay down his arms and allow the newly appointed local administration and police to enter the Gorge. Mr. Kvitsiani disobeyed and organized an anti-government armed rebellion. In response to that, on 25-27 July 2006, the special forces of the Ministry of Internal Affairs of Georgia, led personally by Minister Ivane Merabishvili, conducted an anti-criminal operation in order to restore law and order in the region. After an exchange of fire between the police and the criminals near the village of Sakeni on July 25, Mr. Kvitsiani, Mr. Argvliani and their closest accomplices escaped from the Gorge to the territory controlled by Abkhazian separatists, while most members of the former militia battalion "Monadire" laid down their arms. The Ministry of Internal Affairs of Georgia seized huge deposits of modern Russian armaments worth of several million US Dollars, freed a number of human trafficking victims and arrested numerous criminals that had been hiding in the Gorge for several years. Emzar Kvitsiani ended up in Russia and since then issued several terrorism threats against the Georgian government via Russian state TV channels.

3. After this successful operation, the Georgian government officially renamed the Kodori Gorge into Upper Abkhazia and relocated the legitimate Government of the Autonomous Republic of Abkhazia (in-exile) to the region's administrative center village Chkhalta. The Ministry of Internal Affairs of Georgia was tasked with rebuilding the infrastructure of the Gorge and by November 2006 it completed the reconstruction of the police station, houses for police officers, the hospital, the bank, the school, the administration building in the village of Chkhalta and communications in Upper Abkhazia. The Georgian government also started to build a new road connecting the Kodori Gorge with the rest of Georgia.

Georgian Police Forces in Upper Abkhazia

4. Since the end of July 2006 through early August 2008, the Ministry of Internal Affairs maintained from 380 to 580 police officers in Upper Abkhazia (the number varied at times according to security needs). A large part of these police officers, those from the Criminal Police Department and the Special Tasks Main Division of the Ministry of Internal Affairs were rotating on a monthly basis and a small part of them (up to 100) were recruited locally by the Border Police Department of the Ministry of Internal Affairs to guard the Upper Abkhazia section of the Georgian-Russian border.

5. Georgian police units (in average groups of 30-40 policemen) were permanently present in the villages of Kvabchara, Mramba, Ptish, Chkhalta, Ajara, Left Gentsvishi, Right Gentsvishi, Omarishara and Sakeni.They were armed with light weapons only and conducted routine patrols in these and other villages of the Gorge (22 villages in total).

6. On 12 October 2006, UNOMIG and the CIS CPKF resumed regular joint patrolling of Upper Abkhazia. During the next joint patrolling, on 14-16 December 2006, UNOMIG and CPKF witnessed the demolition of a large stock of armaments that had been seized by the Ministry of Internal Affairs in July 2006. The next UNOMIG/ CPKF patrols were on 5-7 March 2007, 14-15 May 2007 and 4-6 June 2007.

7. In July 2007, UNOMIG reestablished its team presence in the village of Ajara and since then began monitoring the whole Gorge on a daily basis until 9 August 2008. During this time, UNOMIG observers did not witnessed any violations of the 1994 Moscow Agreement by the Georgian side in Upper Abkhazia, while Abkhazian separatists, aided by the Russians, staged several serious armed provocations (see annex 1 for UN reports on Kodori Gorge).

Russian/Abkhazian Attacks on Upper Abkhazia Before the August War

8. On 25 October 2006, three "BM-21/Grad" missiles fell on the village of Ajara, one near the location of Ivane Merabishvili, Minister of Internal Affairs of Georgia, who was visiting the Kodori Gorge at the time. The fire came from the Abkhazian controlled Tkvarcheli district.

9. On 11 March 2007, from 22:10 until 24:00, the Kodori Gorge suffered from simultaneous artillery and air attacks. At least 17 "BM-21/Grad" type missiles were fired from the ground, and at least one "AT-9/Ataka" type guided missile from the air. The target of the air-attack was the administration building in the village of Chkhalta. The targets of the artillery attack were: the administration building in the village of Chkhalta, the storehouse of oil and fuel materials and the police station in the village of Ajara. The highly precise air attack by modern missiles, the night flight of helicopters in a mountainous area and the massive artillery bombing indicate that this was a well-organized and planned military operation, which could have been conducted in this region only by Russian forces.

10. On 20 September 2007, a special task unit of the Ministry of Internal Affairs of Georgia neutralized an armed grouping of 10 people in the Kodori Gorge which had planned an attack on

the new road connecting Upper Abkhazia with the rest of Georgia. The commander of the grouping and his deputy were killed in the exchange of fire. They were identified as Igor Muzavatkin (Vice-Colonel of Russian armed forces, a former member of the CPKF, who served on the contract basis in the border troops division of the Abkhazian separatist security service) and Artur Zorin (Major of Russian armed forces, also a former member of the CPKF). Seven members of the subversive group that identified themselves as members of the border troops division of the Abkhazian separatist security service, were arrested and later, as a gesture of good will, released and handed over to the Abkhazian separatist government.

11. On 9 July 2008, Abkhazian separatist forces attacked a group of Georgian police officers near the Achamkhara heights above the Kodori Gorge. Georgian police fired back. As a result of the exchange of fire, three Georgian police officers and two Abkhazian militia fighters were wounded. On 26 July 2008, Abkhazian separatist forces shelled the valley of the Kvabchara River in the Kodori Gorge from mortars. Fortunately, no one was injured.

Russian/Abkhazian Invasion and Occupation of Upper Abkhazia during the August War

12. The Russian government asserts that the operations carried out by Russian armed forces in Upper Abkhazia and Zugdidi district were aimed at preventing possible offensive of Georgian armed forces on Abkhazia. However, the 2nd brigade of the Georgian armed forces based in Senaki (western Georgia) had been completely relocated to Tskhinvali Region/South Ossetia early in the morning of August 9 – prior to the first air strike by Russian military aircraft on Upper Abkhazia at 13:40 on August 9 and the launching of ground operations by Russian troops in Zugdidi district and Upper Abkhazia, on August 10 and August 12 respectively. The absence of any sizable Georgian military contingent in western Georgia by the time Russian armed forces started their advancement in Upper Abkhazia and Zugdidi district refutes the Russian argument.

8 August

13. At around 23:45, two Russian military jets flew over the Kodori Gorge for reconnaissance purposes.

9 August

14. In the morning, the Abkhazian separatist authorities demanded UNOMIG to leave Upper Abkhazia as they, together with Russian army units, were going to start a military operation in order to oust Georgian police from the Gorge. UNOMIG complied and immediately left the area.

15. In between 13:40 and 14:40, Russian military aircraft bombed several villages in Upper Abkhazia, including the region's administrative center in the village of Chkhalta, as well as the villages of Omarishara and Ajara.

16. On 9 August, at 15:50 the Abkhazian separatist government openly declared that it had decided to start a military operation in order to drive out Georgian police from Upper Abkhazia. (see annex 2 for this statement)

17. From 22:20 to 22:30, Russian aviation again bombed the villages of Chkhalta and Gentsvisi.

10 August

18. In between 06:00 and 11:30, Russian aircraft bombed the villages of Chkhalta and Ajara.

19. At around 11:00, Georgian police started to evacuate the civilian population from the Gorge.

20. In between 12:20 and 15:15, Russian aviation heavily bombed a large part of the Gorge, including the village of Chkhalta.

21. From 16:10 to 16:15 and from 17:20 to 17:55, Russian aviation again bombed parts of Upper Abkhazia. Four civilians and three police officers were wounded as a result of this bombing. Later they were evacuated from the Gorge.

22. At 17:40, Abkhazian de facto leader Sergey Bagapsh declared mobilization and martial law on the territory of Abkhazia. (see annex 3)

23. From 19:40 to 20:05 and from 20:20 to 20:30 Russian aircraft bombed parts of Upper Abkhazia.

24. From 22:00 to 22:10, Russian aviation bombed the village of Gentsvisi.

25. At 22:30, Russian troops crossed the administrative border at river Enguri and entered Zugdidi district, which was empty of Georgian armed forces since, as noted above, Georgian regular troops staitoned in western Georgia had been relocated to Tskhinvali Region/South Ossetia early in the morning of August 9.

11 August

26. In between 00:20 and 03:30, Russian aviation bombed parts of Upper Abkhazia, including the village of Chkhalta.

27. By 12:00, Georgian police finished the evacuation of the civilian population from the Gorge (about 2,000 people in total).

28. At 16:05, the Abkhazian de facto Defense Minister Merab Kishmaria threatened to use "all means to establish Abkhazian jurisdiction over the Kodori Gorge." (see annex 5 for this statement)

29. From 19:05 to 19:10, Russian aviation bombed parts of Upper Abkhazia.

30. At 20:00, the Ministry of Internal Affairs of Georgia learned that some of the Russian army units that had entered Zugdidi district the day before, started to move in the direction of the Jvari pass and the town of Khaishi in Svaneti (northwestern Georgian province adjacent to Upper Abkhazia), from where they could easily enter the Kodori Gorge and encircle Georgian police units there. This Russian column consisted of 70 units of heavy armor and around 600 Russian soldiers. Thus, in order to avoid the siege, the Ministry of Internal Affairs immediately decided to withdraw its

forces from Upper Abkhazia. (see annex 3 for the depiction of Russian movement towards Kodori Gorge)

31. During the night Georgian police left the Gorge (up to 450 police officers), passing on the road above Khaishi towards Mestia.

12 August

32. At 03:00, the last group of Georgian police officers left Kodori Gorge. At 08:00, all Georgian police units that had came out of the Gorge passed above Khaishi and by 12:00 they arrived in Mestia.

33. At 11:00, Russian airborne troops and Abkhazian paramilitary forces launched a ground attack in Upper Abkhazia.

34. At 17:00, Abkhazian paramilitary forces occupied the villages of Zemo Ajara and Kvemo Ajara.

35. By 19:00, a Russian military column consisting of 70 units of heavy armor and 600 soldiers moved through the Jvari pass and reached the town of Khaishi, blocking the road to the Kodori Gorge from the east.

36. By 20:40, Abkhazian paramilitary forces fully occupied Upper Abkhazia.

Detailed Timeline of Russian Air Attacks on Upper Abkhazia

Date and time of air bombing	Area
9 Aug – 13:42-13:50	Large part of Kodori Gorge
9 Aug – 14:03-14:11	Village Omarishara
9 Aug – 14:26-14:39	Village Ajara
9 Aug – 14:26-14:39	Village Chkhalta
9 Aug – 22:20-22:30	Village Chkhalta Village Gentsvisi
10 Aug – 06:02-09:15	Village Ajara Village Chkhalta
10 Aug – 12:22-12:26 10 Aug – 13:51-13:55	Village Chkhalta
10 Aug – 15:05-15:15	Large part of Kodori Gorge

10 Aug – 16:09-16:14	Large part of Kodori Gorge
10 Aug – 17:21-17:55	Large part of Kodori Gorge
10 Aug – 19:40-20:05	Parts of Kodori Gorge
10 Aug – 20:23-20:27	Parts of Kodori Gorge
10 Aug – 22:03-22:09	Village Gentsvisi
11 Aug – 00:19-00:39	Parts of Kodori Gorge
11 Aug – 02:09-02:40	Village Chkhalta
11 Aug – 03:03-03:29	Parts of Kodori Gorge
11 Aug – 19:05-19:10	Parts of Kodori Gorge

Occupied Villages in Upper Abkhazia

Georgian government has lost control over 22 villages in Upper Abkhazia, which used to be under its administration prior to the August war:

1. Sakeni
2. Omarishara
3. Gvandra
4. Left Gentsvishi
5. Right Gentsvishi
6. Khutia
7. Zemo Ajara
8. Kvemo Ajara
9. Nakhari
10. Mramba
11. Khetskvara
12. Left Ptish
13. Right Ptish
14. Chkhalta
15. Budzguri
16. Shabatkvara
17. Zemo Zima
18. Kvemo Zima
19. Kvabchara
20. Buchukuri
21. Adzgara
22. Tvibrasheni

5. What types of units were used and how many troops were deployed in general and for particular operations? What percentage were conscripts and reservists?

a) What types of units were used and how many troops were deployed in general and for particular operations?

From the Georgian side the following units were engaged in military operations during the conflict (total strength approximately 10,000):

- Land Forces Command – II, III, IV Infantry Brigades, I Artillery Brigade, 53rd Infantry Battalion (Battalion), Artillery and Mechanized Battalions (1st Brigade), Separate Tank Battalion, Separate Infantry Battalion, Air Defense Battalion, Medical Battalion.

- Air Forces Command – Su-25 fixed wing, Mi-24 rotary wing, Mi-8/17, UH-1H rotary wing, Air Defense radar and SHORAD (Short Range Air Defense) units.

- Special Forces Command – SF Battalion.

- Education Department – mountain training school's Co size unit, Krtsanisi Training Center Co (Company) size unit.

- National Guard Department – reserve units.

- Military Police Department – traffic management teams.

- Armed Forces Logistic Department – Log Support Battalion.

- Anti-riot and counter terrorism Battalion size units of the Ministry of Internal Affairs.

- I Brigade was in Iraq and after return was not employed in battle.

As from the Russian side, here is an incomplete list of the Russian army units, which participated in the invasion of Georgia (this information was gathered from different Russian media sources):

1. *The 58th Army of the Russian Ground Forces, including:*

   - The 19th Motor Rifle Division – Vladikavkaz, North Ossetia, represented by:
     - 135th Separate Motor Rifle Regiment – Prochladni, Kabardino-Balkaria (the one that entered on August 7th);
     - 693rd Motor Rifle Regiment – Zaramag, North Ossetia (the one that entered on August 7th);
     - 429th Motor Rifle Regiment named after Kuban Cossacks – Mozdok, North Ossetia;
     - 503rd Motor Rifle Regiment – Troitskoe, Ingushetia;
     - 292nd Self-propelled Artillery Regiment – Vladikavkaz, North Ossetia;
     - 1415th Separate Jet-Propelled Artillery Battalion – Prochladni, Kabardino-Balkaria;
     - 141st Separate Tank Battalion – Vladikavkaz, North Ossetia;
     - 239th Separate Intelligence Battalion – Vladikavkaz, North Ossetia;
     - 136th Separate Motor Rifle Brigade – Buinaksk, Dagestan;
     - 481st Air-Defence Missile Regiment – Vladikavkaz, North Ossetia;

   - The 42nd Motor Rifle Division – Khankala, Chechnya, represented by:

- Special Battalion "Vostok" – Gudermes, Chechnya (currently, under the GRU command);
- 70th Motor Rifle Regiment – Shali, Chechnya;
- 71st Motor Rifle Regiment – Khankala, Chechnya;
- 291st Motor Rifle Regiment – Borzoi, Chechnya;

- The 33rd Motor Rifle Mountain Brigade – Botlikh, Dagestan (formed by Vladimer Putin's 30 June 2006 special decree – fully manned by 1 December 2007);

- The 34th Motor Rifle Mountain Brigade – Zelenchuk, Karachai-Cherkessia (formed by Vladimer Putin's 30 June 2006 special decree – was deployed to Abkhazia, but did not participate in hostilities);

- The 114th Rocket Brigade – Znamensk, Astrakhan district (Tochka-U and Iskander missiles), testing center in Kapustin Iar, Astrakhan district;

- 67th Separate Anti-Aircraft Rocket Brigade – Volgograd, Volgograd district;

- 20th Motor Rifle Division – Volgograd, Volgograd district (was deployed to Abkhazia, but did not participate in hostilities);

2. *The Russian Airborne Forces, including:*

- The 76th Airborne Division – Pskov, Pskov district, represented by:
  - 104th Airborne Regiment;
  - 234 Airborne Regiment;

- The 98th Airborne Division – Ivanovo, Ivanovo district, represented by:
  - 217th Parachute Regiment;

- The 45th Separate Intelligence Regiment – Kubinka, Moscow district, namely, its 218th special forces battalion;

- The 7th Airborne (Mountain) Division – Novorosiysk, Krasnodar krai, represented by:
  - 247th Airbone Assault Caucasus Cossack Regiment – Stavropol, Stavropol krai (entered Kodori Gorge);

- The 31st Airborne Brigade – Ulianovsk, Ulianovsk district (was deployed to Abkhazia, but did not participate in hostilities);

3. *The Russian Military Intelligence (GRU) Special Forces, including:*

- The 22nd Special Forces Brigade – Aksai, Rostov district;
- The 10th Special Forces Brigade – Molkino, Krasnodar district;

4. *The Russian Air Forces including:*

- The 4th Army of the Russian Air Forces – Rostov on Don, Rostov district, represented by:
  - 1st Air Division's (Eysk, Krasnodar krai) 368th Assault Aviation Regiment – Budyonnovsk, Stavropol krai (SU-25);

- 1st Air Division's (Eysk, Krasnodar krai) 461st Assault Aviation Regiment – Krasnodar, Krasnodar krai (SU-25);

- The 37th Air Army of the High Supreme Command (Strategic Purpose) - Moscow, represented by:
  - 22nd Heavy Bomber Air Division's (Engels, Saratov district) 52nd Heavy Bomber Air Regiment – Shaykovka, Kaluga district (TU-22M3);
  - 22nd Heavy Bomber Air Division's (Engels, Saratov district) 840th Heavy Bomber Air Regiment – Soltsy, Novgorod district (Tu-22M3);

- The 929th State Flight and Test Center of the Ministry of Defense of the Russian Federation named after V.P.Chkalov – Akhtiubinsk, Astrakhan district (SU-24M);

- The 4th Center of Combat Application and Training of Pilots named after V.P.Chkalov – Lipetsk, Lipetsk district (SU-24M);

- Some other SU-24, SU-25, SU-27, MIG-29 air-regiments (exact names unknown). A large number of these planes flew up from the Mozdok airbase in North Ossetia;

5. *The Black Sea Fleet of the Russian Naval Forces, including:*
   - 30th Surface Warship Division's 11th Anti-submarine Ship Brigade, represented by:
     - Guided Missile Cruiser "Moskva," 1983;
     - ASW Destroyer "Smetliviy," 1969;

   - 30th Surface Warship Division's 197th Amphibious Ship Brigade, represented by:
     - Landing Ship "Tsezar Kunikov," 1986;
     - Landing Ship "Saratov," 1966;
     - Landing Ship "Yamal," 1987;

   - 41st Missile Boat Brigade's 166th Novorossiysky Small Missile Boat Battalion, represented by:
     - Guided Missile Corvette "Mirazh," 1983;
     - Guided Missile Corvette "Samum," 1991;

   - 184th Novorossiysk Coastal Defence Brigade, represented by:
     - ASW Corvette "Povorino," 1989;
     - ASW Corvette "Kasimov," 1986;

   - 112th Patrol Ship Brigade, represented by:
     - Small Patrol Ship "Equator," 1968;

   - 68th Coastal Defence Warship Brigade's 400th Antisubmarine Ship Battalion, represented by:
     - ASW Corvette "Suzdalets," 1983;

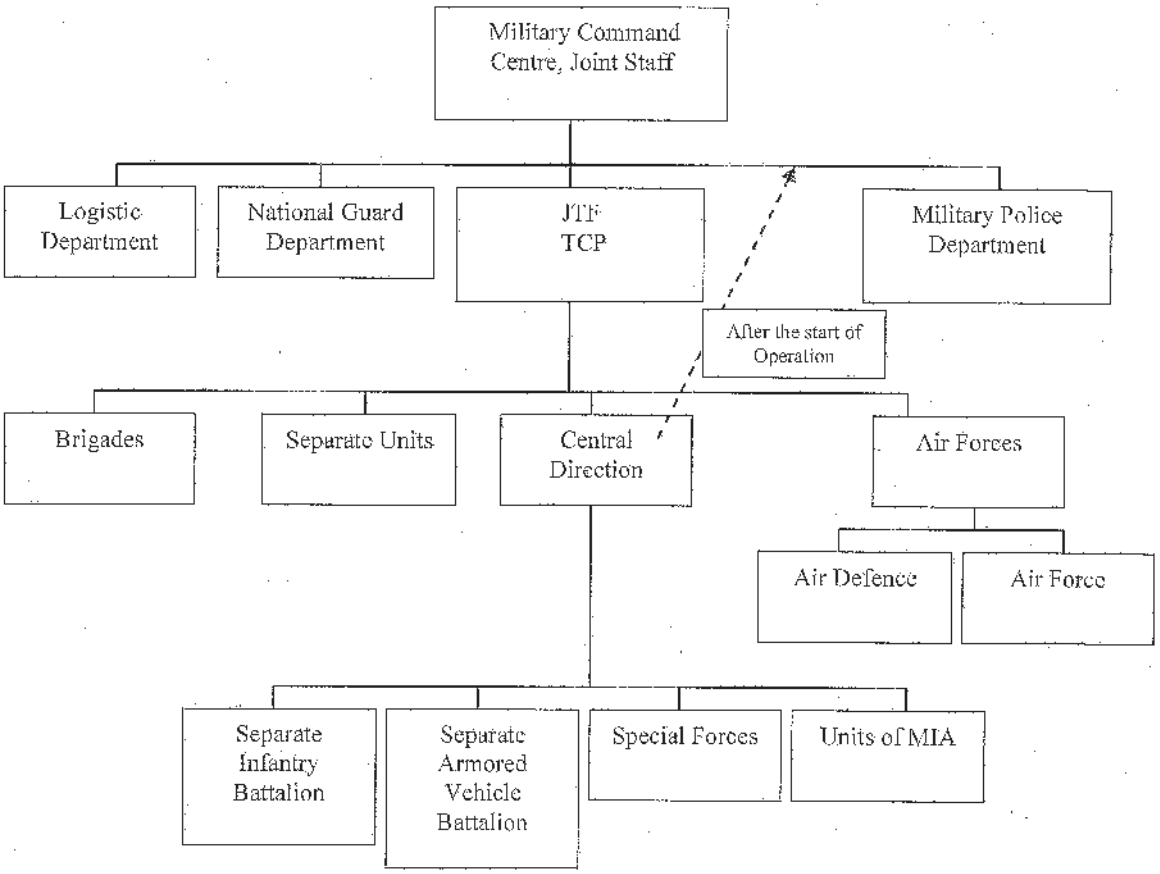
   - 68th Coastal Defence Warship Brigade's 418th Minesweeper Battalion, represented by:
     - Seagoing Minesweeper "Turbinist", 1972;
     - Seagoing Minesweeper "Zhukov", 1977.

b) What percentage were conscripts and reservists?

All units involved from the Georgian side were comprised of professional servicemen and no conscripts participated in the hostilities. Due to the scale of the Russian invasion, the Ministry of Defense of Georgia issued an order to mobilize reservists (approximately 5,000 were mobilized). However, they did not engage in hostilities.

6. What were the organization and the chain of command and control?

The chain of command and control of the Georgian military operation:



7. What were the levels of decisions for the choice of targets and assets engaged?

In line with the objectives of the operation and based on intelligence data, the Joint Task Force TCP of Georgian armed forces identified military targets that were communicated to the tactical level.

Fire was directed at two types of targets: a) pre-determined targets based on intelligence information; b) targets identified during the operation, from where the fire against Georgian-controlled villages, peacekeepers as well as against the GAF originated.

The predetermined target matrix with enemy positions was elaborated by the J2 department for Artillery and the Air Force. In addition to predetermined targets, fire was directed at targets that due to their use by the enemy for combat purposes became legitimate targets.

According to the Rules of Engagement in force, unit commanders (at Brigade, Battalion, Company, Platoon level) identified individual targets of such nature during combat and were authorized to make decisions on returning fire.

Categories of Artillery Objectives and Assets Engaged

1. Military objectives inside the city of Tskhinvali and its outskirts as well as fire support for the GAF movements on the flanks (Howitzers and guns of 120, 152 and 203mm caliber);

2. Moving enemy convoys on the Dzara and Geri by-pass roads as well as in the vicinity of the Gupta bridge (122 and 162mm MRLS); and

3. The Gupta bridge (203mm gun and air bombing).

Predetermined Military Targets, Including Russian Military Convoy Moving South

1. The Gupta bridge;
2. Armored convoys in the by-pass roads of Dzara and Geri;
3. The so-called "rehabilitation centre" in Tskhinvali (Barracks of 2,500 servicemen).
4. The so-called Ministry of Defense in Tskhinvali;
5. The headquarters of proxy militants in the so-called "Shanghai" settlement in Tskhinvali;
6. A platoon fortified position reinforced with three tanks in the vicinity of the asphalt factory in Tskhinvali;
7. A company fortified position reinforced with armor units (Tliakana height);
8. A platoon fortified position reinforced with 3-5 armor in the vicinity of the so-called tractor factory in Tskhinvali;
9. A platoon fortified position reinforced with 3-5 armor in the vicinity of the cement factory in Tskhinvali;
10. One battalion of enemy artillery located in the vicinity of the villages of Dampaleti and Monasteri;
11. One armored unit in the vicinity of the village of Kusireti;
12. Artillery positions in the vicinity of the village of Khetagurovo;
13. A platoon fortified position reinforced with armor and 120mm mortars in the vicinity of the village of Ubiati;
14. The military base on Uradanta Mountain.

8. What training had been given to troops involved in the operations on the International Law of Conflict? What plans were made for the protection of civilians before military operations began? What did the regular forces do in order to prevent human rights violations, including looting, burning of houses etc., during the hostilities of August 2008 and afterwards?

a) **What training had been given to troops evolved in the operations on the International Law of Conflict?**

A thorough course on International Humanitarian Law is part of the academic program of the Georgian Armed Forces' Military Academy. Lectures are delivered by instructors trained in San-Remo during a series of courses of International Humanitarian Law, organized by the International Committee of the Red Cross.

In addition, an agreement "On Cooperation in the Area of Integration of International Humanitarian Law" was signed between the Ministry of Defense of Georgia and the International Committee of the Red Cross on October 25, 2002. On March 16, 2007, a "Memorandum of

Understanding between the Ministry of Defense of Georgia and the International Committee of the Red Cross in the field of Dissemination of the Rules of International Humanitarian Law" was signed. On the basis of these agreements, representatives of the Georgian Armed Forces attended workshops on International Humanitarian Law.

It is noteworthy and relevant to mention that a significant number of Georgian Armed Forces personnel participated in different peacekeeping and international peace support operations, including in Iraq and Kosovo. All of those servicemen received extensive training in International Humanitarian Law.

b) **What plans were made for the protection of civilians before military operations began?**

Due to the fact that Georgian government had no planning conducted for military operations, no specific plan for the protection of civilian population existed.

Order of the President of Georgia issued on August 7, 2009 on launching defensive operation in response to ongoing Russian invasion specifically defined protection of civilians in the Tskhinvali Region/South Ossetia as one out of four primary objectives. Georgian military were not only bound to respect principle of distinction but also requested to ensure protection of civilians, including those residing in villages under the control of central government, north of Tskhinvali, subject to heavy artillery shelling.

Detailed information about the actual performance of Georgian Armed forces is provided in the answers to the Humanitarian and Military sections of the questionnaire. Within the context of this question information about the context and aims of the humanitarian corridor established by the Georgian government on 8 August 15:00 is of importance. Despite risky from military point of view for the purpose of allowing remaining civilians to leave areas affected by military operations Georgian government declared humanitarian corridor from 15:00 to 18.00 from Tskhinvali to Ergneti.

c) **What did the regular forces do in order to prevent human rights violations, including looting, burning of houses etc., during the hostilities of August 2008 and afterwards?**

During the hostilities, earlier trainings in human rights, military police presence and clear instruction coming from the superior authority was to ensure, that all civilians in the area affected by the war were protected. It is noteworthy, that Georgian militaries have not been accused of looting nor mistreatment of civilians. However, if any credible information becomes available to Georgian government, it will be thoroughly investigated.

It is noted by the Human Rights Watch, that Georgian military strictly followed the order of the President to "Protect Civilians":

> *The majority of witnesses interviewed by Human Rights Watch did not complain about other types of violations against them by the Georgian forces. Judging by their statements, **in most cases the troops entering the villages did not deliberately cause physical harm to civilians**. Several Ossetian interviewees said that Georgian soldiers told them they were under orders to look for and pursue Ossetian militias, **but to spare women, children and elderly during the ground offensive.**[1]*

[1] Human Rights Watch, *Up In Flames: Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia*, 2009. p. 61

*Zareta Z., from the village of Sarabuki, said that when Georgian soldiers entered the basement where she was hiding with her husband, they told them, "Now you'll live with us, with Georgians, and we'll live in peace. **Misha [Saakashvili] told us not to touch women and children**. We're instructed to kill the young guys [fighters] only. And that's what we'll do. You are not to worry." Another woman from the same village, "Svetlana S.," also said that the Georgian soldiers were telling the residents, "**We have not killed any residents and we are not going to! Everyone is safe!**"*[2]

It is also to be noted, that even after Russian occupation Georgian Government tried its best to maintain at least minimal police presence to provide some protection to the civilians. Police was indeed the last to leave the villages and towns after Russian forces arrival. For the sole purpose of providing moral support to civilian population and at least record, if not to prevent the mistreatment and looting, police in Zugdidi (west Georgia) even agreed to be disarmed by occupational forces in exchange of the permission to stay.

However, it must be admitted, that no effective result was achieved from these efforts, as human rights violations by Russian militaries as well as their proxy authorities and irregular forces, mistreatment, looting, burning, killing and discrimination on ethnic grounds was a heavy burden on civil population of affected areas during the hostilities as well as aftermath.[3]

10. What plans were made for a withdrawal and redeployment of forces from the zone of conflict? What was the sequence and timing of any such withdrawal or redeployment?

a) **What plans were made for a withdrawal and redeployment of Forces from the zone of conflict?**

A plan for withdrawal of Georgian Armed Forces from the conflict zone was elaborated during the war. No such plan existed prior to the war.

b) **What was the sequence and timing of any such withdrawal or redeployment?**

On August 10, 2008, the Georgian Armed Forces were ordered to pull back and to take defensive positions at the South Ossetia administrative border.

On August 11, 2008, the Georgian Armed Forces were ordered to withdraw from the theatre of war, to move to secure areas, and to conduct appropriate activities for defending the capital Tbilisi.

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[2] Human Rights Watch, *Up In Flames: Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia*, 2009. p. 61

[3] See annex to Q8: The List of Incidents

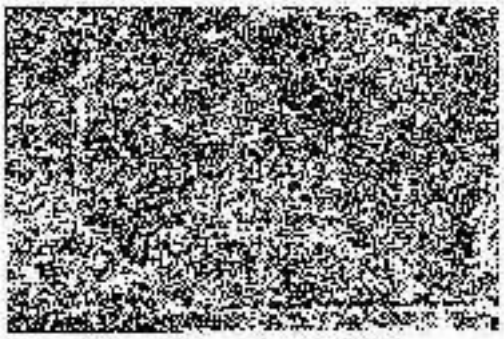
9. What military preparations were made prior to August 2008?

Russian Military Preparations in and near Tskhinvali Region/South Ossetia

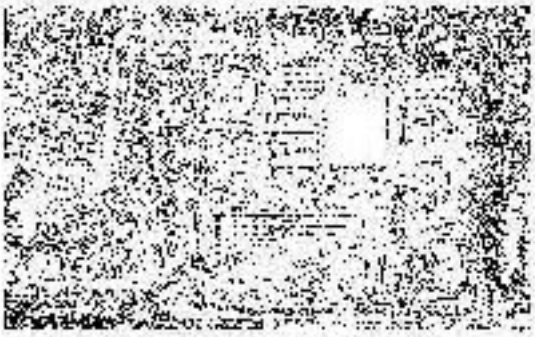
Russian Military Bases and Other military Infrastructure in Tskhinvali Region/South Ossetia

- In 2007-2008, the Russian government built two military bases in South Ossetia – one in Ugardanta, in the Java district and the other in the north-western part of the town of Tskhinvali (here are relevant satellite pictures of these bases, also see annexes 1 and 2 for video footage).

1. The military base in the so-called Dan settlement of Tskhinvali was built in the shortest period. It started at the end of 2007 and the main construction works were finished before August 2008.

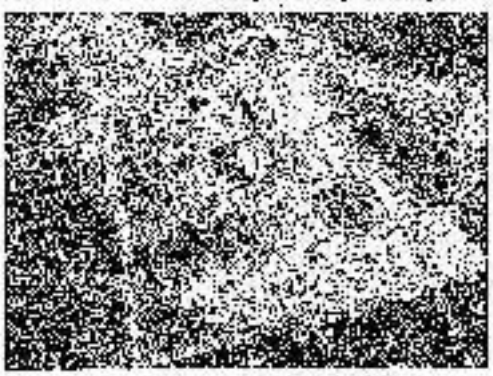


Date picture taken: July 26, 2007

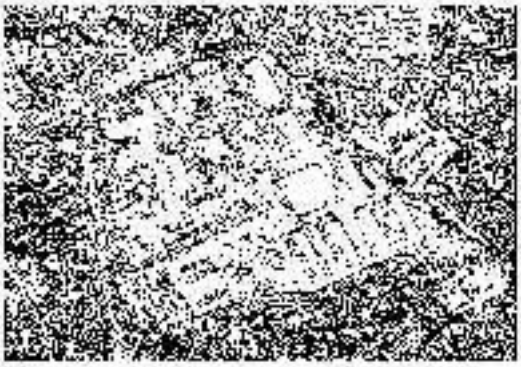


Date picture taken: August 10, 2008

2. The construction of Ugardanta military base in the Java district began in 2006, but intensified since the end of 2007. The base was finished by July 2008. Russian troops which entered the Roki tunnel on the morning of August 7, gathered at this base.



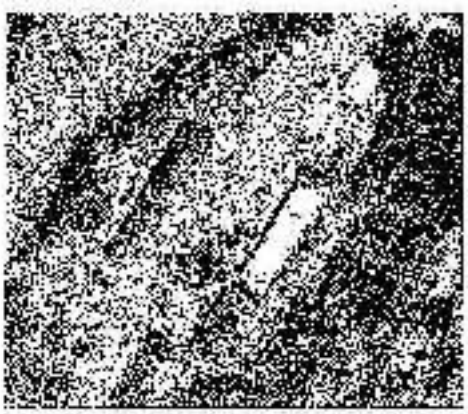
Date picture taken: July 26, 2007



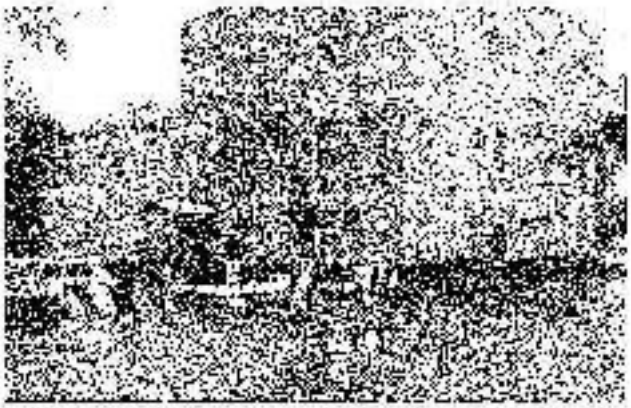
Date picture taken: August 28, 2008

- The construction works of the Ugardanta and Tskhinvali military bases were carried out by "Praktika LTD," a Russian construction company registered in the town of Essentuki, Stavropol Krai, headed by Leonid Mikhailovich Yagunov, a former GRU officer.

- In addition to these two Russian military bases, the Russian government helped South Ossetian de facto authorities in building military infrastructure, including the tank battalion of the South Ossetian proxy regime's Ministry of Defense, located in the village of Borzala, Java district, as well as new offices for the proxy regime's Ministry of Interior and State Security Committee (KGB) in Tskhinvali.



Tank base in Borzala, 2008



Ministry of Interior in Tskhinvali, 2007



Militia special forces base, 2007



KGB in Tskhinvali, 2007

- During 2004-2008, the Russian government equipped South Ossetian proxy regime irregular forces with tanks, armored vehicles, military trucks, as well as different kinds of armament and ammunition. Russian military and police specialists helped to train and equip South Ossetian militants.





South Ossetian militia special forces training in 2008



Training in Tskhinvali in 2008



Battle Tanks in Tskhinvali in September 2015

- At the end of 2005, Russian Federal Security Service (FSB) helped to establish the so-called Border Guard Service of South Ossetia as a subordinate agency to the de facto regime's State Security Committee (KGB).

Russian Army and Special Services Officials in Tskhinvali Region/South Ossetia

- Since 2004, the key positions in South Ossetian proxy regime's power structures have been held by Russian citizens, high ranking officers of Russian Armed Forces and Special Services:

De facto Ministry of Interior



1. **Mikhail Mairamovich Mindzaev** – De facto Minister of Internal Affairs of South Ossetia from April 2005 until October 2008. Colonel of Russian Police (Militia).

De facto Security Council



2. **Anatoly Konstantinovich Baranovskiy** – De facto Secretary of Security Council of South Ossetia from December 2006 until October 2008. De facto Minister of Defense of South Ossetia from July 2004 until December 2006. Colonel of Russian Army.

De facto Ministry of Defense



1. **Yury Anatolevich Tarasov** – De facto Minister of Defense of South Ossetia since October 2008.



4. **Vasily Vasilevich** Lunev – De facto Minister of Defense of South Ossetia from March 2008 until October 2008. Major General of Russian Army.

6. **Andrey Ivanovich Laptev** – De facto Minister of Defense of South Ossetia from December 2016 until March 2008. Colonel of Russian Army.



7. **Sergey** Sarmatov – Chief of General Staff at the de facto Ministry of Defense of South Ossetia from 2007 until 2008.

8. **Vladimir Grigorievich Kravchenko** – Chief of General Staff at the de facto Ministry of Defense of South Ossetia in 2004-2005.

De facto KGB



1. **Boris Mazhitovich** Atoev – De facto Chairman of State Security Committee (KGB) of South Ossetia since November 2006.



2. **Nikolay Vasilevich** Dolgopolov – De facto Chairman of State Security Committee (KGB) of South Ossetia from March 2006 until November 2006.



3. **Anatoly Vasilevich** Tarasov – De facto Chairman of State Security Committee (KGB) of South Ossetia from January 2005 until March 2006.

4. **Mairbeg Vladimirovich Bichegkaev** – De facto Chairman of State Security Committee (KGB) of South Ossetia from 2004 until 2005.

5. **Sergey Aleksandrovich Gazmov** – Assistant to de facto Chairman of State Security Committee (KGB) of South Ossetia from 2005 until 2008.

De facto Border Guard Service of KGB

1. **Valeri Alexseevich Chuguaev** – Head of South Ossetian Border Guard Service from 2005 until 2007.



2. **Oleg Kanadievich Chebotarjov** – Head of South Ossetian Border Guard Service since 2007. Deputy Head Border Guard Service from 2005 until 2007.

3. **Gennadi Nikolaevich Emelianenko** – Deputy Head of South Ossetian Border Guard Service since 2005.

4. **Konstantin Genadievich Ianovich** – Chief of Staff of South Ossetian Border Guard Service since 2005.

(See annex 3 for the intercepted documents belonging to the South Ossetian de facto KGB)

De facto Government Protection Service

- **Vladimir Kuzmich Kokoev** (*pseudonym*, probably Tamarov) – Head of Government Protection Service of South Ossetia from July 2003 until October 2008.

Advisers to Troop Authorities of South Ossetia



1. **Victor Nikolaevich Kamaev** – Military Adviser to the de facto president since March 2007. GRU Colonel.

2. **Viktor Petrovich Kniazev** – Adviser on Law Enforcement issues to the de facto president from January 2008. General of Russian army. Deputy Commander of the JPKF.



3. **Sergey Fiodorovich Shadrin** – Adviser on Law Enforcement and Security issues to the de facto president since April 2007. General-Colonel of Russian Police (Militia). Former Deputy Minister of Interior of the Russian Federation - dismissed in 2005.

4. **Aleksandr Andreevich Shaposhnikov** – Adviser on Law Enforcement issues to the de facto president from January 2007 until January 2008. General of Russian army. Deputy Commander of the JPKF.

5. **Aleksandr Aleksandrovich Kimvenko** – Adviser on Law Enforcement issues to the de facto president from January 2006 until January 2007. Colonel of Russian Police (Militia). Deputy Commander of the JPKF.



6. **Igor Sergeevich Gerasimov** – Adviser on Law Enforcement issues to the de facto president from January 2005 until January 2006. Major-General Russian Police (Militia). Deputy Commander of the JPKF.



7. **Anatoly Ivanovich Sisoev** – Military Adviser to the de facto president from June 2004 until October 2004. GRU Colonel.

8. **Vasily Alekseevich Platov** – Adviser on Military and Law Enforcement issues to the de facto president from 2004 until January 2005. Major-General of Russian Army.

Russian Military Bases close to the Russian-Georgian border

- In 2005-2006, the Russian government built a new military base in Zaka valley, North Ossetia, just 7 kilometers from the northern entrance of the Roki Tunnel. In August 2008, Russian troops used this base as a bridgehead for entering South Ossetia.



Year picture taken: 2004



Year picture taken: 2006

- By the end of 2007, the Russian government created special mountain brigades in the Northern Caucasus – the 33th brigade in Buinaksk, Dagestan (for conducting operations against Georgia in South Ossetia) and 34th brigade in Zelenchuk, Karachaevo-Cherkessya (for conducting operations against Georgia in Abkhazia).[1] During the August war, both units were deployed respectively in South Ossetia and Abkhazia (see annex 4 for Russian military units that took part in the invasion of Georgia).

Russian Military Trainings in July-August 2008 close to the Russian-Georgian border

- From July 15 until August 2 2008, Russia launched large-scale military exercises "Caucasus 2008" in the immediate vicinity of Georgia's northern border. 8000 soldiers and 700 armored vehicles mainly from the North Caucasus Military District participate in these trainings, including airborne units, air force units, air defense units, Black Sea and Caspian Sea fleets, federal security service and interior troops. Airborne units from Pskov and Novorossiysk (that later took part in the invasion of Georgia, see again annex 4) were practicing at the Roki and Mamisoni passes connecting Russia with Georgia. A leaflet entitled "Know Your Enemy" was distributed to the soldiers participating in the training, listing the composition and armaments of the Georgian Army as their main target. Most of the troops participating in the exercises did not re-deploy from the region after the exercises finished.[2] Deputy Commander of Russian Airborne Troops, General **Vladislav Burisov** who was put in charge of the Russian armed forces grouping operating on the South Ossetian and central Georgian directions in August 2008 also confirmed that just one week earlier the units under his command had undergone military trainings in those areas, where the actual hostilities took place and hence Russian airborne troops carried out a march on Tskhinvali much better than other units of the Russian army.[3]

- On 31 December 2008, in an interview with Russian TV channels, Russian President **Dimitry Medvedev** confirmed that Russia had been preparing a military operation against Georgia (see annex 5).

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[1] http://www.mil.ru/articles/article9039112.htm

[2] See annexes 7, 13 and 18 of the answers on questions 1 of the military set of questions

[3] See annex 19A of the answers on questions 1 of the military set of questions

Deployment of Russian Armed Forces in Tskhinvali Region/South Ossetia in July-August 2008 - prior to the hostilities

- From July 4-6, 10 armored vehicles entered the Tskhinvali Region/South Ossetia from the Russian Federation via the Roki Tunnel (Georgian intelligence data, HUMINT).Then from July 13-14, 13 T-72 type tanks were reported moving from the town of Alagir, North Ossetia towards the Roki Tunnel, as well as 6 "Ural" type trucks loaded with soldiers were driving from the village of Zaramag, North Ossetia towards the Roki Tunnel (Georgian intelligence data, HUMINT).

- On July 23, a group of 120 Russian doctors/medics was reported to have arrived in Tskhinvali and started working at the Tskhinvali hospital (Georgian intelligence data, HUMINT).

- By the end of July (exact date and time unknown), large tents were set up on the territory of the new Russian military base in the northwestern part of Tskhinvali (for about 1,500-2,000 persons). According to information from Russian peacekeepers, soldiers from the 33rd Motor Rifle Mountain Brigade (centered in Botlikh, Dagestan) were soon to be deployed there (Georgian intelligence data, HUMINT).

- Following these steps, on August 3, units of the separate reconnaissance battalion of the the 19th Motor Rifle Division of the 58th Russian Army were reported to be deployed in the Java district through the Roki Tunnel (Georgian intelligence data, HUMINT).

- On August 4, during the night, 10 units of armor (BTR/BMP vehicles) were brought into the Tskhinvali Region/South Ossetia from the Russian Federation and distributed among the de facto regime irregular forces. Two vehicles were handed over to the de facto regime irregular forces unit located in the village of Dmenisi, Tskhinvali district (Georgian intelligence data, HUMINT).

- On August 5, during the day, 40 units of self-propelled artillery and a reconnaissance battalion of the 33rd Motor Rifle Mountain Brigade from Botlikh, Dagestan were deployed in South Ossetia through the Roki Tunnel, and 30 artillery guns were brought into the Java district. Some units of the 58th Army were reported to be mobilized near the Roki Tunnel in North Ossetia, Russia, including the 135th Separate Motor Rifle Regiment from Prokhladniy, Kabardino-Balkaria and the 693rd Motor Rifle Regiment from Zaramag, North Ossetia (Georgian intelligence data, HUMINT).

- On August 6, during the night, several units of armor (including BTR 'sand BMP vehicles, as well as self-propelled artillery systems) were brought into South Ossetia from the Russian Federation and deployed near the southern entrance to the Roki Tunnel (Georgian intelligence data, HUMINT).

- On August 7, at 03:25, the MIA of Georgia obtained the first communication intercept according to which a Russian military unit that included tanks and military trucks loaded with soldiers entered the Roki Tunnel.[4] At 03:41, a large number of armored vehicles, tanks and military trucks of the Russian regular army streamed into the Roki Tunnel and were deployed in the Java district. This is confirmed by two mobile telephone conversations intercepted by the MIA of Georgia.[5] Numerous articles in the Russian press also confirm that Russian army units, namely parts of the 693rd and 135th motor rifle regiments of the 58th army, had entered South Ossetia prior to August 8.[6] As reported by the South

[4] See annexes 39 and 40 of the answer to the question 1 of the military set of questions
[5] See annexes 41-46 of the answer to the question 1 of the military set of questions
[6] See annexes 47-67 of the answer to the question 1 of the military set of questions

Ossetian de facto regime's main newspaper "Iuznaia Ossetia", on that night the head of South Ossetian proxy authorities, **Eduard Kokoity** travelled from Tskhinvali to the Java district "in order to meet with representatives of the Russian Ministry of Defense."[7] Significantly, Russia has not disputed the authenticity of the intercepts. Russia initially denied existence of any such convoys. After facing the evidence, however, the Russian military claimed this movement of troops was part of "normal rotation".[8] The Russian explanation that these calls refer to a routine rotation of their peacekeeping troops is false. According to the peace agreement in force at that time, any rotation should have happened during daylight, no peacekeeping units were allowed to possess tanks and all relevant parties should have been notified (i.e. the Georgian Government and OSCE) a month in advance. None of this happened. The previous rotation of Russian forces was in May 2008.

- On August 7, during the day, Georgian authorities received military intelligence according to which Russian troops (which had never re-deployed from July's North Caucasus military exercises) were put on high alert and had received orders to prepare to move towards the Georgian border.

- At around 12:00, head of Abkhazian proxy authorities **Sergey Bagapsh** announced that he had put Abkhazian armed forces on alert in order to provide military assistance to South Ossetia and that a battalion from the North Caucasus military district of Russia had already entered Tskhinvali Region (this statement was broadcasted by Russian TV at 17:00).[9]

- On August 7, late in the evening, the Georgian government received multiple human intelligence reports that about 150 armored vehicles and trucks with Russian soldiers were approaching the Roki Tunnel from Russia and moving towards the Tskhinvali Region/South Ossetia. Later, multiple signal intercepts of phone conversations among the de facto security and military officials that took place between 02:20 and 04:30 on August 8 confirm that Russian military columns were stretched from the Roki Tunnel to the village of Java[10]

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[7] See annex 68 of the answer to the question 1 of the Military Set of Questions

[8] "Georgia Offers Fresh Evidence on War's Start," by Dan Bilefsky, C.J. Chivers, Thom Shanker and Michael Schwirtz, *The New York Times*, Sept. 16, 2008. URL: http://www.nytimes.com/2008/09/16/world/europe/16georgia.html?partner=rssnyt&emc=rss

[9] See annex 77 of the answer to the question 1 of the military set of questions

[10] See annexes 81-86 of the answer to the question 1 of the military set of questions

Russian Military preparations in Abkhazia

- Russian Government has supported Abkhazian proxy authorities in army build-up, especially for the last several years, providing military equipment, organizing trainings of Abkhazian officers in Russian military training centers, sending military instructors to Abkhazia and appointing officials in the Abkhazian proxy authorities.

Military Trainings in Abkhazia in 2005-2008

- On April 18-21 2005, large-scale military trainings were conducted in Abkhazia. More than 3000 soldiers of artillery, naval, tank and aviation units (most of them reservists) participated in these trainings. Tactical trainings were conducted at the level of battalions, as well as special trainings for preventing deployment of airborne troops.

- In the beginning of February 2006, Commander of Russian Airborne Troops, General Aleksandr Kolmakov visited Abkhazia for two days.[11]

- Large scale military trainings were organized from February 20 until April 27 2006 in Abkhazian de facto regime armed forces, in which more than 5000 soldiers and reservists participated.

- On November 19-21 2007, tactical trainings were conducted in Abkhazian de facto regime armed forces, in which the third battalion of mountain shooters participated.

- On March 24-28 2008, command and mobilization trainings of Abkhazian de facto regime armed forces were conducted. Military units of the so-called eastern group of Abkhazian armed forces and reserve brigades, on total 4000 soldiers participated in these exercises.[12]

- On June 24-27 2008, Abkhazian de facto regime armed forces were conducting mobilization and operation-tactical trainings. High-level representatives of Abkhazian proxy regime's MOD, commanders and officers of the so-called eastern group of armed forces, representatives of air defense and artillery together with officers of Russian General Staff participated in the trainings.[13]

- In his July 7 2008 interview with Russian information agency "Utro" de facto Minister of Defense of Abkhazia **Merab Kishmaria** declared that Russian instructors prepared Abkhazian soldiers and that he paid them according to contract. He added that they were just doing this without publicity.[14]

Russian Army and Special Services Officials in Abkhazia

- During the last few years, some of the key positions in Abkhazian proxy regime's power ministries have been held by Russian citizens, high-ranking officers of Russian Armed Forces and Special Services:

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[11] http://www.redstar.ru/2006/02/10_02/n.html
[12] Respublika Abkhazia, March 18, 2008.
[13] Respublika Abkhazia, June 28, 2008.
[14] http://www.utro.ru/articles/2008/07/07/749948.shtml



1. Aleksandr Pavlushko - De facto Deputy Minister of Defense of Abkhazia since April 2008.



In April 30 2008, former head of the Russian peacekeepers' staff in the Collective Peacekeeping Forces Aleksandr Pavlushko was appointed as Deputy Minister Defense in Abkhazian proxy authorities. From his experience as a peacekeeper, who used to accompany UNOMIG officers on monitoring in Upper Abkhazia/Kodori Gorge *(the photo on the left was taken during the monitoring of the Kodori Gorge on October 17 2006)*, Pavlushko knew every location of Georgian police in that area. Later, in August 2008 he was responsible for planning and conducting military operation in the Kodori Gorge (on the screenshot to the right Pavlushko explains his plans to occupy Upper Abkhazia to the head of Abkhazian proxy authorities Sergey Bagapsh).



2. Anatoly Zaitsev – De facto Chief of General Staff of Abkhazia since March 2005, high-ranking official of Russian Ministry of Defense.



3. Sultan Sosnaliev – Former de facto Minister of Defense of Abkhazia.

Sosnaliev served in air defense forces of the USSR for 29 years, up to regiment commander and the commander of aviation center. Since August 1992, he participated in hostilities on the territory of Abkhazia as the chief of Defense Staff and the Chief of General Staff of the proxy regime's Ministry of Defense. He served as the de facto Chief of General Staff until 2005 and as the de facto Minister of Defense and vice-premier of Abkhazia since 2005 (he died in 2007).

4. Alexander Vilinsky – De facto Deputy Secretary of the National Security Council of Abkhazia, former Russian KGB officer, former Russian Naval Commander, Captain.

5. Tr. Mayskov – De facto Chief of Air Defense of Abkhazia

6. Vladimir Kaidukov – De facto Deputy Minister of Interior Abkhazia.

7. **Denis Ermichev** – Deputy Head of International Military Cooperation Division of the de facto Ministry of Defense of Abkhazia.

8. **Vasily Solovyov** – Chief of Staff of the Service of Armament and Equipment at the de facto Ministry of Defense of Abkhazia.

9. On 20 September 2007, a special task unit of the Ministry of Internal Affairs of Georgia neutralized an armed grouping of 10 people in the Kodori Gorge, which had planned an attack on the new road connecting Upper Abkhazia with the rest of Georgia. The commander of the grouping and his deputy were killed in the exchange of fire. They were identified as: **Igor Muzavatkin** (Vice-Colonel of Russian armed forces, a former member of the Collective Peacekeeping Forces, former officer of Maykop division, member of the CPKF for 7 years, served on the contract basis in the border troops division of the Abkhazian separatist security service) and **Artur Zorin** (Major of Russian armed forces, also a former member of the CPKF).

Build-up of Military Infrastructure in Abkhazia by Russian Armed Forces in the Spring of 2008

1. On March 6, 2008, Russia withdrew from the 1996 CIS agreement, which prohibited CIS member states from military relations with Abkhazia and on April 16, 2008, Russian President **Vladimir Putin** issued a decree urging the Russian government to establish direct relations with the de facto authorities of Abkhazia and South Ossetia. Henceforth, Russian government quickly embarked on strengthening military infrastructure in Abkhazia, including the Bombora military base near Gudauta, which must have been closed according to the Istanbul agreement of 1999.

   1. On April 17, several "Ural" type trucks carrying 300 Russian contract soldiers entered the military base in Ochamchire seaport (Georgian intelligence data, HUMINT).

   2. On April 20, at 10:00, a Russian fighter plane, attacked and shot down a Georgian Unmanned Aerial Vehicle "Hermes-450" above village Gagida, Gali district. This fact was confirmed by the UN special investigation.[15]

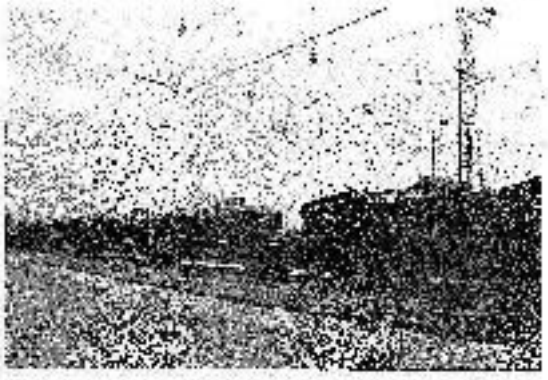
   3. On April 25, 2008, on a meeting with Moscow Mayor Yury Luzhkov, head of Abkhazian proxy authorities Sergei Bagapsh stated that Abkhazia was ready to sign a military agreement with Russia.

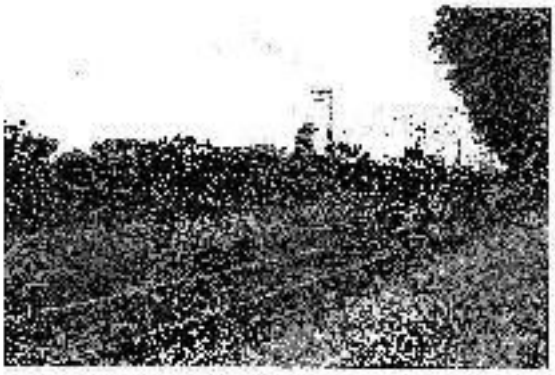
   4. On April 29, the Russians started to increase their peacekeeping contingent deployed in the Georgian-Abkhaz conflict zone, as stated by the Russian Ministry of Defense and the Russian Ministry of Foreign Affairs.[16]

   5. On April 29, an echelon of 30 train cars crossed the Georgian-Russian Border near the river Psou by railway carrying 26 units of camouflaged armor vehicles, among them BMDs, D-30 type howitzers, etc. The echelon had 4 additional passenger cars, carrying soldiers from the Novorosiisk military base. The cargo was unloaded in Sokhumi railway station and from there the soldiers and armament were distributed to Maiak military base in Sokhumi, to Tsebelda military site (in the

[15] See annex 5 of the answer to the question 1 of the military set of questions
[16] see annexes 6 and 7 of the answer to the question 1 of the military set of questions

direction of Kodori Gorge), to Ochamchire seaport, as well as to Tkvarcheli and Gali districts (see photos).





6. On May 1, additional checkpoints were opened on almost every strategically important road in Ochamchire and Tkvarcheli districts, among them at villages Nakarghali, Anasadzikhi and Akumara.

7. On May 3, 5 units of 120mm artillery systems and several antiaircraft defense systems BUK-M1 were located at the military base in Ochamchire seaport (Georgian intelligence data, FLASH).

8. On May 6, the Russian deployment of additional airborne battalion (at least 600 soldiers) of the Novorossiysk and Pskov Airborne Divisions into Abkhazia that had started on April 29 was completed. This fact was further confirmed by numerous media reports, including the Russian Defense Ministry's official newspaper "Krasnaya Zvezda."[12]

9. On May 6, de facto Minister of Foreign Affairs of Abkhazian proxy authorities Sergey **Shamba** stated that Abkhazia was ready to give its territory under Russia's military control in exchange for security guarantees.

10. By that time, approximately 250 Chechen fighters of the "Vostok" battalion of the Main Intelligence Division of the Russian Ministry of Defense (GRU) were also deployed in Abkhazia. They were patrolling the villages of Gali district: Gudava, Primorsk, Meore Otobaia and Sida.

11. In the beginning of May 2008, a delegation of Don Cossacks visited Abkhazia and met with Sergei Bagapsh. According to the head of Don Cossacks, in case of a Georgian attack, he would send about 10-15 thousand volunteers to Abkhazia.[13]

1. In May, Russian peacekeeping forces strengthened the following checkpoints in eastern part of Abkhazia:

   - Akumera
   - Kochkhi
   - Muzhava
   - Tekhkhona
   - Saberio

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[12] See annexes 9, 10, 11 of the answer to the question 1 of the military set of questions.
[13] Novaya Izvestiya, May 12, 2008 (http://www.ng.ru/regions/2008-05-12/8_cossacks.html).

- Dikhazurge
- Chubarkhinji
- Pichori
- Nabakevi
- Otobaia
- Nakarghali

2. On May 31, explaining its actions as "humanitarian assistance" to the Abkhazian population, the Russian Ministry of Defense deployed 400 soldiers of Volgograd's 76th Unit of Railway Forces in Abkhazia. These forces began reconstruction of the railway from Sokhumi to Ochamchire, as well as reinforcing platforms, thus preparing the railway for the transportation and unloading of the heavy military equipment.[16] In order to provide logistics support to military operations, Russian railway troops repaired 54 kilometers of railway from Sokhumi to Ochamchire. They also repaired the strategically important railway bridges on river Mtkvari leading to the Kodori Gorge. The reconstruction works were forced to be finished by August 2 2008. These railway routs were not functioning during the last 10 years and their economic importance was close to zero. During a short period of time, Russian railway forces repaired 55 buildings, 2 large and 44 small bridges, one tunnel and other infrastructure. Later, these bridges were exclusively used by Russian troops for transporting armored vehicles and other military equipment and cargo. All the above listed evidence leads to the conclusion that reconstruction works done by Russians in Tbilisi were aimed at providing logistics support to Russian armed forces prior to their intervention.



12. In April-June, Russia reinforced the military bases in Sokhumi, (Muiak), Bombora (Gudauta), Ochamchire and Okhurei with:

- 3 BUK air defense systems;
- 40 D-30 type howitzers;
- 10 BM-21 "Grad" systems;
- 20 Shilka, ZU-23-2, ZU-23-4 AA guns;
- 120 anti-tank missiles;
- 2 Mi-24 helicopters;
- 50 aviation specialists;
- 30 military experts;
- 100 communication and antiaircraft defense experts.

13. On June 6, several SU-25 and SU-27 type fighter planes in armed condition were detected at the Bombora military base in Gudauta (Georgian intelligence data, HUMINT).

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[16] See answers 12 and 15 of the answer to the question 1 of the military and political questions.

14. In July 2008, with the help of Russian specialists, the construction of Okhurei military base in Tkvarcheli district was finished. On July 8, 2008, additional Russian soldiers, 4 BTR-70 and 4 BRDM type military vehicles and several anti-aircraft systems were deployed at the base.

3. By mid July 2008, several hundred soldiers and 44 military vehicles were observed at the Bombora military base. With Russian assistance, three large barracks were rebuilt at the Bombora military base, waiting for deployment of fresh forces.

4. On July 30, 2008, the Commander of Russian railway troops, lieutenant General **S. Klimets** visited Abkhazia and together with Abkhazia's de facto regime's vice-premier Alexander Stranichkin opened the reconstructed railway.

Military aspects – additional questions and answers

Additional questions to the Governments of the Russian Federation and Georgia, related to military issues

A. On Russian Peacekeeping Forces (PKF)

1. When were the PKF fired at for the first time in Verkhny Gorodok, Lower and Upper Cantonment, Joint Headquarters, posts outside Tskhinvali and by which weapons?

2. When did the Russian PKF suffer their first casualties and materiel losses? (Please specify.)

3. When did the Commander of the Joint Peacekeeping Forces (JPKF), General Murat Kulakhmetov, inform the OSCE about these firings and casualties?

4. Did Russian PKF post on the roof of the main building in Verkhny Gorodok provide coordinates to the South Ossetian militia or the North (South) Ossetian PKF Battalion?
   a. If yes, from which time onwards?
   b. Was there a telephone conversation between General Murat Kulakhmetov and the Georgian Commander of the Georgian PKF, General Mamuka Kurashvili, on this issue?
   c. If yes, did Kurashvili warn Kulakhmetov to discontinue coordinating with South Ossetian militias before Georgian forces opened targeted fire against Russian or Ossetian PKF?

5. Which other coordination between Russian PKF and North (South) Ossetian PKF and South Ossetian militia took place during the defence of Tskhinvali?

6. JPKF reserve units:
   a. When was the JPKF reserve force (300 personnel to which every PKF battalion was entitled) called towards Tskhinvali?
   b. From when onwards had General Kulakhmetov tactical control over these units? Which units/equipment?
   c. When did these units arrive in Tskhinvali / at the Russian PKF positions?
   d. Did these units send reconnaissance parties or liaison teams ahead to Tskhinvali or to Java? If yes, when?

7. Did the Russian air force give close air support to the Russian PKF Battalion deployed in Tskhinvali on 8/9 August 2008? If yes, when and how many sorties?

B. On the Peacekeeping Battalion of North Ossetia – Alania

1. Was the North Ossetian PKF Battalion de facto a South Ossetian Battalion (personnel)?

2. Was this PKF Battalion considered a unit of the Russian Federation or of South Ossetia?

3. What was the strength and armament of this battalion?

4. To what extent has the Ossetian PKF Battalion coordinated action with the South Ossetian militia – during the escalation and after the launch of a full-scale hostilities?

5. When and where did the Ossetian PKF Battalion see action – during escalation and armed conflict?

C. On the Georgian PKF Battalion

1. What was the strength and armament of the Georgian Battalion during escalation and at the launch of a full-scale hostilities?

2. What was the role of the Georgian PKF Battalion during the escalation and the deployment of regular Georgian forces?

a. In the belt South of Tskhinvali?

b. In the string of Georgian villages North of Tskhinvali?

c. Along the Georgian by-pass road (Geri – Dmenisi – Sarabuki Heights etc.)

(please specify action, time and location)

3. To what extent did the Georgian PKF Battalion coordinate with the Special Forces of the Georgian Ministry of Interior and with the Georgian militia (under Sanakoyev administration)?

4. From which direction did the Georgian PKF Battalion participate in the attack on Tskhinvali? (South: Avnevi, Nikozi; North: Tamareshen; East: Georgian by-pass road Geri - Dmenisi?), if at all?

D. On the Special Forces of the Georgian Ministry of Interior (MIA)

1. Which strength did the Special Forces of the MIA have and which armament did they hold during the escalation and after the outbreak of full-scale hostilities?

2. What was their role during the escalation, the deployment of regular Georgian forces and after the outbreak of full-scale hostilities?

a. In the belt South of Tskhinvali?

b. In the string of Georgian villages North of Tskhinvali?

c. Along the Georgian by-pass road (Geri – Dmenisi – Sarabuki Heights etc.)?

(please specify action, time and location)

E. On the South Ossetian Militia

1. Which strength and armament did the South Ossetian Militia dispose of at the outbreak of the August hostilities?

2. Which weapons did they use during fighting in Kethagurovo, Muguti, Tbeti, Dmenisi and other villages as well as the town of Tskhinvali ?

4. How did they coordinate with Russian and Ossetian Peacekeepers?

A. On Russian Peacekeeping Forces (PKF)

1. When were the PKF fired at for the first time in Verkhny Gorodok, Lower and Upper Cantonment, Joint Headquarters, posts outside Tskhinvali and by which weapons?

As already reported in the answers to question 1-3 of the military set of questions, on August 8, at around 06:00, the Special Forces unit of the Ministry of Internal Affairs of Georgia with "Cobra" Light Armored Vehicles and reinforced by several tanks from the Ministry of Defense of Georgia, moved from village Zemo Nikozi towards the outskirts of Tskhinvali in order to suppress the fire at that village coming from the proxy regime militants located in the southwestern part of the town, the so called "Shanghai" suburb. The MIA Special Forces encountered sniper and massive armored vehicle cannon fire from the Russian peacekeeping headquarters "Verkhniy Gorodok" located on the southwestern edge of the town. In addition to that, the roof of the main building of "Verkhniy Gorodok" was used by enemy for correcting artillery fire against Georgian armed forces *(see again annex 90 of the answer to the question 1 of the military set of questions)*. Under these circumstances, the MIA Special Forces were compelled to return fire towards "Verkhniy Gorodok" from automatic rifles and 12.7 mm heavy machine guns ("Utyos") attached to "Cobra" vehicles and later had to ask for tank support as well.

A video taken at around 06:00 a.m. on August 8 2008, by a serviceman of the Russian Peacekeeping Battalion on the territory of "Verkhniy Gorodok", which was uploaded close to the anniversary of the August War on various video-sharing websites, including YouTube, and was also included in a Russian propaganda movie shown on Russian TV Channel NTV on August 8 2009, clearly shows that:

1. By 06:00 a.m. on August 8, the main building and other premises of the Russian Peacekeeping Battalion base in "Verkhniy Gorodok" were untouched and there were no casualties on the spot contrary to claims by the Russian authorities. As already reported in the answer to question 1 of the military set of questions, on August 8 at 02:37, Deputy Minister of Foreign Affairs of Russia **Grigory Karasin** telephoned Georgian Minister of Foreign Affairs **Grigol Vashadze** and informed him that Russian armed forces were starting military operation in Tskhinvali Region/South Ossetia citing casualties among Russian peacekeepers as a reason for this decision. Although, the first encounter between Georgian forces and Russian peacekeepers took place at least three hours later than **Karasin's** phone call;
2. Georgian police and army units were targeted and shot from "Verkhniy Gorodok" and this is confirmed by the voice heard over the video ordering to stop shooting from time to time, while the shooting continues;
3. Reciprocal fire was deliberately provoked from "Verkhniy Gorodok:" when Georgian government forces responded to the continuous fire from that area – the first bullets fired by Georgian Special Forces are seen hitting the top floor of the main building of "Verkhniy Gorodok" from where the fire was conducted and artillery fire corrected – the voice is heard over the video welcoming such a development.

See annex A for the video and annex B for the initial source of the video (blog screenshot), where it is written that the video was taken at around 06:00 a.m. on August 8.

A Russian military doctor named Aleksandr (last name unknown), who was sent to the Russian peacekeeping battalion in Tskhinvali Region/South Ossetia at the beginning of July 2008 and stayed on the territory of "Verkhniy Gorodok" during the escalation and the hostilities, also confirms in his recent interview to a Russian journalist that Georgian forces opened fire at the Russian PKF base "Verkhniy Gorodok" only after 06:00 a.m. on August 8, while the Commander of the Russian PKF had received an order to open fire against Georgian forces at 04:00 a.m. and that a South Ossetian militia fighter was present on the observation post on the roof of the main building of the base, correcting artillery fire against Georgian forces (see annex C for the interview).

As reported in the answer to question 3 of the military set of questions, despite the evidence that South Ossetian de facto regime irregular forces were using the Russian PKF base "Nizhniy Gorodok" for combat purposes, which was apparent on the ground during the military operation, Georgian armed forces never opened fire towards "Nizhniy Gorodok." The latter area, as well the town of Tskhinvali in general, came under heavy Russian artillery fire upon the entry of the Georgian forces into the town. The analysis of the footage broadcasted by the Russian TV Channel NTV[1] shows that the GRAD missile that exploded next to the peacekeepers' headquarters came from the north. In another open source interview, a Russian soldier admits firing GRADs at the town of Tskhinvali.[2]

It is important to note that none of the checkpoints of the Russian peacekeeping battalion located outside the town of Tskhinvali were targeted by Georgian armed forces. The situation on all joint checkpoints of the JPKF in the conflict zone, such as Tstveriakho Mountain, villages Megvrekisi, Artsevi and others, remained calm despite the ongoing hostilities. Georgian and Russian peacekeepers were standing side by side on all joint peacekeeping checkpoints until late in the evening of August 9. Georgian peacekeepers abandoned their checkpoints only after Georgian forces retreated from the town of Tskhinvali and Russian regular troops started to occupy Tskhinvali Region/South Ossetia.

2. When did the Russian PKF suffer their first casualties and materiel losses? (Please specify)

In the light of the facts described above, the Russian Peacekeeping Forces could not have suffered casualties and materiel losses before 06:00 a.m. on August 8. Moreover, Commander of the JPKF General **Marat Kulakhmetov** could not confirm any information on casualties even at around 17:00 on August 8. See annexes D and E for transcripts and audio files of the intercepted telephone conversations.

[1] See annex 24 of the answer to question 3 of the military set of questions.
[2] See annexes 95 and 96 of the answer to the question 1 of the military set of questions.

3. When did the Commander of the Joint Peacekeeping Forces (JPKF), General Marat Kulakhmetov, inform the OSCE about these firings and casualties?

N/A

4. Did Russian PKF post on the roof of main building in Verkhny Gorodok provide coordinates to the South Ossetian militia or the North (South) Ossetian PKF Battalion?
   a. If yes, from which time onwards?
   b. Was there a telephone conversation between General Marat Kulakhmetov and the Georgian Commander of the Georgian PKF, General Mamuka Kurashvili, on this issue?
   c. If yes, did Kurashvili warn Kulakhmetov to discontinue coordinating with South Ossetia militias before Georgian forces opened targeted fire against Russian and Ossetian PKF?

As already reported in the answers to the military set of questions, on August 7 a member of South Ossetian de facto regime irregular forces **Oleg Galavanov** was correcting artillery fire against Georgian government forces from the observation post located on the roof of the main building in "Verkhniy Gorodok" *(see again media article in annex 90 of the answer to question 1 of the military set of questions confirming this story)*. The above-mentioned Russian military doctor named Aleksandr (last name unknown), also confirms in his interview that a South Ossetian militia fighter was present on the observation post located on the roof of the main building in "Verkhniy Gorodok," correcting artillery fire against Georgian forces and that the first shot fired by Georgians hit this South Ossetian artillery fire spotter, who was the first to be brought down to the doctors, but they could not save his life as he had received critical injuries (see again annex C).

It is not known exactly from which time onwards was **Oleg Galavanov** correcting artillery fire from the roof of the main building in "Verkhniy Gorodok," but as soon as Georgian peacekeepers figured out that this observation post was providing coordinates for artillery shelling to proxy militants, the Commander of Georgian Peacekeepers General **Mamuka Kurashvili** called the Commander of the JPKF General **Marat Kulakhmetov** at 00:23 on August 8 and warned him about that *(see annexes 87 A and B of the answer to question 1 of military set of questions for the telephone intercept and its transcript)*.

5. Which other coordination between Russian PFK and North (South) Ossetian PFK and South Ossetian militia took place during the defense of Tskhinvali?

Please see answers to question B, as well as anwers to question 3 of the military set of questions.

6. JPKF reserve units:

   a. When was the JPKF reserve force (300 personnel to which every PKF battalion was entitled) called towards Tskhinvali?
   b. From when onwards had General Kulakhmetov tactical control over these units? Which units/equipment?
   c. When did these units arrive in Tskhinvali at the Russian PKF position?
   d. Did these units send reconnaissance parties or liaison teams ahead to Tskhinvali or to Java? If yes, when?

According to the Joint Control Commision regulations, each battalion of the JPKF was entitled to a reserve of 300 soldiers in case of escalation of situation. However, according to article 5 of the JCC "*Regulation Concerning the Basic principles of Operation of the Military Contingents and of the Groups of Military Observers Designated for the Normalization of the Situation in the Zone of the Georgian-Ossetian Conflict*" of 6 December 1994, only JCC was entitled to endorse any changes in the organizational-personnel structure of the military contingents and military observers. Whereas according to paragraph 4 of the JCC *"Decision on the progress of implementation of the previous JCC decisions on ceasefire, withdrawal of illegal armed units and measures for further stabilization of the situation in the conflict zone"* of September 30–October 2 2004, any rotation of military personnel of the JPKF was to be conducted in daylight time from 7:00 a.m. until 6:00 p.m. with the notification of the JCC Co-Chairmen no later than one month before the appointed day (see annex F for the relevant JCC documents).

As the last rotation of the Russian PKF battalion was carried out in May 2008, no rotation was expected for the following 6 months. The JCC Co-Chairmen have not been notified about any plans or steps to add reserve units to the Russian PKF Battalion during the escalation of situation in the first days of August 2008. Moreover, the Commander of the JPKF, General **Marat Kulakhmetov** in a telephone conversation with a journalist from Russian news agency "Interfax" stated that he was not aware about movements of any Russian military columns towards Tskhinvali Region/South Ossetia (see again annex E).

Therefore, Russian regular troops that entered the Roki Tunnel on 03:25 on August 7 2008 and after can in no way be portrayed as reserve forces of the Russian PKF or their replacement.

7. Did the Russian air force give close air support to the Russian PKF Battalion deployed in Tskhinvali on 8/9 August 2008? If yes, when and how many sorties?

As already reported in the answers to the military set of questions, from the morning of August 8, Russian military aircraft started to massively bomb the whole territory of Georgia, including places located as far as 250 kilometers away from Tskhinvali Region/South Ossetia.

Chronology of Russian Air Bombings of Georgia in August 2008

Date and time of air bombing	Area
8 Aug – 09:30-09:44	Village Shavshvebi, Gori District
8 Aug – 10:23-10:43	VillageVariani, Kareli District
8 Aug – 10:50-11:04	Village Tkviavi, Gori District Town of Gori
8 Aug – 15:07-15:21	City of Tbilisi, Vaziani airdrome and airplane factory
8 Aug – 15:50-16:20	Town of Marneuli Town of Bolnisi
8 Aug – 16:39-17:06	Town of Marneuli
8 Aug – 18:29-18:58	Town of Gori
8-9 Aug – 23:44-00:36	City of Tbilisi, Vaziani airdrome and airplane factory
8 Aug – 23:50	Town of Poti (with "Tochka-U"/SS-21)
8-9 Aug – 23:50-00:23 9 Aug – 00:41-01:04	Town of Poti
9 Aug – 09:23-09:45	Kopitnari Airport near the city of Kutaisi
9 Aug – 09:52-10:24 9 Aug – 10:21-10:46	Town of Gori
9 Aug – 10:29-11:04	Village Shavshvebi, Gori District
9 Aug – 13:42-13:50	Large part of Kodori Gorge, Upper Abkhazia
9 Aug – 14:03-14:11	Village Omarishara, Upper Abkhazia
9 Aug – 14:26-14:39	Village Ajara, Upper Abkhazia
9 Aug – 14:26-14:39	Village Chkhalta, Upper Abkhazia
9 Aug – 16:04-16:14	Village Komandeli, Oni District
9 Aug – 17:39-17:50 9 Aug – 17:39-17:50 9 Aug – 18:24-18:34	Jechora Gorge, Oni District
9 Aug – 22:20-22:30	Village Chkhalta, Upper Abkhazia Village Gentsvisi, Upper Abkhazia
9-10 Aug – 23:50-00:23	Town of Senaki
10 Aug – 05:27-05:47	City of Tbilisi, Vaziani airdrome and airplane factory Baku-Supsa Oil Pipeline, 25 km section
10 Aug – 06:02-09:15	Village Ajara, Upper Abkhazia Village Chkhalta, Upper Abkhazia Village Urta, Zugdidi District
10 Aug – 11:25-11:27	Village Tsedisi, Oni District
10 Aug – 12:22-12:26 10 Aug – 13:51-13:55	Village Chkhalta, Upper Abkhazia
10 Aug – 15:05-15:15	Large part of Kodori Gorge, Upper Abkhazia
10 Aug – 15:09-15:24	Village Knolevi, Kareli District
10 Aug – 15:29-15:39	Town of Gori

10 Aug – 15:40-15:50	Village Anaklia, Zugdidi District
10 Aug – 16:09-16:14	Large part of Kodori Gorge, Upper Abkhazia
10 Aug – 16:20-16:35	Village Anaklia, Zugdidi District
10 Aug – 17:21-17:55	Large part of Kodori Gorge, Upper Abkhazia
10 Aug – 18:42-19:16	City of Tbilisi, Leninisi Radar Station near Tbilisi International Airport
10 Aug – 19:40-20:05	Town of Senaki Parts of Kodori Gorge, Upper Abkhazia
10 Aug – 20:23-20:27	Parts of Kodori Gorge, Upper Abkhazia
10 Aug – 22:03-22:09	Village Gentsvisi, Upper Abkhazia
10 Aug – 23:54-00:00	Village Shavshvebi, Gori District
11 Aug – 00:19-00:39	Parts of Kodori Gorge, Upper Abkhazia
11 Aug – 02:09-02:40	Village Chkhalta, Upper Abkhazia
11 Aug – 02:44-03:20	Village Sharabidzeebi, Khelvachauri District Village Kapandichi, Khelvachauri District Village Makho, Khelvachauri District
11 Aug – 03:03-03:29	Parts of Kodori Gorge, Upper Abkhazia
11 Aug – 04:12-04:50	City of Tbilisi, Leninisi Radar Station near Tbilisi International Airport Shiraki Airfield, Dedoplistskaro District
11 Aug – 05:25-06:15	Town of Gori
11 Aug – 07:10-07:20	Village Ganmukhuri, Zugdidi District Village Anaklia, Zugdidi District Town of Senaki
11 Aug – 19:05-19:10	Parts of Kodori Gorge, Upper Abkhazia
12 Aug – 01:30-02:00	Village Ruisi, Kareli District Town of Kaspi, Railway Station Town of Kaspi, Heidelberg Cement Factory
12 Aug – 09:30-10:55	Town of Gori
12 Aug – 11:30	Baku-Supsa Oil Pipeline, 27 km section (with "Iskander-M"/SS-26)
12 Aug – 12:00 (approx.)	Town of Gori (with "Iskander-M"/SS-26)
12 Aug – 14:00-14:15	Village Agara, Khashuri district Village Sakorinto, Kaspi District
13 Aug – morning, exact time unknown	Village Sakasheti, Gori District Village Okami, Kaspi District
Date and time unknown	Village Karbi, Gori District
Date and time unknown	Oni district (with "Tochka-U"/SS-21), found unexploded
Date and time unknown	Village Sinaguri, Java District (with "Tochka-U"/SS-21), found unexploded

Russian armed forces used SU-24, SU-25, SU-27 and MIG-29 type military aircraft, as well as strategic bombers TU-22M to attack Georgia.

B. On the Peacekeeping Battalion of North Ossetia-Alania

1. Was the North Ossetian PFK Battalion de facto a South Ossetian Battalion (personnel)?

The North Ossetian Peacekeeping Battalion was mostly manned by residents of Tskhinvali Region/South Ossetia. This has been confirmed on multiple occasions by the Commander of North Ossetian Peacekeepers Colonel **Kazbeg Friev**, as well as representatives of South Ossetian de facto authorities. See annex 1 for Russian media articles, in which the Commander of North Ossetian Peacekeepers, as well as representatives of the de facto regime admit this fact.

2. Was this PKF Battalion considered a unit of the Russian Federation or of South Ossetia?

The North Ossetian PKF Battalion was a unit of the Russian Federation. The material and financial support of the battalion was completely provided by the Government of the Russian Federation. The Commander of North Ossetian Peacekeepers was appointed from the staff of the Ministry of Defense of the Russian Federation. See annex 2 for the official documents of the Joint Control Commission that substantiate this information.

3. What was the strength and armament of this battalion?

According to regulations of the Joint Control Commission, the personnel of this battalion amounted to 500 soldiers (in case of escalation, 300 more could have been added to the battalion by a special decision of the Joint Control Commission). Members of the battalion were armed with Kalashnikov assault rifles and machine guns, as well as with 42 armored vehicles: 24 Infantry Fighting Vehicles (BMPs) and 18 Armored Personnel Carriers (BTRs).

4. To what extent has the Ossetian PKF Battalion coordinated action with the South Ossetian militia – during the escalation and after the launch of full-scale hostilities?

The coordination between the North Ossetian Peacekeeping Battalion and South Ossetian de facto regime irregular forces has a long history. Commanders and soldiers of the North Ossetian Peacekeeping contingent have always actively cooperated with the so-called "Ministry of Defense and Emergency Situations" and other bodies of the de facto regime.

The North Ossetian Peacekeeping Battalion often gave its armament, equipment and transport to the irregular forces, used the facilities of the JPKF to train the de facto regime irregulars in different military professions and provided intelligence to them on the location/coordinates of Georgian police and peacekeepers in the conflict zone. The North Ossetian Peacekeeping Battalion directly participated in the hostilities against Georgian government forces in 2004 and again in 2008.

Military observers of the North Ossetian Peacekeeping Battalion also frequently assisted South Ossetian de facto regime irregular forces in concealing armaments prohibited by the peacekeeping format. They usually did this by informing irregular units of the planned visits of the JPKF and OSCE monitoring groups, including places and objects, which were to be checked by the monitors, thus allowing the irregulars to hide from view together with their armament and military hardware.

The Ministry of Internal Affairs of Georgia possesses a huge volume of information, including intercepted telephone conversations, on such cooperation between the North Ossetian PKF Battalion, the Russian PKF Battalion and South Ossetian de facto regime irregular forces since 2004. Here are several most evident examples that reveal the pattern of violations by Russian and North Ossetian peacekeepers over these years:

- On August 12 2004, at 15:51, Commander of North Ossetian Peacekeepers **Kazbeg Friev** called **Robert Kokoity**, brother of "South Ossetian" de facto president **Eduard Kokoity** and gave him 1 Armored Vehicle (BMP) with a crew belonging to the JPKF, 2 boxes of PG-7 grenades, automatic firearms and under-barrel grenade launchers (see annex 3, annex 3 audio);

- On August 14 2004, at 09:37, Special Tasks Minister of South Ossetian de facto authorities, **Boris Chochiev** called the Commander of North Ossetian Peacekeeping **Kazbeg Friev** and asked him to come to a meeting that would be attended by Commander of the Joint Peacekeeping Forces **Stanislav Nabdzorov**, de facto Minister of Defense of South Ossetia, **Anatoly Barankevich** and de facto Minister of Internal Affairs of South Ossetia (see annex 4, annex 4 audio);

- On September 15 2004, at 15:18, Chief military observer of the North Ossetian Peacekeeping Battalion **Alik Lagkoev** called his battalion commander **Philip Khachirov** and told him to warn the South Ossetian de facto MOD to hide their military hardware located in the direction of village Geri and the Dzari road (see annex 5, annex 5 audio);

- On January 13 2005, at 11:34, Chief military observer of the North Ossetian Peacekeeping Battalion **Alik Lagkoev** called South Ossetian de facto Deputy Defense Minister **Ibragim Gasseev** and warned him that a monitoring would be held at the Muguti mountain (see annex 6, annex 6 audio);

- On January 14 2005, at 10:52, Chief military observer of the North Ossetian Peacekeeping Battalion **Alik Lagkoev** called South Ossetian de facto Deputy Defense Minister **Ibragim Gasseev** and warned him that a monitoring would take place at 10:30 in the direction of the Dzari road (see annex 7, annex 7 audio);

- On April 7 2005, at 14:42, Counselor to the Chairman of South Ossetian de facto State Security Committee (KGB) **Sergei Guznov** called the commander of the Joint Peacekeeping Forces **Marat Kulakhmetov** and told him that at 18:00 people from Russia, about which the Chairman of the KGB had told before, would enter the region from the Roki tunnel and asked him to bring them on a JPKF transport to Tskhinvali. **Kulakhmetov** agreed (see annex 8, annex 8 audio);

- On March 1 2006, at 16:39, Chief military observer of the North Ossetian Peacekeeping Battalion **Alik Lagkoev** called his battalion commander **Philip Khachirov** and informed him that he had just received a call from Russian and Ossetian observers warning that they are going out on a monitoring together with the OSCE, therefore armed irregulars should not stand on the roads and the monitors must be kept away from weapons storages (see annex 9, annex 9 audio);

- On April 12 2007, at 11:47, Commander of North Ossetian Peacekeepers **Kazbeg Friev** called deputy commander of the 10th battalion of South Ossetian de facto MOD **Mairbeg Khuriev** and asked him to sign the document regarding the vehicle, which he had given to the 10th battalion.

He also reminded that this vehicle needed a communications specialist and Khuriev could send someone to the North Ossetian PKF battalion for training (see annex 10, annex 10 audio);

- On May 7 2007, at 13:47, Chief military observer of the North Ossetian Peacekeeping Battalion **Alik Lagkoev** called his commander **Kazbeg Friev** and informed him that the monitoring revealed a South Ossetian anti-aircraft system in village Dzvileti, but the South Ossetian militiamen opened fire at the monitoring group. **Lagkoev** asked **Friev** to give a warning to those South Ossetians (see annex 11, annex 11 audio);

- On May 7 2007, at 14.04, Observer of the North Ossetian Peacekeeping Battalion **Fedia Jioev** called the chief military observer of the battalion **Alik Lagkoev** and told him to advise the de facto MOD to take away the revealed antiaircraft system as soon as possible (see annex 12, annex 12 audio);

- On May 7 2007, at 14:09, Chief military observer of the North Ossetian Peacekeeping Battalion **Alik Lagkoev** called the first deputy chairman of South Ossetian de facto authorities **Boris Chochiev** and told him that the monitoring group had found a South Ossetian anti-aircraft system near village Dzvileti despite the fact that he had warned the South Ossetian de facto MOD about the planned monitoring in advance. **Chochiev** instructed him not to speak about this topic over the phone anymore (see annex 13, annex 13 audio);

- On May 8 2007, at 08:47, Chief military observer of the North Ossetian Peacekeeping Battalion **Alik Lagkoev** called the first deputy chairman of South Ossetian de facto authorities **Boris Chochiev** regarding the incident that happened on the previous day. He told him that the report of the monitoring team was bad for the Ossetian side as it said that members of South Ossetian de facto regime irregular forces attacked the monitoring group. **Chochiev** instructed him to abstain from signing the report (see annex 14, annex 14 audio);

- On June 22 2007, at 21:55, Commander of North Ossetian Peacekeepers **Kazbeg Friev** called the deputy commander of the 10th battalion of South Ossetian de facto MOD **Mairbeg Khuriev** and told him that he had sent diesel fuel to the 10th battalion (see annex 15, annex 15 audio);

- On July 20 2008, at 10:48, Deputy commander of the 7th battalion of South Ossetian de facto MOD **Arsen Kvezerov** called **Edik**, an artillerist of the same battalion, and told him that they were going to dig entrenchments using a power shovel provided by the peacekeepers (see annex 16, annex 16 audio);

As already reported in the answer to question 3 of the military set of questions, during the escalation of conflict from July 29 through August 7 2008, Russian and North Ossetian peacekeepers were aware of violations committed in the conflict zone, but did not report them and on several occasions even collaborated to hide the evidence of these violations. Moreover, South Ossetian de facto regime irregular forces and North Ossetian peacekeepers coordinated their attacks on Georgian peacekeepers and police. Here we repeat the most vivid examples of those violations:

- On July 29, at 22:40, a duty officer of the North Ossetian peacekeeping battalion, **Ruslan Makeev** informed the Commander of North Ossetian Peacekeepers **Kazbeg Friev** that a unit of

the North Ossetian peacekeeping battalion had opened fire towards the Georgian peacekeeping battalion;[1]

- On July 30, at 10:42, **Alik Lagkoev**, the chief military observer in the North Ossetian peacekeeping battalion telephoned a duty officer at the South Ossetian de facto Ministry of Defense and warned them that monitoring was going to be conducted by the JPKF in the area close to the Sarabuki heights;[2]

- On August 1, at 22:57, **Arsen Kvezerov**, deputy Commander of the 7th battalion of the South Ossetian de facto Ministry of Defense told **Philip Khachirov**, the commander of North Ossetian peacekeeping battalion to pass a request to some other military unit to support his fire and offered to give the coordinates of either Georgian police or Georgian peacekeepers;[3]

- On August 2, at 21:01, **Arsen Kvezerov**, Deputy Commander of the 7th battalion of the South Ossetian de facto Ministry of Defense and **Philip Khachirov**, Commander of the North Ossetian peacekeeping battalion discussed a scheme for the future shelling of positions of Georgian peacekeepers and police;[4]

- On August 4, at 14:44, the Senior Commander of Georgian peacekeepers, General **Mamuka Kurashvili** contacted the Commander of the JPKF General **Marat Kulakhmetov** on the phone and asked him to conduct additional monitoring of the places from where the Sarabuki heights might have been shelled since he was sure that the trace left by a 100mm shell on the Sarabuki heights could show the direction from where it originated. At 15:34, the de facto Defense Minister of South Ossetia, Russian Colonel **Vasily Lunev**, who was already informed that the shells were traceable, telephoned **Valeri Kokoev**, the Commander of the 7th battalion of the South Ossetian de facto Ministry of Defense that was responsible for the shelling, and instructed him to change something on the firing position in order to conceal the trace;[5]

- On August 6, at 11:58, a person named **Alan** reported to **Alik Lagkoev**, the chief military observer of the North Ossetian peacekeeping battalion that "their people" shelled the positions of either Georgian police or Georgian peacekeepers. **Lagkoev** has never reported this fact;[6]

- On August 6, at 19:06, **Alik Lagkoev**, the chief military observer in the North Ossetian peacekeeping battalion asked **Ibragim Gaseev**, the de facto Deputy Defense Minister of South Ossetia to report about the results of shelling of an armored vehicle of the Georgian peacekeeping battalion;[7]

- On August 6, at 21:18, **Valeri Kokoev**, the Commander of the 7th battalion of South Ossetian de facto Ministry of Defense informed the Senior Commander of North Ossetian Peacekeepers

[1] See annexes 2-3 of the answer to question 3 of the military set of questions
[2] See annexes 4-5 of the answer to question 3 of the military set of questions
[3] See annexes 6-7 of the answer to question 3 of the military set of questions
[4] See annexes 8-9 of the answer to question 3 of the military set of questions
[5] See annexes 10-13 of the answer to question 3 of the military set of questions
[6] See annexes 14-15 of the answer to question 3 of the military set of questions
[7] See annexes 16-17 of the answer to question 3 of the military set of questions

Kazbeg Friev that during the night "something" was going to be brought into the area, **Friev** interrupted and warned him not to talk about this via Georgian mobile communications;[8]

- On August 7, at 00:22, **Alik Lagkoev**, the chief military observer in the North Ossetian peacekeeping battalion asked **Ibragim Gaseev**, the de facto Deputy Defense Minister of South Ossetia to correct their artillery fire at Georgian peacekeepers because some of the shells mistakenly fell near the location of Russian peacekeepers;[9]

- On August 7, at 06:51, **Philip Khachirov**, Commander of the North Ossetian peacekeeping battalion gave advice to **Arsen Kvezerov**, Deputy Commander of the 7th battalion of the South Ossetian de facto Ministry of Defense in choosing targets for their artillery attack.[10]

5. When and where did the Ossetian PKF Battalion see action – during escalation and armed conflict?

As already reported in the answer to question 3 of the military set of questions, according to an interview given by the Commander of North Ossetian Peacekeepers Colonel **Kazbek Friev** to the South Ossetian de facto regime's radio, during the hostilities parts of the battalion under his command "had taken pre-planned positions and acted jointly with the battalions of the Ministry of Defense [of Russia]" and "were halting the advancement of Georgian troops."[11] Colonel **Friev** also stated that the mission of the peacekeepers was "not to allow Georgians to pass through the town." He had organized positions of his soldiers and armored vehicles (BMPs and BTRs) in Tskhinvali, namely, in Shanghai, Tsarz and the Mamisaantubani districts in the south of the town and acted jointly with Russian Ministry of Defense troops.[12]

Since late afternoon on August 7, 2008, part of the leadership of the de facto regime, particularly "all the power ministers" started to gather at the peacekeepers' headquarters at "Nizhniy Gorodok." Parts of the scattered irregular forces also gathered at this place, which was used as one of the centers for "coordinating the town's defense effort."[13]

The JPKF headquarters "Nizhniy Gorodok" was the place where **Anatoly Barankevich**, the Security Council Chairman in the South Ossetian proxy regime, appeared to request help.[14] According to Barankevich, he "proposed to **Kulakhmetov** [the Commander of the JPKF] to hold the circle of defense together, and to stand until Russian troops approached." Simultaneously, on the territory of the peacekeepers' base he was provided with a mobile phone by which he contacted the Russian leadership and demanded "the promised reinforcements." **Barankevich**, aided by a number of South Ossetian militants, also decided to secure the roads to the JPKF headquarters. For that purpose, they occupied the surrounding houses, from where they ambushed and attacked Georgian police and military moving around the town.[15]

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[8] See annexes 18-19 of the answer to question 3 of the military set of questions
[9] See annexes 20-21 of the answer to question 3 of the military set of questions
[10] See annexes 22-23 of the answer to question 3 of the military set of questions
[11] See annex 91 of the answer to question 1 of the military set of questions.
[12] Ibid.
[13] Ibid.
[14] See annexes 93 and 94 of the answer to question 1 of the military set of questions.
[15] Ibid.

In a recent interview, the Commander of North Ossetian Peacekeepers Colonel **Kazbeg Friev** reaffirmed that the battalion under his command directly participated in the hostilities against Georgian government forces. He stated that in 100 meters from the location of his peacekeeping battalion in Tskhinvali, 50 Ossetian peacekeepers were fighting against Georgians and they were defending that district of the town (see annex 17);

The Commander of the North Ossetian Peacekeeping Battalion Vice-Colonel **Philip Khachirov** recently stated that on August 8 2008, he was giving bullets for automatic firearms, anti-tank grenade launchers and other weapons from the storage of the North Ossetian PKF Battalion to employees of different law enforcement bodies of South Ossetian de facto regime and that they were together fighting against Georgian government forces in the town (see annex 18);

The head of the physical training and sports section of the North Ossetian Peacekeeping Battalion **Soslan Tasoev** said in a recent interview that on August 7 2008, at 14:00, the North Ossetian Peacekeeping Battalion handed over its infantry fighting vehicle (BMP) to the division of the South Ossetian de facto MOD located in villages Dmenisi and Sarabuki and that later he himself brought them antitank guided missiles (see annex 19);

The Deputy Commander of the North Ossetian Peacekeeping Battalion Major **Anatoly Bibilov** said in a recent interview that on August 8, he and other members of the North Ossetian PKF Battalion were fighting against Georgian government forces in Tskhinvali, shooting RPG-6 anti-tank rockets at Georgian tanks and holding positions on the roofs and top floors of the apartment buildings in different parts of the town (see annex 20).

C. On the Georgian PKF Battalion

1. What was the strength and armament of the Georgian Battalion during the escalation and at the launch of full-scale hostilities?

By August 2008, the Georgian Peacekeeping Battalion deployed in the Georgian-Ossetian conflict zone was composed of 541 soldiers, including 500 soldiers of the 11th light infantry battalion of the 1st Infantry Brigade with an attached armored battalion of the same Brigade – 41soldiers and 13 Armored Vehicles BMP-2. The strength and armament of the Georgian PKF Battalion remained unchanged during the escalation of the conflict, as well as after the full-scale hostilities were launched.

As already reported in the answer to question 3 of the military set of questions, the Georgian Peacekeeping Battalion had four checkpoints of its own in the following locations:

- Village Avnevi (1 Georgian platoon).
- Sarabuki Heights (1 Georgian platoon).
- Village Kekhvi (6 Georgian peacekeepers).
- Village Tamarasheni (6 Georgian peacekeepers).

One platoon of the Georgian PKF Battalion was deployed as part of the joint Russian-Georgian checkpoint on the Tsveriakho Mountain right above the Georgian bypass road (Eredvi-Kheiti) and per one observer from the Battalion served at joint checkpoints in the following villages:

- Kekhvi
- Prisi
- Megvrekisi
- Vanati
- Kverneti
- Tamarasheni
- Artsevi
- Avnevi

The Georgian Peacekeeping Battalion had three permanent locations in the conflict zone, where its personnel were accommodated:

- in Village Zemo Nikozi (311 soldiers and 6 Armored Vehicles BMP-2),
- in Village Eredvi (104 soldiers and 7 Armored Vehicles BMP-2); and
- in Village Achabeti (126 soldiers).

Several senior officers of the Georgian PKF Battalion were also stationed in the central headquarters of the JPKF in the town of Tskhinvali, the so-called "Nizhniy Gorodok."

2. What was the role of the Georgian PKF Battalion during the escalation and the deployment of regular Georgian forces?

   a. In the belt South of Tskhinvali?
   b. In the string of Georgian villages North of Tskhinvali?
   c. Along the Georgian by-pass road (Geri- Dmenisi- Sarabuki Heights etc.)
      (Please specify action, time and location)

The main tasks of the Georgian Peacekeeping Battalion during the escalation of the conflict, as well as during the hostilities, based on the general principles of the JPKF activities in the conflict zone, was to: a) protect civilian population; b) block the activities of illegal armed groupings; c) prevent the delivering of firearms, armament, military hardware, explosives and other materials into the conflict zone that could be used for terrorist, sabotage and military purposes; etc.

Starting from July 29 2008, South Ossetian de facto regime irregular forces intensively targeted Georgian peacekeepers deployed in the conflict zone along with shelling central government controlled villages in the region. As already reported in the answers to the military set of questions, on July 29, at 22:00, South Ossetian de facto regime irregular forces shelled the Georgian peacekeeping checkpoint on Sarabuki heights with 100mm and 120mm artillery. On August 1, from 21:30 onwards, South Ossetian de facto regime irregular forces shelled the Georgian villages of Zemo Nikozi, Kvemo Nikozi, Avnevi, Nuli, Ergneti, Eredvi and Zemo Prisi with large caliber artillery, including the locations of Georgian peacekeepers. The shelling continued overnight and stopped only in the morning on August 2. On August 2 and 3, the JPKF conducted monitoring of most of the villages damaged by the shelling and on August 4 issued a report confirming the fact of the shelling of Zemo Nikozi, Kvemo Nikozi, Nuli, Eredvi and Zemo Prisi with 82mm artillery, as well as the earlier shelling of Georgian peacekeepers on Sarabuki heights with 100 mm and higher caliber artillery.[1]

On August 7, at 14:00, the Georgian peacekeeping checkpoint in Avnevi was heavily shelled with 100mm and 120mm artillery, by South Ossetian proxy regime irregular forces located in the village of Khetagurovo, destroying the Georgian peacekeeping unit's armored vehicle, killing two Georgian peacekeepers, Shalva Trapaidze and Vitali Takadze and wounding five others.[2] Georgian peacekeepers returned fire in self-defence. Later the Ministry of Internal Affairs of Georgia intercepted a phone call, during which a member of the de facto regime irregular forces confirmed the fact of blowing up an armored vehicle of Georgian peacekeepers in Avnevi with a cannon.[3]

On August 7, at around 17:00, after the Commander of the JPKF Marat Kulakhmetov refused to give additional security guarantees to Georgian peacekeepers in the town of Tskhinvali. The Commander of Georgian peacekeepers Mamuka Kurashvili ordered officers of the Georgian

[1] See annex 23 of the answer to the question 1 of the military set of questions.
[2] See annex 33 of the answer to the question 1 of the military set of questions for the list of casualties among Georgian peacekeepers.
[3] See annexes 75 and 76 of the answer to the question 1 of the military set of questions for the telephone intercept and its transcript.

peacekeeping battalion to leave the headquarters of the JPKF in Tskhinvali. At 17:10, despite casualties among Georgian peacekeepers and the shelling of central government controlled villages, Georgian peacekeepers unilaterally ceased fire to defuse tensions. This decision was communicated by the Georgian State Minister for Reintegration, Temur Yakobashvili to the Commander of the JPKF General Marat Kulakhmetov at 17.00. In spite of that, at 20:30, South Ossetian de facto regime irregular forces resumed the shelling of Georgian peacekeepers in village Avnevi and at 23:30, intensified their artillery fire on all positions of Georgian peacekeepers in Big Liakhvi, Little Liakhvi and the Frone valleys.

After Georgian regular forces were deployed to the region and started defensive military operation, carrying out the order issued by President of Georgia at 23:35 on August 7, members of the Georgian Peacekeeping Battalion continued to serve their duties on all checkpoints in the conflict zone. Georgian and Russian peacekeepers were standing side by side on all joint peacekeeping checkpoints until late in the evening of August 9. No incidents occurred between them.

On August 8 and August 9, the Georgian PKF Battalion maintained its positions and protected the civilian population in villages to the south of Tskhinvali, as well as in the central government controlled villages in Big Liakhvi, Little Liakhvi and Frone valleys, despite massive bombardments by Russian military aircraft and artillery.

On August 9, the Georgian PKF Battalion helped to evacuate civilian population from Big Liakhvi, Little Liakhvi and Frone valleys.

On August 9 at 22:30, after the evacuation of the local population from Big Liakhvi Valley was completed, the Georgian PKF Battalion unit, together with Georgian police units, started to leave this valley via the Eredvi-Kheiti bypass road, abandoning positions in villages Kekhvi and Tamarasheni, as well as its location in village Achabeti and by 02:00 on the morning of August 10 was fully re-deployed to village Eredvi in Small Liakhvi valley. Immediately after the withdrawal from Big Liakhvi Valley, the Georgian PKF platoon left the joint Russian-Georgian checkpoint on the Tsveriakho Mountain.

On August 10, at 10:00, the Georgian PKF Battalion, together with Georgian regular troops, retreated from Frone Valley to village Zemo Nikozi, south of Tskhinvali. Around the same time, the personnel of the Georgian PKF Battalion left Small Liakhvi valley, including its location in village Eredvi. A few hours later, the Georgian PKF Battalion abandoned all of its checkpoints to the south of Tskhinvali, including its location in Zemo Nikozi and retreated southwards in Gori district.

As Russian troops started to advance south from the town of Tskhinvali on the morning of August 11, the Georgian PKF Battalion, together with most Georgian regular forces, moved from Gori district to the east and by 22:00 took positions near the town of Mtskheta in order to defend the capital Tbilisi.

3. To what extent did The Georgian PKF Battalion coordinate with Special Forces of the Georgian Ministry of Interior and with the Georgian militia (under Sanakoyev administration)?

The Georgian PKF Battalion was always in close coordination with Georgian police in terms of safeguarding the civilian population of the central government controlled villages in the conflict zone from attacks by South Ossetian de facto regime irregular forces.

During the hostilities in August 2008, the Georgian PKF Battalion and Georgian police units (including the MIA Special Forces and the Temporary Administration's Anti-Terrorist Center) also coordinated the evacuation of civilian population from Big Liakhvi, Small Liakhvi and Frone valleys, as well as from the town of Gori and the surrounding villages.

4. From which direction did the Georgian PKF Battalion participate in the attack on Tskhinvali? (South: Avnevi, Nikozi; North: Tamarasheni; East: Georgia by-pass road Geri-Dmenisi?), if at all?

The Georgian PKF Battalion did not participate in the attack on the town of Tskhinvali.

D. On the Special Forces of the Georgian Ministry of Interior (MIA)

1. Which strength did the Special Forces of the MIA have and which armament did they hold during the escalation and after the outbreak of full-scale hostilities?

2. What was their role during the escalation, the deployment of regular Georgian forces and after the outbreak of full-scale hostilities?

a. In the belt South of Tskhinvali?

b. In the string of Georgian villages North of Tskhinvali?

c. Along the Georgian by-pass road (Geri-Dmenisi-Sarabuki Heights, etc)

(please specify action, time and location)

The Special Forces of the Ministry of Internal Affairs of Georgia are mainly represented by two departments within the ministry: the Special Tasks Main Division and the Special Operations Center. The Special Tasks Main Division supports regional police units with special forces and performs various special tasks to protect public order, as for the Special Operations Center, it conducts anti-terrorist and anti-criminal police operations with special weapons and tactics. In addition to that, a small Special Forces unit is maintained by the ministry's Constitutional Security Department, which protects the state from the activities of radical/extremist-minded groups and organizations. The Special Tasks Main Division and the Constitutional Security Department have subdivisions in all regions of Georgia, including Shida Kartli region, while the Special Operations Center is based near the capital Tbilisi.

By August 2008, up to 300 police officers of the Shida Kartli Subdivision of the Special Tasks Main Division of the MIA were serving their duties in the Georgian-Ossetian conflict zone mainly to the south of the administrative border with Tskhinvali Region/South Ossetia. They were stationed on 6 checkpoints in villages: 1) Dvani, 2) Kvemo Nikozi, 3) Zemo Nikozi, 4) Ergneti, 5) Mejvriskhevi, 6) Zemo Prisi (Small Liakhvi valley) and were patrolling the roads between these villages on Toyota pick-up trucks. Each checkpoint was manned by 30-40 police officers armed with Kalashnikov assault rifles and machine guns. Their base was located in village Karaleti, Gori district.

At the end of 2006, a small Special Forces unit (Anti-Terrorist Center) was set up under the newly established Temporary Administration of South Ossetia in order to support Georgian police on the central government controlled territory of Tskhinvali region/South Ossetia, namely Big Liakhvi, Small Liakhvi and Frone valleys. It was manned mostly by local residents. By August 2008, 185 police officers of the Temporary Administration's Anti-Terrorist Center were stationed on 9 checkpoints: 6 in Big Liakhvi valley to the north of the town of Tskhinvali (3 in village Tamarasheni, 1 in village Achabeti, 1 in village Kekhvi and 1 in village Dzartsemi), 1 in Small Laikhvi valley to the east of the town of Tskhinvali (in village Zemo Prisi) and 2 in Frone valley to the west of the town of Tskhinvali (in village Avnevi). Police officers of the Temporary

Administration's Anti-Terrorist Center were also regularly patrolling the Eredvi-Kheiti bypass road connecting Small Liakhvi and Big Liakhvi valleys. Each checkpoint was manned by 10-15 police officers armed with Kalashnikov assault rifles and machine guns.

As the escalation of conflict started on July 29 2008, the police officers and checkpoints of the Special Tasks Main Division and the Temporary Administration's Anti-Terrorist Center were intensively targeted by South Ossetian de facto regime irregular forces. On August 1, five Georgian Special Forces police officers were wounded as their Toyota pickup truck was hit by two remote-control explosive devices on the Eredvi-Kheiti bypass road. On the morning of August 2, in the result of mortar fire from Tskhinvali an officer of the Shida Kartli Subdivision of the Special Tasks Main Division Irakli Bekurishvili was heavily wounded at the checkpoint in village Zemo Nikozi. From August 5 through August 7, Georgian police checkpoints in central government controlled villages both inside Tskhinvali Region/South Ossetia and to the south of the administrative border were fired upon by South Ossetian de facto regime irregular forces using machine guns, mortars, cannons and armored vehicle guns. Georgian police and Special Forces stationed in these villages continued to fulfil their duties without reinforcement and returned fire with their regular weapons towards the positions of the de facto regime irregular forces.

On August 7, following the massive artillery attack on the Georgian peacekeeping checkpoint in village Avnevi, Frone valley, which resulted in the death of two Georgian peacekeepers and responding to the incursion of Russian regular army units into Georgia, the Georgian Government put its police and armed forces on alert. At 14:30, the Ministry of Defense of Georgia declared the mobilization of its forces and at the same time, the Ministry of Internal Affairs of Georgia started to reinforce its police and special forces units deployed to the south of the administrative border with Tskhinvali Region/South Ossetia: 475 special forces officers of the Tbilisi Subdivision of the Special Tasks Main Division, 175 special forces officers of the Special Operations Center and 100 special forces officers of the Constitutional Security Department were sent to the region (along with police officers from other departments of the ministry) as the bombing of central government controlled villages continued and intensified later in the evening. No reinforcement could be sent to the Temporary Administration's Anti-Terrorist Center inside Tskhinvali Region/South Ossetia.

After the President of Georgia issued an order to start a defensive military operation in Tskhinvali Region/South Ossetia on August 7 at 23:35, the Special Forces of the Ministry of Internal Affairs of Georgia were subordinated to the operative group of the General Staff of the Ministry of Defense of Georgia and received an order to operate on the central direction and, after the 3rd and the 4th Infantry Brigades fulfilled their tasks on the right and left flanks, to enter the town of Tskhinvali, supported by a Separate Light Infantry Battalion and a Single Tank Battalion of the Ministry of Defense, with the objective to neutralize firing positions within Tskhinvali and ultimately reach the Big Liakhvi valley to the north of the town.

The Special Tasks Main Division and the Special Operations Center of the MIA formed a task force of 810 Special Forces police officers to operate on the central direction, which consisted of:

- 60 officers from the Shida Kartli Subdivision of the Special Tasks Main Division;
- 475 officers from the Tbilisi Subdivision of the Special Tasks Main Division;
- 175 officers from the Special Operations Center;

- 100 officers from the Constitutional Security Department.

The armament of the grouping consisted of:

- 5, 45 mm Kalashnikov assault rifles (AKS-74)
- 7.62 mm Kalashvnikov assault rifles (AKM)
- 7,62 mm Dragunov semi-automatic sniper rifles (SVD)
- 7.62 mm Kalashnikov general purpose machine guns (PK)
- 7.62 mm Kalashnikov hand-held light machine guns (RPK)
- Hand-held anti-tank rocket propelled grenade launchers (RPG-7)

The Special Forces police officers were riding Otokar "Cobra" Light Armored Vehicles, some equipped with 12.7 mm heavy machine guns ("Utyos") and some with 40 mm automatic grenade launchers (AGL). In total, the MIA sent 70 "Cobra" vehicles to Shida Kartli region.

On August 8, at around 06:00, a task force unit of special forces police officers with "Cobra" vehicles, reinforced by several tanks from the MOD of Georgia, moved from village Zemo Nikozi towards the outskirts of Tskhinvali in order to suppress the fire at that village coming from the proxy regime militants located in the southwestern part of the town, the so called "Shanghai" suburb. The MIA Special Forces encountered sniper and massive armored vehicle cannon fire from the Russian peacekeeping headquarters "Verkhniy Gorodok" located on the southwestern edge of the town. As already reported, the roof of the main building of "Verkhniy Gorodok" was used by enemy for correcting artillery fire against Georgian armed forces *(see again annex 90 of the answer to the question 1 of the military set of questions)*. Hence, the MIA Special Forces were compelled to return fire towards "Verkhniy Gorodok" from automatic rifles and 12.7 mm heavy machine guns ("Utyos") attached to "Cobra" vehicles and later had to ask for tank support as well.

Later on August 8, at 11:00, the task force of 810 Special Forces police officers of the MIA with 40 "Cobra" armored vehicles, followed by a light infantry battalion and a tank battalion of the MOD entered Tskhinvali from village Zemo Nikozi. As they moved through the town, they encountered fire from different buildings that were used by the adversary for combat purposes. They also came under intensive bombardment by enemy aircraft and artillery in the southern part of Tskhinvali. By 14:30, the task force took control of most of Tskhinvali – its southern and central parts, while the fighting continued on the streets in the northern part of the town. At 20:30, due to intensive bombardment and resistance, the task force withdrew from the center of Tskhinvali and regrouped, holding positions in the southern part of the town. During the night, the task force maintained control of the southern part of Tskhinvali.

On August 9, at 12:00-13:00, because of the character of the battle and presence of multiple reinforced firing positions of the enemy inside the town, the task force of the MIA Special Forces in Tskhinvali was reinforced by the 4th Infantry Brigade of the MOD that entered the town from the left flank. From 13:00 to 15:00, Georgian and Russian troops engaged in intensive fighting in the center of Tskhinvali, Georgian forces mostly controlled the southern part of the town, while Russian forces amassed in its northern part. At 17:00, additional Russian troops entered Tskhinvali. Confronting the Russian air, artillery and ground offensive, Georgian forces maintained control of the southern part of Tskhinvali and the surrounding villages until late in the evening. At 22:30,

Georgian armed forces, including the task force of the MIA Special Forces, began a phased retreat from Tskhinvali and during the night re-positioned themselves south of the town.

Throughout August 8 and until late in the evening of August 9, the Temporary Administration's Anti-Terrorist Center maintained its checkpoints in the central government controlled villages in Tskhinvali Region/South Ossetia despite massive bombardments by Russian military aircraft and artillery. On August 8 in the afternoon, police officers of the Temporary Administration's Anti-Terrorist Center had two short exchanges of fire with Russian troops near villages Tamarasheni and Dzartsemi. On August 9, after Georgian forces started to leave Tskhinvali at 22:30, the Temporary Administration's Anti-Terrorist Center abandoned its checkpoints in Big Liakhvi valley and moved via the Eredvi-Kheiti bypass road to Small Liakhvi valley.

On August 10, at 04:00, Russian troops occupied Big Liakhvi valley. At 10:00, Georgian armed forces, including the unit of the Temporary Administration's Anti-Terrorist Center, left Frone valley, which was immediately captured by Russian troops.

On August 11, after 11:00, as Russian troops started to advance south from Tskhinvali, Georgian forces, including all of the special forces of the MIA, retreated southwards in Gori district abandoning their checkpoints. By 22:00, as Georgian armed forces withdrew to the town of Mtskheta in order to defend the capital Tbilisi, the MIA Special Forces stopped at village Igoeti, Kaspi district on the main highway and arranged a checkpoint there.

The MIA Special Forces suffered the following casualties during the war: 6 officers of the Special Tasks Main Division and 3 officers of the Constitutional Security Department were killed. 3 officers of the Special Tasks Main Division are still missing in action.

E. On the South Ossetian Militia

1. Which strength and armament did the South Ossetian Militia dispose of at the outbreak of the August hostilities?

2. Which weapons did they use during fighting in Kethagurovo, Muguti, Tbeti, Dmenisi and other villages as well as the town of Tskhinvali?

3. How did they coordinate with Russian and Ossetian Peacekeepers?

By August 2008, the South Ossetian de facto regime was extremely militarized, which was a clear violation of the 1992 Sochi Agreement and numerous regulations of the Joint Control Commission.

The South Ossetian proxy regime irregular forces were subordinated to three main command centers – which, as already reported in the answers to the military and legal sets of questions, were all run by high-ranking officers from the Russian Federation:

1. The so-called "Ministry of Defense and Emergency Situations of South Ossetia";
2. The so-called "Ministry of Internal Affairs of South Ossetia"; and
3. The so-called "State Security Committee (KGB) of South Ossetia."

"The Ministry of Defense and Emergency Situations of South Ossetia"

According to the 1992 Sochi Agreement the South Ossetian de facto regime was not allowed to maintain armed forces and have a defense ministry.

Structure and Personnel

The information provided below in based on Georgian intelligence data. It does not include the armaments provided by Russia immediately after the start of hostilities.

By August 2008, the personnel of the South Ossetian de facto regime's "Ministry of Defense and Emergency Situations" amounted to roughly 3000 militiamen. They were organized into 10 battalions and several other divisions.

II Motor Rifle Battalion

Location: Village Znauri, Znauri district
Personnel: 180 militiamen
Armament:

Infantry Fighting Vehicles BMP-1 – 2 units
Howitzers – 2 units
Heavy anti-tank grenade launchers SPG – 3 units
Anti-aircraft systems ZU-23 – 2 units
Kalashnikov assault rifles, machine guns and other fire-arms

III Motor Rifle Battalion

Location: Village Khetagurovo, Tskhinvali district
Personnel – 250 militiamen
Armament:

Howitzers – 2 units
Heavy anti-tank grenade launchers SPG – 3 units
Anti-aircraft systems ZU-23 – 2 units
Kalashnikov assault rifles, machine guns, RPG-7s and other firearms

This battalion included **Tbeti company** that consisted of 30 militiamen

IV Motor Rifle Battalion

Location: Town of Tskhinvali (the so-called "Zhilmasiv" district)
Personnel – 180 militiamen
Armament:

Armored Personnel Carriers BTR – 1 unit
Howitzers – 2 units
Heavy anti-tank grenade launchers SPG – 3 units
Anti-aircraft systems ZU-23 – 2 units
Kalashnikov assault rifles, machine guns, RPG-7s and other firearms

This battalion also included:

"Shanghai" company
Personnel: 60 militiamen on regular basis, 250-300 in case of mobilization
Armament:

Self-propelled artillery system "SAU" – 1 unit
Infantry Fighting Vehicles BMP-1 – 1 unit
Armored Personnel Carriers BTR – 1 unit
Mortars – 2 units
Machine guns – 2 units
Kalashnikov assault rifles, machine guns, RPG-7s and other firearms

"Tsarz" company
Personnel: 100 militiamen with light firearms

"Gafez" company
Personnel: 100 militiamen with light firearms

V Motor Rifle Battalion

Location: Town of Tskhinvali ("Mamisaantubani" district)
Personnel: 180 militiamen
Armament:

Mortars – 8 units
Howitzers – 2 units
Heavy anti-tank grenade launchers SPG – 3 units
Anti-aircraft systems ZU-23 – 2 units

Kalashnikov assault rifles, machine guns, RPG-7s and other firearms

This battalion included **Prisi company**

Personnel: 150-160 militiamen
Armament:

Infantry Fighting Vehicles BMP-1 – 5 units
120mm mortars – 4 units
82mm mortars – 2 units
Anti-aircraft system ZU-23 – 1 unit
Kalashnikov assault rifles, machine guns, RPG-7s and other firearms

VI Motor Rifle Battalion

Location: Town of Tskhinvali ("Zagozerno" building), Villages Kverneti and Kusreti
Personnel: 250 militiamen
Armament:

Multiple Rocket Launcher BM21/GRAD – 1 unit
Howitzers – 2 units
Heavy anti-tank grenade launchers SPG – 3 units
Anti-aircraft systems ZU-23 – 2 units
Kalashnikov assault rifles, machine guns, RPG-7s and other firearms

This battalion included **"Bam" company**

Personnel: 100 militiamen armed with Kalashnikov assault rifles, machine guns, RPG-7s, 2 DShK machine guns and other firearms

VII Motor Rifle Battalion

Location: Village Dmenisi, Tskhinvali district
Personnel: 180 militiamen on regular basis, 300-500 in case of mobilization
Armament:

Infantry Fighting Vehicle BMP-2 – 1 unit
Armored Personnel Carrier BTR – 1 unit
Anti-aircraft systems ZU-23 – 2 units
85mm cannons – 2 units
Mortars – 3 units (82mm and 120mm)
Heavy anti-tank grenade launchers SPG – 3 units
Kalashnikov assault rifles, machine guns, RPG-7s and other firearms

VIII Motor Rifle Battalion

Location: Village Java, Java district (firing ground and warehouses in village Zivgomi)
Personnel: 300 militiamen
Armament:

Infantry Fighting Vehicles BMP – 2 units
Armored Personnel Carriers BTR-70 – 4 units
Anti-aircraft system ZU-23 – 1 unit
Self-propelled artillery system GVOZDIKA – 22 units

Multiple Rocket Launcher BM-21/GRAD – 3 units
Anti-tank guided rocket launchers FAGOT – 44 units
Howitzers (85-122mm) – 15 units
Mortars (82-120mm) – 20 units
Kalashnikov assault rifles, machine guns, mortars, RPG-7s and other firearms

IX Motor Rifle Battalion

Location: Village Gromi, Tskhinvali district
Personnel: 180 militiamen
Armament:

Infantry Fighting Vehicle BMP – 1 unit
Anti-aircraft system ZU-23 – 1 unit
Kalashnikov assault rifles, machine guns, RPG-7s and other firearms

This battalion included **Tsinagari** and **Artsevi companies**

X Motor Rifle Battalion

Location: Village Velebi, Znauri district
Personnel: 200 militiamen
Armament:

Infantry Fighting Vehicles BMP-1 – 2 units
Anti-aircraft system ZU-23 – 1 unit
Anti-tank guided missile launcher FAGOT – 1 unit
80mm cannon – 1 unit
Kalashnikov assault rifles, machine guns, RPG-7s, mortars and other firearms

XI Motor Rifle Battalion

Location: Village Kvaisa, Java district
Personnel: 100 militiamen
Armament:

Anti-aircraft system ZU-23 – 1 unit
Anti-aircraft systems IGLA – 3 units
Heavy armor, particularly two T-55 tanks and one self-propelled artillery system SAU
Heavy anti-tank grenade launcher SPG – 1 unit
Anti-tank grenade launchers RPG-7 – 10 units
Kalashnikov assault rifles, machine guns, RPG-7s, SVD sniper rifles and other firearms

Separate Mountain Company *("Kazak army of South Ossetia")*

Location: Town of Tskhinvali (the so-called "Khutor" settlement) and Village Kroza, Java district
Personnel: 150 militiamen
Armament:

Infantry Fighting Vehicles BMP-2 – 6 units
Armored Personnel Carriers BTR – 8 unit
Anti-aircraft systems ZU-23 – 1 unit
Anti-aircraft systems IGLA – 3 units

Anti-tank guided missile FAGOT – 1 unit
Kalashnikov assault rifles, machine guns, RPG-7s, SVD sniper rifles and other firearms

Separate Reconnaissance Battalion

Location: Town of Tskhinvali (near the so-called "Big Market")
Personnel: 200 militiamen
Armament:

Infantry Fighting Vehicles BMP-2 – 4 units
Armored Personnel Carriers BTR – 2 unit
Combat Reconnaissance Vehicles BRDM – 2 units
Kalashnikov assault rifles, machine guns, RPG-7s, and other fire-arms

Separate Tank Battalion

Location: Village Buzala, Java district
Personnel: unknown
Armament:

Tanks T-60 – 12 units
Tanks T-55 – 2 units

Anti-Aircraft Rocket Battery

Location: Town of Tskhinvali ("Zagozerno" building)
Personnel: 86 militiamen
Armament:

Anti-aircraft system ZU-23 – 3 units
Anti-aircraft systems IGLA and STRELA – about 20 units
Anti-tank guided missiles METIS – 3 units
Anti-tank guided missiles FAGOT – 3 units

Engineer Company

Location: Town of Tskhinvali
Personnel: 60 militiamen

Mortar Battery

Location: Town of Tskhinvali ("Zagozerno" building)
Personnel: 40 militiamen
Armament:

120mm mortars – 5 units

Special Forces Company ("Ossetian GRU")

Personnel: 60 soldiers – all trained by Russian instructors in the Russian Federation.

"The Ministry of Internal Affairs of South Ossetia"

Total personnel: approximately 900 militia officers.

Armament: different times of automatic firearms, hand machine guns, grenade launchers and SVD sniper rifles, UAZ and GAZ-66 type vehicles.

This "Ministry" included special task units OMON and SOBR.

Special Task Unit OMON

Personnel: 350 militiamen (mostly with criminal past). Deployed in Tskhinvali, Java and Znauri.
Armament:

Kalashnikov assault rifles AKS-U
Grenade launchers RPG, AGS-1 and SPG
SVD-1 sniper rifles
TT pistols.
3 BTRs and 1 BMP,
UAZ and GAZ-66 type vehicles

Special Task Unit SOBR

Personnel: 45 militiamen.
Armament:

Kalashnikov assault rifles AKS-U
Grenade launchers RPG-7 (3 units), AGS-1 (3 units) and SPG (3 units)
SVD-1 sniper rifles
TT type pistols.
UAZ and GAZ-66 type vehicles

"The State Security Committee (KGB) of South Ossetia"

Personnel: 70 employees, plus Operational Activity Support Team (OSOM) with 40 employees, armed with Russian light firearms, sniper rifles and special equipment. The KGB included the so-called Border Guard Service.

Border Guard Service

Personnel: approximately 380 militiamen
Armament:

Kalashnikov assault rifles, machine guns, mortars.
Armored Personnel Carriers BTR-80 – 9 units
KAMAZ and UAZ type vehicles.

Border Guard Service HQ

Personnel: 110 border guards, including:
Special intelligence group – 15 militiamen
Tskhinvali border guard station – 44 militiamen

Operational division – 20 militiamen

Java Border Guard Office

Location: Java district
Personnel: 150 militiamen
Armament:

Kalashnikov assault rifles – 160 units
Kalashnikov machine guns – 10 units
Armored Personnel Carriers BTR-80 – 7 units
KAMAZ-505 type vehicle – 3 units
UAZ-469 vehicle – 5 units

This office included Kvaisa, Roki, Edisi and Sinaguri border guard units.

Kvaisa border guard unit

Location: Village Kvaisa
Personnel: approximately 35 militiamen
Armament:

Armored Personnel Carriers BTR-80 – 2 units
Kalashnikov assault rifles – 36 units
Machine guns – 2 units
RPG grenade launchers – 3 units
Sniper rifles – 2 units
Anti-aircraft systems
KAMAZ-505 type vehicle – 1 unit
UAZ-469 type vehicle – 1 unit

Roki border guard unit

Location: Roki Tunnel
Personnel: 30 militiamen
Armament:

Kalashnikov assault rifles – 35 units
Machine guns – 3 units

Edisi border guard unit

Location: Village Edisi
Personnel: 35 militiamen
Armament:

Kalashnikov assault rifles – 40 units
Machine guns – 3 units

Sinaguri border guard unit

Location: Village Sinaguri
Personnel: 30 militiamen
Armament:

Kalashnikov assault rifles – 35 units
Machine guns – 2 units

Znauri Border Guard Office

Location: Village Znauri
Personnel: 120 militiamen
Armament:

Kalashnikov assault rifles – 125 units
Machine guns – 7 units

This office included Muguti, Velebi and Balta border guard units.

Muguti border guard unit

Location: Village Muguti
Personnel: 35 militiamen
Armament:

Kalashnikov assault rifles – 40 units
Machine guns – 3 units

Velebi border guard unit

Location: village Velebi
Personnel: 30 militiamen
Armament:

Kalashnikov assault rifles – 30 units
Machine guns – 2 units

Balta border guard unit

Location: Village Balta
Personnel: 30 militiamen
Armament:

Kalashnikov assault rifles – 30 units
Machine guns – 2 units

On the section 3 of the question E, please see answers to question B, as well as anwers to question 3 of the military set of questions.

First set of questions on legal issues to the Governments of the Russian Federation and Georgia

1. Please explain the formal and informal relationship between the Russian Federation and Georgia and the Tskhinvali region/South Ossetia and Abkhazia respectively before the outbreak of the conflict in August 2008 in all levels. Would you call the developments in legal, political, economic space, including infrastructure, energy and social welfare in the recent years between the Russian Federation and the Tskhinvali region/South Ossetia and Abkhazia as an integration processes? How do you qualify in legal terms the decision taken by the Russian Federation a few months before the outbreak of the conflict to establish formal contacts between the Russian Federation and the Tskhinvali region/South Ossetia and Abkhazia respectively?

2. Please explain the process and dynamics of acquiring Russian nationality by persons residing in the Tskhinvali region/South Ossetia and Abkhazia, and explain the reasons for the conferral of Russian citizenship. How do you reconcile this with your assessment of the international legal status of the territories?

3. Please give accounts of the implementation of the Sochi Agreement of 1992 related to the Tskhinvali region/South Ossetia as well as the Moscow Agreement on a Ceasefire and Separation of Forces of 1994 related to Abkhazia and relevant protocols to those agreements and their implementations in reality by the parties. How do these relate to the movements of Russian troops immediately before 7 August 2008?

4. Please explain Russian troop movements before and during the conflict of August 2008. How does this relate to the amended Treaty on Conventional Forces in Europe and the Russian practice during most of the time preceding the conflict? Please explain Georgian military posture and troop movements before and during the conflict.

5. Please give legal and other reasons for the Russian recognition of the territories of the Tskhinvali region/South Ossetia and Abkhazia. Please qualify the legal status and the objectives of the friendship treaties concluded between the Russian Federation and the Tskhinvali region/South Ossetia and with Abkhazia respectively on 17 September 2008.

6. In the course of the conflict and in terms of responsibility under international law: How would you describe the formal and informal relationship between the Russian military and South Ossetian and Abkhaz armed forces respectively, prior to 17 September 2008 and nowadays? Please explain especially the respective command chains.

7. Which measures did you take to protect civilians, and to prevent looting, detainment, and mistreatment of civilians during and after the hostilities?

8. Which measures did you take to provide relief and support to civilian populations in the areas affected by hostilities and their aftermath?

Independent International Fact-Finding Mission on the Conflict in Georgia
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Additional legal questions

The Georgian denunciation of the Sochi Agreement (we have controversial information on whether such a denunciation took place).

The Georgian declaration that the Moscow agreement on 14 May 1994 on a ceasefire and separation of forces in Abkhazia is null and void (of 18 August 2008).

Question 1: Please explain the formal and informal relationship between the Russian Federation and Georgia and the Tskhinvali Region/South Ossetia and Abkhazia respectively before the outbreak of the conflict in August 2008 in all levels. Would you call the developments in legal, political, economic space including infrastructure, energy and social welfare in the recent years between the Russian Federation and the Tskhinvali region/South Ossetia and Abkhazia as an integration process? How do you qualify in legal terms the decision taken by the Russian Federation a few months before the outbreak of the conflict to establish formal contacts between the Russian Federation and the Tskhinvali region/South Ossetia and Abkhazia respectively?

The dynamics of Russia's relationship with the Tskinvali Region/South Ossetia and Abkhazia, Georgia can be divided in three main phases:

I) The active instigation and support of separatist subversive groups in both regions as well as subsequent active participation in the military conflicts;
II) The support for proxy regimes in both regions; and
III) The declaration of the establishment of direct legal ties with proxy regimes, by that beginning an open policy of undermining Georgia's territorial integrity and sovereignty and enhancing its policy of creeping annexation.

The formal and informal relations between the Russian Federation and its proxy regimes in Tskhinvali region/South Ossetia and Abkhazia served the sole goal of obtaining maximum control over the situation is these Georgian regions. Through such policy, Russian authorities made both regions totally dependent on its "assistance" and tools for its bigger political aspirations. This is why the regimes in Tskhinvali region/South Ossetia and Abkhazia are, from the international law standpoint, proxies of the Russian state and their actions and policies are directly attributable to the latter.

I. ACTIVE INSTIGATION AND SUPPORT OF SEPARATIST SUBVERSIVE GROUPS IN BOTH REGIONS AS WELL AS SUBSEQUENT ACTIVE PARTICIPATION IN THE MILITARY CONFLICTS

The conflicts in Abkhazia and the Tskhinvali region/South Ossetia were actively instigated by the Russian Federation in the early 1990s as Georgia took determined steps to restore its independence, lost as a result of annexation by Russia in 1921. From the very beginning, Russia not only had control over the irregular armed groups aiming to undermine the Georgian state in Abkhazia and Tskhinvali region/South Ossetia due to their dependence on its support, but also directly participated in the hostilities. The military involvement of Russian troops and mercenaries has been reported by independent sources. In 1995 Human Rights Watch reported:

> *The conflict in Abkhazia was heightened by the involvement of Russia, mostly on the Abkhaz side, especially during the war's initial stages. Whereas Russia has endorsed the territorial integrity of the Republic of Georgia, Russian arms found their way into Abkhaz hands, Russian planes bombed civilian targets in Georgian-controlled territory, [and]*

Russian military vessels, manned by supporters of the Abkhaz side, were made available to shell Georgian-held Sokhumi...

The role of Russian actors in the conflict became considerably more pronounced during the first six months of 1993. This was precisely at a time when human rights abuses and violations of the laws of war attributable to heavy weapons obtained from Russian sources were becoming more serious. The Russian military took a direct role in hostilities on several occasions, and appears to have provided logistical support and supplies to the Abkhaz.[1]

Russian direct participation in hostilities was particularly vivid during the air attacks over Sokhumi, both in 1992 and 1993 as well as the assault on Sokhumi in March 1993 and final assault on the city in September 1993 that resulted in ethnic cleansing of Georgians and discrimination of other ethnic minorities. Russian involvement in the conflict in Abkhazia was coordinated by three high-ranking Russian generals: **Sigutkin**, **Sorokin** and **Kondratiev**. Finally, a group of elite officers was coordinated by the former chief of the Soviet Army's General Staff, Gen Aleksandr Kolesnikov. General **Aleksey Sigutkin**, perhaps the most important Russian officer during the conflict who credits himself with designing the assault plan on Sokhumi, is now a member of Russian Duma from Pskov and leads United Russia party[2].

Gen. **Sorokin** commanded the 345th airborne regiment.[3] Loss of 24 personnel in combat is as well recognized at the official website of the unit. Sergeant of the regiment Vitali Wolf was even decorated with star of "hero of Russia"[4].

Most well-known Russian units to have taken direct part in the conflict against Georgia include, but are not limited to:

- The **643th** Anti-air Regiment, MoD unit # **5482**
- MoD Unit # **3697**, the notorious Special Forces previously based in Riga, Latvia known for their participation in massacres in the Baltics. Its commander, **Tcheslav Mlinnik**, is wanted by Latvia, Lithuania (for participation in the Medininkai massacre of nine Lithuanian border guards in 1991) and INTERPOL was decorated by the Abkhaz with the "Leon Order" and later was sent to Abkhazia by Russia's NSC to manage elections in Abkhazia and support Raul Khajimba in 2004[5]

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[1] Human Rights Watch Arms Project, Human Rights Watch/Helsinki, 'Georgia/Abkhazia: Violations of the Laws of War and Russia's Role in the Conflict', March 1995, Vol. 7, No. 7, pp. 7, 37.

[2] On his official website (http://www.sigutkin.ru/biography) **Sigutkin** boasts "participation in the conflict in Abkhazia."

[3] This as well as its participation in the conflict is confirmed at an unofficial website of the regiment http://www.combat345.ru/

[4] http://www.combat345.ru/biography0310.html

[5] Source: Latvian Russian language daily Chas, 04.11.2004 URL: http://www.chas-daily.com/win/2004/11/04/l_052.html?r=3&.

- An airborne unit from Ganja, Azerbaijan (known for its part in the 1990 massacre in Baku) that included **Anatoly Sidorenko**, Russian Airborne Troops Colonel, **Boris Akuminichev**, Russian Army Colonel, Genady **Kolodin**, major, **Boris Akvalevich**, colonel, **Igor Lunev**, major general (headed diversionist group "Russian legion") and others.

One of the most important pieces of evidence on the subject is Russian Air Force Major **Vaclav Shipko** (personal identification number **622752**) whose Su 27 jet was shot down near Sokhumi on March 19, 1993 (In Izvestia of 23.03.1993 commander of the Russian Air Force **Evgeny Zarudnev** confirms that the objective of his flight was to shoot Georgian targets. Before this incident, Russian Defense minister Pavel Grachev claimed that Georgians were painting their Su-25 aircraft into Russian colors and bombing Sokhumi civilian districts, killing hundreds of civilians to discredit Russia). Mr. Shipko, died on spot.

The significance of Russian military involvement on Abkhaz side is well explained in a 1999 book by Viktor Baranets, a high-profile expert of the Russian MoD and former head of the information-Analytical Department and veteran of war in Afganistan. (see chapter II in Baranets Viktor Nikolaevich, *Genshtab Bez Tain/Генштаб без Таїн* Vargius Press: Moscow, 1999).[6] He notes: Georgian claims on arms supplies to the Abkhaz from Gudauta base, direct involvement of airborne brigade there in the conflict and use of air force based on the airfield was corroborated by numerous photographs, documents and testimonies of numerous witnesses. "Denying them was senseless," he notes. He even describes number of staged thefts from Gudauta arms stockpiles that involved paying guards 8,000 rubles and numerous uses of Russian aircraft on Abkhaz side.

In the fall of 1993, when, after breaking the Russian-brokered cease-fire of July 1993, the militants under Russian control captured surroundings of Sokhumi, they declared that they would shoot down any aircraft taking off or landing in Sokhumi even if civilian. At least two civilian aircraft were shot down including one Tupolev 134 on September 29, 1993. Among the victims of this atrocious act was the Wall Street Journal reporter Alexandra Tuttle. It is rather safe to assume that the shoulder propelled anti-air missile used for shooting down the aircraft was obtained from the Russian base in Gudauta and fighters received Russian training.[7]

Last but not least, the Russian Federation sponsored peace talks in Sochi in July 1993 where a third cease-fire was signed under Russian guarantees. According to the CFA, Georgia withdrew all armor and artillery from the theatre and even paid Russia for rent of cargo ships. Immediately thereafter, Russia and its proxies enhanced their buildup and in just two months, launched an unprovoked offensive that resulted in the large-scale ethnic cleansing of the majority Georgian population of Abkhazia. As a result, up to 70% of Abkhazia's pre-war population was driven out, including other ethnic minorities resident in Abkhazia before the war.

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[6] Accessible electronically at http://militera.lib.ru/research/baranets1/index.html

[7] "U.S. Journalist Feared Dead In Battle for a Georgian City" *The New York Times*, September 30, 1993; Available at http://www.nytimes.com/1993/09/30/world/us-journalist-feared-dead-in-battle-for-a-georgian-city.html

The Soviet Union still legally existed when hardliner groups in Moscow and specifically in the KGB adopted a policy to fuel ethnic tensions in /Tskhinvali Region/South Ossetia. The nature of the Russian involvement was essentially the same as in the case of Abkhazia. Actual manufacturing of the conflict and its management was carried out under direct supervision of the soviet KGB. In terms of military involvement, not only did the Soviet Union/Russia supply arms to the proxy militants, but took direct part in the hostilities. This mainly concerned a regiment of Mi24 attack helicopters of the Soviet Air Force stationed in Tskhinvali and units of Soviet Interior Troops.

II. RUSSIAN CONTROL OVER THE PROXY REGIMES AFTER THE CESSATION OF HOSTILITIES

1. *TSKHINVALI REGION/SOUTH OSSETIA*

1.1. General overview

Till 2008, the Russian Federation never openly questioned the territorial integrity of Georgia. However in reality Russia implemented a well planned policy of establishing control over the region which was used as an effective tool for the implementation of a wider policy with regard to Georgia, including the detachment of these territories from Georgia and their integration in the Russian Federation.

The proxy regime in Tskhinvali established as a result of the armed conflict in 1990's has been sustained with the comprehensive assistance and support of the Russian Federation. The Russian Federation has actively provided the Tskhinvali proxy regime with military, political, economic and financial assistance and used this assistance in order to exercise control over its policies and actions.

In addition it conducted a concerted policy of mass distribution of Russian passports to the local residents, which in itself constituted a striking example of the policy directed against the territorial integrity and sovereignty of the neighbouring sovereign state - Georgia.

Russian led peacekeeping mission served the overall policy of the Russian Federation described above rather than aims set under its respective mandates.

1.2. Aspects of Political Control

Russia's policy has been very consistent in its attempts on the one hand to raise the "political legitimization" of the proxy regime and on the other hand to have absolute veto on every political decision in the Tskhinvali region/South Ossetia. The most vivid examples of its political engagement provided below leave no doubt as to their negative impact on the process of a peaceful, political settlement of the conflict.

- ***Support to the Independence of the Tskhinvali Region/South Ossetia***

The most vivid manifestation of political support to the proxy government of the Tskhinvali region is the series of acts recognising the independent statehood of the self-proclaimed republic of South Ossetia. The first attempts of the Russian Federation to recognize the independence dates back to 6 March 1993, when the High Council of North Ossetia, Russian Federation recognized the independence of the Republic of South Ossetia. As a follow up, on 22 March 1993, the Supreme Council of the Russian Federation put the *question of recognition of the Republic of South Ossetia* on its agenda.[8]

On 30 November 2006, Members of the Parliament of the North Ossetia, adopted an address to the federal authorities, namely the President and the Parliament of the Russian Federation, urging recognition of the independence of South Ossetia based on the results of referendum held in the Tskhinvali region/South Ossetia, although the majority of the population of the Former Autonomous Region of South Ossetia did not participate in the referendum because the Tskhinvali regime could not control the whole territory of the Region and ethnic Georgians residing in the territories under the proxy regime had been expelled as a result of the ethnic cleansing carried out in the context of armed conflict in 1991-1992.

On 6 December 2006, the State Duma of the Russian Federation adopted several statements in relation to the non-recognized republics existing on the territory of Georgia.[9] Members of the Parliament considered that on 12 November 2006 referendum and elections in Tskhinvali region/South Ossetia were held in full compliance with international principles and norms.[10] To that extent Russian policy regarding the Tskhinvali region/South Ossetia was declared to largely follow the results of the referendum with due regard given to the relevant legislation and international legal standards and precedents. Notably, the referendum was held in the conditions where the local Georgian population was expelled, and could not in any way contribute to the vote. Given its illegal nature, no state apart from Russia, recognized the legitimacy of the referendum. On the contrary, the entire international community, including the COE condemned the illegal referendum in the Tskhinvali region/South Ossetia.

In its 3 October 2005 statement, the Russian Government referred to Eduard Kokoity as the President of South Ossetia. The Georgian side has on numerous occasions expressed protest regarding the specific naming of the proxy regime in the Tskhinvali region/South Ossetia.

One of the notable instances was the official presence of Russia at the military ceremony dedicated to the day of independence of South Ossetia. On 20 September 2005, the proxy regime organized a demonstration of military forces during the celebration of the day of independence in Tskhinvali City.[11] The ceremony was attended by representatives of the proxy regime of Abkhazia as well as the *de facto* authorities of Transdnestria and Nagorno-Karabakh. There were

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[8] http://www.nrc.ge/law/dekr_1993_03_22_e.htm?lawid=398&lng_3=en

[9] See statement of State Duma dated 6 December 2006.

[10] See press-release of RIAN dated 6 December 2006. Available At http://www.rian.ru/politics/20061206/56556963.html

[11] See pres-release of REGNUM dated 20 September 2005 and enclosed photos. Available at http://www.regnum.ru/news/515563.html ;

also present members of the State Duma, mostly representatives of the ruling party, as well as representatives of the central and local governments, including the leaders of administrative territorial units of the Russian Federation.[12] Participation of a large number of Russian officials in the parade directly contradicts Russia's declared role of mediator in the conflict. Moreover, in light of the perceived role of Russia as a broker of the peace in the region, the fact that high officials of the government of Russia appeared by the side of representatives of the proxy government stands as an unambiguous gesture of political support to them.

All these measures of legal and political endorsement of the proxy regime were followed by practical measures of support. On a routine basis, the Russian Government cooperated with the proxy regime with no account taken of the official protests of the Georgian side expressed on many occasions regarding the interference of Russia into the internal affairs of the state of Georgia. In addition, the Russian Delegation consistently attended official ceremonies in the Tskhinvali region/South Ossetia, including the inauguration of Mr. Kokoity.[13]

On 18 September 2005, Teimuraz Mamsurov, leader of the Republic of North Ossetia and Eduard Kokoity, the self-proclaimed president of the Tskhinvali region/South Ossetia signed a joint statement regarding the intention to expand the legal framework of cooperation between the two republics with the declared "aim of preservation of the single Ossetia".[14] On 20 September 2006, Moscow City Mayor Yuri Lujkov and *de facto* President Eduart Kokoity signed a friendship and cooperation agreement between Moscow City and South Ossetia.[15]

Since the Russian Federation is fully responsible for any act carried out by any branch of the government including by local entities of the federation, the above mentioned policy of North Ossetia amounts to a significant act of political support of the Tskhinvali proxy regime from the Russian Federation.

- ***Visits of representatives of Russian official structures***

Without prior consultations with the Georgian authorities, the Tskhinvali region/South Ossetia has been frequently visited by representatives of official structures of the Russian Federation. While doing so they violated state border control regulations as well as practices established in line with the principles of territorial integrity and sovereignty of Georgia on visits to the Tskhinvali Region/South Ossetia of Georgia requiring proper notification and approval by Georgian authorities. Numerous meetings between the leaders of the proxy regime and the

[12] See http://www.civil.ge/eng/article.php?id=10794

[13] http://www.cacianalyst.org/?q=node/4376 ; http://64.233.183.104/search?q=cache:vxbQXSSbTbsl:www.silkroadstudies.org/new/docs/CFF/Quarterly/February_2007/libladze.pdf+kokoity+inauguration+russia&hl=en&ct=clnk&cd=23

[14] On 19 May 2006 joint session of the governments of the Republic of North Ossetia - Alania and South Ossetia reportedly commenced in Tskhinvali City. See press-releases of Foreign Ministry of Georgia dated 26 June 2006 as well as REGNUM dated 18 September 2005. See also press-release of REGNUM dated 1 January 2008

[15] See press-release of REGNUM dated 20 September 2006.

highest officials and Members of the Parliament of the Russian Federation have taken place without prior approval from the central government of Georgia. To name but few examples of this type of "high-level" meetings, the following instances are noteworthy: meetings of the *de facto* President Kokoity with President Vladimir Putin of the Russian Federation (two occasions reported), Russian Minister of Foreign Affairs Sergey Lavrov;[16], Moscow City Mayor Yuri Lujkov; Vice-speakers of the Russian State Duma Vladimir Jirinovski and Sergey Baburin; Chairman of the Committee of International Affairs of the State Duma Konstantin Kosachev; Chairman of the Committee of CIS Matters and Contacts with the Emigrant of State Duma, Andrey Kokoshin; Chairman of the Communist party of Russia, MP Genady Ziuganov; Chairman of the Russian political party "Rodina" ("Родина"), MP Dimitry Rogozin; Deputy Chairman of the Russian political party "Rodina" ("Родина"), MP Aleksey Mitrofanov; Leaders of the North Caucasus republics: Teimuraz Mamsurov (North Ossetia - Alania, Russia) Mustapha Batdiev (Karachai-Cherkess, Russia), Arsen Kanokov (Kabardino-Balkaria, Russia) and Alu Alkhanov (Chechnia, Russia); Governor of the Krasnodar Oblast, Aleksander Tkachov; Leaders of Cossack organizations operating in Russia, including the high military Cossack leader Viktor Lododatski. Beside these *ad hoc* visits/meetings mentioned above, Dimitry Medoev is present in Moscow as the South Ossetia's permanent representative in the Russian Federation. Finally, Mr. Kokoity and other *proxy* leaders hold joint press-conferences in Russia,[17] and Mr. Kokoity himself is a frequent guest of official circles in Russia.[18]

- ***Staff composition as a direct means of control of the Proxy Regime***

In order to obtain full control over the political decision-making process in Tskinvali Region/South Ossetia, Russia's "support" extended beyond the frames of political, military and economic assistance. Rather, over the time that "support" transformed itself into direct control of administrative and executive functions through the assignment and placement of former and/or acting Russian functionaries (most of them officers of secret services) to the Tskinvali Region/South Ossetia where they were appointed as high ranking officials in the proxy government. The following examples are illustrative (see also Annex A):

a) **Aslanbek Soltanovich Bulatsev** – Prime Minister of South Ossetia since 31 October 2008.Born in 1963 in Mikhailovsk, North Ossetia, USSR.After graduating from North Ossetian State University with the specialization of an accountant, served at the Soviet KGB since 1986, later at the Russian Federal Security Service (FSB).For several years until 2006 headed the financial unit of FSB's North Ossetian division.From 2006 until October 2008 served as the head of North Ossetian Federal Tax Inspection.In May 2007, was charged with

[16] One of similar meetings between Kokoity and Lavrov is referred to in the letter of Minister Lavrov annexed to the present application. http://www.caucaz.com/home_eng/depeches.php?idp=1481 ; http://www.regnum.ru/english/847601.html; http://www.caucaz.com/home_eng/depeches.php?idp=1481 ; http://www.mfa.gov.ge/print.php?gg=1&sec_id=36&info_id=4601&lang_id=ENG

[17] http://www.unomig.org/media/headlines/?id=5172&y=2006&m=1&d=27

[18] http://halldor2.wordpress.com/2006/09/30/kojkoity-and-bagapsh-in-discussions-with-putin/; http://news.bbc.co.uk/2/hi/europe/3933933.stm;

corruption and illegal extortion of money by the owners of the largest alcohol factories in Beslan.

b) **Alexander Mikhailovich Bolshakov** – Head of South Ossetian President's Administration since 31 October 2008. Born in 1954 in Murom, Vladimir Oblast, USSR. In 1978 graduated from Vladimir State Pedagogical Institute. In 1978-1993 worked at the local government and communist party structures in Vladimir Oblast. In 1998-2000 was the deputy director-general of "Avtopribor" factory in Vladimir. In 2001-2004 headed the control-revision board of business group "SOK" in Samara – one of the biggest producers of automobile parts in Russia. In 2005-2007 was Vice-Governor and the head of governor's administration of Ulianovsk Oblast. Since June 2007 until October 2008 served as the deputy head of Ulianovsk Oblast government and the chairman of the local branch of Russia's ruling party "Edinaya Rossia."

c) **Lev Viktorovich Pavliuchkov** – Deputy Head of South Ossetian President's Administration since 31 October 2008. Since the late 1990s worked as a political and PR consultant in Samara, Samara Oblast, Russia. In the early 2000s, was the political consultant of business group "SOK" in Samara. In 2004 headed the election headquarters of governor of Ulianovsk Oblast Sergey Mironov and afterwards served as his counselor until October 2008. In 2007-2008 chaired the imitative group to support Vladimir Putin's third term presidency.

The highest officials at the Ministry of Defence of Tskhinvali region/South Ossetia were and continue to be former and/or active high ranking military officials of the Russian Federation:

a) **Iuri Anvarovich Tanaev** – Minister of Defense of South Ossetia since 31 October 2008. Major General of Russian army. In 1967 graduated from Minsk Suvorov Military School. For many years served as the head of intelligence division of Russian general staff in Ural military district. Since the mid 1990s served as the deputy commander of Ural military district.

b) **Vasily Vasilevich Lunev** – Minister of Defense of South Ossetia since 1 March 2008. Major General of Russian Army. Born in 1956. Graduated from Moscow High Military Command School, Frunze Military Academy and General Staff Academy. Served as the commander of ground troops and armored vehicles platoon at Chebarkul military base in Ural region. In 2003-2004 was the deputy commander of army in Siberia. Until December 2007 worked as a military advisor in Syria. On 26 December 2007, was appointed as the military commissioner of Perm Krai, where he served until being sent on a mission to South Ossetia.

c) **Andrey Nikolaevich Laptev** - Minister of Defence of South Ossetia since 11 December 2006 -2008 1 March, is a Russian citizen and colonel in the Russian army. He started his career in the Tskhinvali region/South Ossetia by serving in the JPKF and following the autumn of 2005, he headed the general staff of the Ministry of Defence of South Ossetia.

d) **Anatoly Konstantinovich Barankevich** – former Minister of Defence of South Ossetia from July 2004 till December 2006, is a Russian citizen and colonel of the Russian army.[19] Since 11 December 2006, he serves as the Secretary of the Security Council of South Ossetia.

e) **Vladimer Grigorievich Kravchenko** – Chief of the General Staff of the Armed Forces of South Ossetia from September 2004 till September 2005, is a Russian citizen and a colonel of the Russian army.

f) **Anatoly Ivanovich Sisoev** – Military Adviser of *de facto* president Eduard Kokoity in 2004, Russian citizen, former employee of the Main Intelligence Service of the Ministry of Defence of the Russian Federation. During the escalation of the conflict, he was the person making main decisions including the receipt and allocating of the mercenaries and volunteer corps in the region.

Head officers of the Security Service of the Tskhinvali region/South Ossetia are former and/or acting high-ranking officials from military and special services of the Russian Federation:

a) **Boris Majitoviich Atoev** – Chairman of the State Security Committee of South Ossetia since 9 November 2006, is a Russian citizen and former officer of the Soviet intelligence service in Kabardino-Balkaria, Moscow and Afganistan.

b) **General Mayor Nikolai Vasilevich Dolgopolov** - Chairman of the State Security Committee of South Ossetia from March 2006 till November 2006, Russian citizen, is a former officer of the Russian Federal Security Service, unit of the Republic of Mari El (from 1999 till April 2005).

c) **General Mayor Anatoly Vasilievich Iarovoi** - Chairman of the State Security Committee of South Ossetia from January 2005 till March 2006, Russian citizen, is the former head of the Republic of Mordovia unit of the Russian Federal Security Service (2000-2004).

d) Since January 2006 the Border Security Office of the State Security Committee of South Ossetia has been entirely controlled by active officers from the state border security unit of the Russian Federal Security Service sent to the region based on a contractual relationship. The head of the unit is **Lieutenant General Valery Alekseevic Chugunov**, the chief of the headquarters is **Colonel Oleg Genadievich Chebotariov**, and the first deputy head of the headquarters is **Vice-colonel Genady Nikolaevich Emelianenko**.

The law enforcement agencies of the Tskhinvali region/South Ossetia have also been and are fully controlled by Russian high-ranking officers:

[19] At the moment of his appointment he was an active colonel of the Russian army and was officially on business leave.

a) **Mikhail Mairamovich Mindzaev** – Minister of Interior of South Ossetia since April 2005, Russian citizen, police colonel, formerly served as a head of headquarters of the Ministry of Interior of North Ossetia.

b) **General Aleksander Andreevich Shaposhnikov**, JPKF Deputy Commander in the field of coordination with law enforcement bodies. Since January 2006 he has served as an adviser to *de facto* President Eduard Kokoity in the internal matters. Previously, the same position was held by **Mr. Aleksander Aleksandrovic Klimenko**, a Colonel of Russian Interior Troops (from January 2006 till January 2007); then by **Major-General Igor Sergeevich Grudnov**, a Russian war veteran who fought in Afghanistan and Hero of the Russian Federation (from January 2005 till January 2006); then it was **General Vasil Alekseevich Platov**, a Russian General (in 2004).

- *Illegal Passportization*

Illegal passportization of the remaining population of the Tskhinvali Region/South Ossetia has been a significant component of Russia's creeping annexation of the region. It can be assessed as a deliberate and well-constructed policy aimed at directly changing the legal status of the local population to establish a pretext of the right to protect or "R2P", in the event of direct Russian military intervention or even in the context of threats to intervene directly (notably the Russian Federation tried to employ the R2P argument as one of the legal justification for intervention in Georgia during the August 2008 events). Moreover, passportization served as a tool for the Russian Federation to extend its control over the population who have been paid pensions and other well-fare benefits as Russian passport holders. Russian citizenship made local population directly attached and dependent to the Russian state.

Russia's policy in this regard amounted to an artificial and illegal alteration of the landscape of citizenship in the Tskhinvali Region/South Ossetia.
A statement in this regard has been made by the OSCE High Commissioner on Ethnic Minorities, Mr. Knut Vollebaek. The High Commissioner, in his letter of November 27, 2008, addressed to the OSCE Chairman in Office, reiterates that "States should refrain from conferring citizenship en masse to residents of other States, which is in violation of the principles of sovereignty and good neighborly relations. The presence of one's citizens or "ethnic kin" abroad must not be used as a justification for undermining the sovereignty and territorial integrity of other States."[20]

The process through which Russia designed and implemented this policy clearly confirms not only the assessment as stated above, but also the aims it was designed to serve[21].

- *Visa Free Regime*

As a result of withdrawal of the Russian Federation from the agreement on free movement of CIS states nationals in the territories of the commonwealth (Bishkek, 9 October 1992), since 5

[20] https://www.osce.org/hcnm/item_1_32663.html

[21] See process and dynamics as well as Georgian assessment in detail in the Answer to the Legal Question #2

December 2000 a visa regime was introduced by Russia with relation to Georgia. However, the right to visa-free movement has been maintained with the two regions of Georgia not under the central government control: Abkhazia and the Tskhinvali Region/South Ossetia.

The European Parliament in its Resolution on the visa regime imposed by the Russian Federation on Georgia recalled that "[…] the imposition of visas with respect to international law is a matter for the sovereignty of a state, but regarding the plans to exempt residents of the secessionist Georgian regions of South Ossetia/Tskhinvali and Abkhazia from the visa regime imposed on Georgian citizens is a challenge to the territorial integrity and sovereignty of Georgia which the Government of the Russian Federation officially supports, and calls on the Government of the Russian Federation to reconsider these plans as they would **amount to de facto annexation** [emphasis added] of these indisputably Georgian territories."[22]

According to the Declarations and Recommendations adopted by the EU Parliamentary Cooperation Committee at its 3rd meeting on 18-19 June 2001, "regarding the exemption from the Russian visa regime of residents, who are Georgian citizens in the secessionist Georgian regions of Tskhinvali/South Ossetia and Abkhazia, [EU] maintains that this exemption is a challenge to the territorial integrity and sovereignty of Georgia, which could be considered as a *de facto* annexation of those regions, an annexation confirmed by the circulation of the Russian Rouble as the official currency for exchange in the Georgian regions Abkhazia and South Ossetia."[23]

In its resolution dated on 24 November 2000, the Parliament of Georgia made a statement on the introduction of a visa-regime between Russia and Georgia:

> " It is the sovereign will of Russia to introduce visa regime with another state, but no one is entitled without the consent of Georgia to put different regions of Georgia in varied legal conditions as it is going to be unilaterally laid down by Russia in an additional protocol of visa agreement.
>
> The Parliament of Georgia considers the above-mentioned as a non-respectful step towards the sovereignty and territorial supremacy of Georgia which constitutes a breach of universally recognized principles of international law and is regarded as an attempt to interfere in the internal affairs of Georgia as well as extra proof of Russia's illegal interest towards Abkhazia and so-called South Ossetia.
>
> If the Russian Federation authority still remains on the proposed position of visa introduction which constitutes a grave breach of the fundamental principles of international law, the Parliament of Georgia will consider the above-mentioned as **an attempt of annexation of its territory** [emphasis added] as well as legal proof of title in regard to the seized historic territories of Georgia and declares with full responsibility that Georgia will use all necessary means recognized by international law to defend its sovereignty and integrity."

[22] Resolution of the European Parliament on the visa regime imposed by the Russian Federation on Georgia of 18 January 2001.

[23] EU – Georgia Parliamentary Cooperation Committee - Declaration and Recommendations, ref: IRE/PCC/GH/KM/es, 27 June 2001, para. 27.

On 2 March 2001, by virtue of the exchange of notes, an agreement was concluded between the two countries, which, based on the negotiation minutes of 1 March 2001, established a provisional procedure for cross-border movements for certain categories of persons. The given agreement however does not contain provisions that would introduce a visa free regime for Russian military personnel serving in the Russian contingent of the Joint Peacekeeping Forces stationed in the Tskhinvali region, Georgia. Similarly, the agreed categories did not cover any Russian officials travelling to the Tskhinvali Region, Georgia nor those residing and serving in the institutions of the proxy regime.] Respectively, since there had never been an agreement that would accord any kind of privileges to Russian peacekeepers in terms of entering Georgian territory, a normal visa regime between Georgia and Russia applied to the personnel of peacekeeping forces. In the same way, Georgia is not party to the document concluded within the CIS framework, which provides for the status of CIS collective forces with respect to passport and visa matters. Yet, Russian military contingents constantly travelled to the Tskhinvali region, Georgia without following proper visa procedures.

1.3. Attempts to create a single consolidated information space

In terms of creating a united information space, it is worth noting the presence of representatives of Russian mass media in Tskhinvali on a permanent basis without the normal accreditation procedure. Practical measures were accompanied by official statements of Sergey Trubitsin, Deputy Director General of the federal state unitary enterprise - Russian TV and Radio Broadcasting Network the TV and Radio networks saying that the decision that South Ossetia should be incorporated into Russia's uniform information space has become a reality'.[24]

Efforts have been taken with a view to creating a common information space for the Tskhinvali region/South Ossetia and North Ossetia. Activities listed below demonstrate the extent of the financial and logistical support provided by the Russian side in terms of developing separate communications systems in South Ossetia and thereby detaching it from the single information space of Georgia.

The unauthorized transmission of the local TV channel "Alania" and Russian TV companies "НТВ" ("NTV") and "ОРТ" ("ORT").

The illegal building and exploitation of radio communication networks by Russian radio communication companies, and illegal international telephone connection in the conflict zones, including the Tskhinvali region/South Ossetia.

Digital wireless communication lines have been installed in the *de facto* republic that led to:

1) An increase in the number of the Russian TV channels being transmitted in the region (at this point, the transmitted channels are "Культура" ("Culture"), "Россия" ("Russia"), "Первый Канал" ("First Channel")). It is also planned to expand the transmission network with a view to covering the whole territory of South Ossetia.

[24] See at http://www.mfa.gov.ge/print.php?gg=1&sec_id=36&info_id=1796&lang_id=ENG

2) A serious reduction of the telephone communication rates with Russia, and

3) Isolation of South Ossetia's communications network from that of Georgia.

As for the telecommunications field, since 2004, the Russian telecommunications company "Мегафон" ("Megaphone") operates in the Tskhinvali region/South Ossetia without permission from the Georgian government.[25] *De facto* President Kokoity and his advisers, as well as other representatives of the proxy regime are actively using services of said network. The Russian company "Мегафон" ("Megaphone") further undertook construction of a wireless network of telecommunications. The wireless network is exploited by "Мегафон" ("Megaphone") using the wireless spectrum (radio-wave space) owned by licensed companies operating in Georgia and thereby violating Georgian laws. For the most part, "Мегафон" ("Megaphone") antennas are fixed on Magticom (Georgian company) towers. With the help of said wireless network, it became possible to ensure direct interactions with analogous networks in Russia, ignoring and bypassing the united telecommunications system of Georgia. Moreover, to raise the service quality of "Мегафон" ("Megaphone"), six (6) sets of transmission antennas and four (4) computers were imported in Tskhinvali directly from Russia in January 2006.[26]

By the above mentioned activities on the part of the Russian Federation, the latter violates the terms of various agreements with Georgia, including the "Agreement on Mutual Cooperation in the Communications Field between the Governments of Georgia and Russia" of 1994; "Agreement on the Cooperation in Rehabilitation of the Economy in Zone of the Conflict and Return of Refugees, between the Governments of Georgia and Russia" (2000), Statutes and Regulations of the Universal Postal Union (UPU) and International Telecommunications Union (ITU), as well as other international principles applicable in the field.

In regard of the arbitrary actions aimed at creating a uniform information space, the Georgian Government has raised the matter with the Minister of Communications and Information Technologies of the Russian Federation, at the Georgian-Russian Intergovernmental Commission meeting on cooperation in economic matters.[27] A response from the governmental authorities of the Russian Federation was received in October 2006, in Moscow, at the Ministerial Meeting among BSEC states and in November 2006, in Antalya, at the conference held within the framework of International Telecommunications Union (ITU).[28] The matters have been reported to Universal Postal Union (UPU)[29] and Regional Commonwealth in Communications Field

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[25] http://newsgeorgia.ru/geol/20061112/41839887.html;

[26] However, the company is not yet able to ensure the full coverage of the region.

[27] Letter of the Minister of Economic Development of Georgia to the Minister of Communications and Information technologies of Russia, 18 October 2005.

[28] See the Statement by Deputy Minister of Economic Development of Georgia David Tsiklauri, Antalya, Turkey, 6-24 November 2006.

[29] Letter of Director General Intskirveli of "Georgian Post", Ltd to the Director of Operations and Technology, Mr. Msofe, Universal Postal Union, 9 October 2006.

(RCC).[30] Thus, Georgian government tried to use all international mechanisms available in order to settle these issues.[31]

1.4. Attempts of economic integration

Tremendous efforts have been consistently made by the Russian Federation in the field of economy to support and maintain the proxy regimes. Deliberate measures were taken with a view to integrating the local economy with Russian economic space. The local economy of the Tskhinvali region/South Ossetia survived by virtue of humanitarian assistance and direct budgetary subsidies received from Russia.

- **Direct Economic Support of the Proxy Regime**

Using the 2000 bilateral agreement (we need some description of the title of the agreement, we need footnote on that), the Russian Federation claimed that central and territorial administrative organs of the Russian Federation did not need special approval from the Georgian Government for rendering direct economic and humanitarian assistance to the proxy regime in Tskinvali. However, Russian Federation never followed procedures established under the agreement and by that economic activities of the type described below lack any legal justification.

When referencing the claimed legality of such humanitarian assistance programs, particular account should be taken of Article 5 of the Agreement, which explicitly provides for the role of the Joint Control Commission as an organ responsible for monitoring and controlling implementation of economic rehabilitation programmes. The purpose of Article 5 is to ensure that the prohibited goods and items are not delivered to the proxy regime under the cover of the humanitarian assistance. By providing unilateral assistance to the Tskhinvali region/South Ossetia, the Russian authorities largely ignored and evaded conditions of the agreement, including the monitoring role of the Joint Control Commission. Furthermore, the veil of humanitarian assistance has often been used to conceal the real nature of economic involvement by Russia in the Tskhinvali Region/South Ossetia.

The above mentioned constitutes part of a well planned policy of the Russian Federation to enhance the dependency of the proxy regime on the Russian Federation in direct contravention to the effect that assistance to and engagement in multilateral efforts could have had, including the promotion of confidence building measures between communities and the peace process in general.

The Moscow Mayor's Office has been directly charged with and has been playing a leading role in providing so called humanitaian asistance to the Tskhinvali region/South Ossetia. With the objective to ensure uninterrupted supply, various commodities have been sent to the Tskhinvali

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[30] Address of the Ministry of Economic Development of Georgia to Regional Commonwealth in Communications Field, 23 October 2006

[31] Address of the Minister of Economic Development of Georgia to the Participants of the Meeting of Ministers in Charge of Information Technologies and Communications in BSEC Member States, 13 October 2006.

region/South Ossetia on a peirodic 6-month basis via the route Moscow-Vladikavkaz-Tskhinvali. It is noteworthy that the Russian Federation was unresponsive to numerous protests on these matters made by the Ministry of Foreign Affairs of Georgia.

Diplomatic correspondence preceding transportation of one particular humanitarian cargo described below is an illustrative example of efforts of Georgian government to establish mutually agreed framework for implementation of humanitarian activities for the benefit of local population without jeopardizing principles of territorial integrity and sovereignty of Georgia as well as decreasing the risk of illegal prevision of military munitions to proxy regimes under the disguise of humanitarian cargos.

On 9 September 2004, the Georgian government was notified through diplomatic note #111 dated 8 September 2004, of the intention of the Russian Ministry of Emergencies to send humanitarian cargo to the Tskhinvali region/South Ossetia over the period of 13 September to 1 October. The Cargo would include 1000 tone flour, 570 tone sugar, and 150 tone petrol oil. On 10 September 2004, the Georgian government expressed its consent to the humanitarian assistance provided the cargo was imported through the check-point "Kazbegi-Zemo Larsi" as that served as the only legitimate check-point over the Georgian-Russsian border.

Further, on 17 September 2004, the Russian Ministry of Foreign Affairs by diploimatic note #6080-н/4дсгн, notified the Georgian side that on the same day it was planned to transport the humanitarian cargo coming from Vladikavkaz, North Ossetia, Russia, on twelve(12) lorries loaded with 150 tone flour. In response, the Georgian side, reminded the Russian Government of its earlier position and reiterated its request to keep the Georgian side informed of the route and movement of the cargo in a timely manner.

On 7 October 2004, the Russian Ministry of Foreign Affairs, through the diplomatic note #6542-н/4дсгн notified the Georgian side of their intention to import humanitarian cargo allocated by the Moscow government in the first half of October in the Tskhinvali region. The cargo would include food, commodities, ambulance cars, medicines, etc. In response, on 7 October 2004 (by letter #1751), the Georgian side through its Embassy in Russia, reminded Russia of their earlier diplomatic stand on the matter, and renewed its request regarding the indication to the Georgian side of the route and movement of the cargo.

On 11 October 2004, disregarding numerous requests of the Georgian side regarding the use of the legitimate border crossing point, a column of 16-20 lorries with cargo claimed to be of humanitarian nature (food, medicines, power genetarors, ambulance cars, etc) from Moscow entered the Tskhinvali region *via Roki Tunnel*.

On 7 June 2005, it was reported that on 25 June Moscow Mayor Yuri Lujkov was planning to provide the Tskhinvali region/South Ossetia with humanitarian cargo exceeding the value of 60 million rubles. On 9 June 2005 a diplomatic note of protest from the Ministry of Foreign Affairs (#11-06/983) was communicated to the Russian side. Despite this, on 25 June 2005, disregarding the legitimate requests of the Georgian side, the Russian Government, in a largely ceremonial way, with the leaders of the separatist government involved, sent the given humanitarian cargo to the Tskhinvali region/ South Ossetia *through the Roki Tunnel*. Most importantly, part of the cargo

was of dual use, part of it for military purposes. In this connection, special memoranda of protest were additionally conveyed to the Ministry of Foreign Affairs on 24 and 27 June 2005.[32]

Despite numerous diplomatic protests the series of humanitarian cargos started to be transported through the Roki tunnel. In July 2005, on the initiative of Moscow Mayor Yuri Lujkov, humanitarian cargo was sent to the Tskhinvali region/South Ossetia including food, clothes, subjects of daily need, ambulance car, buses, construction equipment, diesel power generators. Furthermore, on 10 October 2006, the Moscow Mayor's Office allocated more than twenty million (20.000.000) rubles (approximately 800.000 USD) for humanitarian assistance to the Tskhinvali region/South Ossetia. That included 25 transport units, compressors, welding machines, furniture and books for school, and medical equipment.

As all the above mentioned cargoes were imported with the declared goal of humanitarian assistance, however due to the fact that no monitoring of the Roki tunnel was being implemented by international monitors no verification of the real nature of the cargos could have been conducted by any independent neutral mechanism. Georgian government on numerous occasions asked for the possibility of strenghtening of the mandate of the OSCE military observer mission, including for extension of its monitoring mandate over the Roki tunnel. (for more info we need reference). Unfortunatly at all occasions Russia blocked this possibility.

Thus, in essence cargoes transported under the pretext of humanitarian assistance with the aim of strengthening the proxy regime in Tskhinvali Region had the effect of enhancing control over proxy regim as well as weakening the legitimate government of Georgia. That policy was further expanded by the conclusion of a friendship and cooperation agreement between Moscow City and the proxy regime of South Ossetia, signed by Moscow Mayor Yuri Lujkov and *de facto* President Eduart Kokoity on 20 September 2006, at the Moscow Mayor's Office.

Russia's Pension Fund activities in Tskhinvali: Another aspect of the interventionist economic policy of Russia has well been manifested in the official opening of a branch office of Russia's Pension Fund in Tskhinvali in 2006. On 19 August 2006, Russia's Pension Fund opened a consultation office in Tskhinvali.[33] The opening ceremony was attended by the Tskhinvali region/South Ossetia's proxy leader, Eduard Kokoity, the Head of the Pension Fund of the Russian Federation, Genady Batanov, and the Head of the Pension Fund of North Ossetia-Alania, Bela Ikoeva. According to Madina Chekhoeva, who was intended to head the Tskhinvali branch of Russia's Pension Fund, the claimed objective of the office was to 'speed up the process of pension registration and receipt for the residents of the Tskhinvali region/South Ossetia'.34 The Georgian side immediately expressed its firm protest in relation to those events and asked for a relevant explanation from the Russian side, including the immediate closure of the consultation

[32] See also press-releases of RIAN dated 14 and 21 October as well as 1 December 2006. Available at http://www.rian.ru/politics/20061014/54809443.html ; http://www.rian.ru/politics/20051021/55012024-print.html ; http://www.rian.ru/society/20061201/56313071.html

[33] http://geotimes.ge/index.php?m=home&newsid=1428; http://www.unomig.org/media/headlines/?id=6692&y=2006&m=8&d=23.

[34] OSCE Mission to Georgia, Activity Report No. 15/06: 16 -31 August 2006 (Vienna, 7 September 2006).

office, as well as the withdrawal of all Russian officials illegally present in the Georgian territory in violation of the customs rules. On 22 August 2006, the Provisional Trustee in the Matters of the Russian Federation, Mr. Vilinkin was given a memorandum of protest from the Georgian Ministry of Foreign Affairs to that effect.35 The Georgian side expressly stated that these measures were naturally understood as being aimed at the factual annexation of an integral part of Georgia. Indeed, through these types of 'supportive' measures, Russia consistently identified itself as a party having a special interest and involvement in the Georgian-Ossetian conflict.

Salaries paid from Russia: Special funds have been transferred to the closed salary and pension accounts of the National Bank of South Ossetia. Since September 2004, budgetary organizations of the Tskhinvali region/South Ossetia were funded directly from the Russian Federation for paying salaries and meeting other expenses. As for the pensions, twenty thousand (20.000) pensioners in the Tskhinvali region/South Ossetia were paid pensions in the amount of 1.200-1.800 rubles, while former employees of the law enforcement agencies were normally paid 3.000 rubles pensions on average. From July 2006 to June 2007, the number of Russian paid pensioners increased from 1.300 to 2.200.

The funds allocated for the Tskhinvali region/South Ossetia have been transferred to the following banks "АРТ банк" ("ART Bank") and "Банк Москвы" ("Bank of Moscow") based in Vladikavkaz city, from where they are taken to the Tskhinvali 'National Bank'. Apart from North Ossetia, the money intended for the Tskhinvali region/South Ossetia was transferred through other territorial-administrative units of the Federation. After the opening of a joint-stock savings bank in Tskhinvali, pensions were issued locally.[36]

Banking: In 2006, a joint-stock savings bank was established in the Tskhinvali region/South Ossetia by the order of de facto President Kokoity. The Tskhinvali Proxy regime owns 51% of shares of the National Bank is the only stock holder of the savings bank. Among other banking activities, it pays out pensions transferred from the Russian Federation. On 3 July 2007, a commercial bank titled the "First Republican Bank" was opened in Tskhinvali City,37 which in fact represents a branch office of the "Eurasian Investment Bank" based in Moscow and is owned by Russian businessman Albert Jusoev. The premises of the "National Bank" in Tskhinvali were renovated by a Russian construction company based on direction from the Central Bank of Russia. It is also worth noting that the miserable amount of commissions on the money transfers directed to and from the banks operating in Tskhinvali region/South Ossetia stands as another proof of an integrated banking system between the Tskhinvali region and the Russian Federation.38

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[35] http://www.mfa.gov.ge/print.php?gg=1&sec_id=461&info_id=2018&lang_id=ENG

[36] See press-release of Yujnaya Osetiya dated 4 April 2007.

[37] See more generally press-releases of Yujnaya Osetiya dated 7 July 2007 and interview with Eduard Kokoity published by VSESMI.

[38] Press-release of ОСИНФОРМ, dated 4 July 2007.

All the aforementioned has taken place in violation of established rules for the regulation of financial services and represents a clear intrusion into the Georgian economic and financial sphere.

- **Illegal Capital Investments from Russian Companies**

In addition to governmental-funded assistance programmes, engagement of Russian companies had been used as an additional tool for enhancing the total economic dependence of the region on the Russian Federation. The following may serve as an example, but is in no way an exhaustive list of Russian capital investments in the Tskhinvali region/South Ossetian economy:

1. The Ural ore-mining enterprise ("ООО Угмк-Холдинг") purchased the Kvaisi lead-zinc underground mine;

2. The Ural ore-mining enterprise ("ООО Угмк-Холдинг") made orders to Tskhinvali "Эмалпровод". Since 2004, the company "ЗАО Сибкабель" purchased the Tskhinvali plant "Эмалпровод";

3. In 2004, the Company "ЗАО Трансмашхолдинг" make an investment in the Tskhinvali plant "Электровибромашина". Notably, both "Эмальпровод" and "Электровибромашина" work on orders from Russia.[39]

- **Attempted economic integration in the field of electricity and gas**

Without prior consultation with the Georgian side and the Joint Control Commission, Russian and Ossetian experts carried out design works aimed at attaching the "South Ossetian" electrical power and gas systems to the relevant Russian systems.

Gas pipeline: In the second half of 2006, the Russia's state-owned monopolist "Gazprom" started rapid construction of the "Dzuarikau-Tskhinvali" gas pipeline.[40] In general, the region is supplied from the central Georgian pipeline. The construction aimed to supply the Tskhinvali region/South Ossetia with natural gas circumventing Georgia. The Russian Federation invested about fifteen (15) billion rubles (about 600 million USD) in that project. On 1 September 2006, the Georgian Ministry of Foreign Affairs made an official statement assessing the illegal nature of the construction of the pipeline that equally goes to all parties involved in the project. The Ministry expressly stated that any unilateral deal with the *proxy* government of Tskhinvali, including the participation of any foreign company in the planned construction tenders, not agreed with the central government of Georgia, will be qualified as an act of infringement of the territorial integrity of Georgia and intervention in the internal affairs of the country.[41] The construction of

[39] See the interview with Director of the factory "EmalProvod" published by REGNUM on 28 August 2006.

[40] http://www.redorbit.com/news/business/717327/gas_pipeline_linking_north_south_ossetia_to_be_commissioned_in/index.html;http://www.redorbit.com/news/business/699080/georgia_construction_of_gas_pipeline_between_russia_south_ossetia_to/index.html; The gas pipeline connects Alagiri (North Ossetia, Russia) with Tskhinvali, South Ossetia, Georgia.

[41] Ministry of Foreign Affairs of Georgia, http://www.mfa.gov.ge/print.php?gg=1&sec_id=36&info_id=2054&lang_id=ENG

the above mentioned pipeline would not bring significant, if any, economic benefit or income to Gazprom, therefore, from an economic point of view, (especially considering that the Tskhinvali Region/South Ossetia has been supplied with natural gas from Georgia) there was no necessity for pipeline construction. Investment in the amount of 15 billion rubles was not justified and was aimed rather at strengthening political and economic control over the region, severing of its ties with Georgia, and annexation to the Russian Federation.

Electrotransmission line (electricity main line). In September 2007, the separatist government completed construction of the 110 km Java-Tskhinvali electro-transmission line with substantial involvement of the Russian state owned company "RAO EES". The line has been intended to supply the Tskhinvali City and some ethnic Ossetian villages, leaving aside the adjacent Georgian settlements. It has also been planned to build the electricity distribution station near the Itrapi Village with the declared aim to ensure distribution of electricity throughout the territory of the Tskhinvali region/South Ossetia.

Water-main. With the contribution of North Ossetian experts, construction of the Edisi-Tskhinvali water-main project was considered. This project envisaged the provision of water supplies to Tskhinvali City bypassing Georgian villages. Construction of the water pipe is funded by the North Ossetian Ministry of Municipal Economy and has been implemented under immediate supervision by experts representing North Ossetia and Russia.

Road constructions. Dzara detour road constructed with active support of the Russian Federation enabled the proxy regime in Tskinvali to block the Georgian villages of Great Liakhvi and to bring arms from Russia through routes beyond the control of international monitors. Moscow Mayor Lujkov allocated 1.5 million US Dollars specifically for funding this project.42 The funds were periodically transferred to one of the banks of Vladikavkaz. Construction works have started from the summer of 2005, and were carried out by the Alagiri and Ardoni construction agencies.

The Dzara Road had vital strategic importance; putting the road in operation enabled Russian Federation to enhance the process of political and economic affiliation with Russia of the proxy regime in Tskinvali. Since the road is a roundabout route, its use facilitated isolation of Georgian villages in the Liakhvi Gorge without adverse effect to the local economy.

In addition, Dzara Road provided an easy and fast way to bring military munitions into the conflict zone as has often been the case.[43] The role that the Dzara road planned in the implementation of military intervention into the Georgia of Russian Military forces in August 2008 further explains degree of strategic importance attached to the construction of this road. (we can add footnote here with reference to relevant question in military section).

1.5. MILITARY ASPECTS OF SUPPORT

[42] In 2006, the Russian Federation allocated 120 million rubles (48 million USD) for the construction of the Dzara Road.

[43] http://www.mfa.gov.ge/print.php?gg=1&sec_id=36&info_id=1792&lang_id=ENG

Provision of weaponry and military support: After the conflict of the early 90s finished, the Russian government through different means accelerated military support to the proxy regime of Tskhinvali, though the scope and nature of the support differed over the last seventeen years. Military support provided to the proxy government consisted of large amounts of weaponry, and military instalments. Reportedly, the *de facto* Ministry of Defence of South Ossetia has been permanently supplied with weaponry, ammunition and military equipment from the Russian Federation.

Vast majority of the legal documents regulating deployment and operation of the Joint Peacekeeping Forces in Tskhinvali Region/South Ossetia envisaged elimination/disbanding of the armed formations operating in the region. The Sochi Agreement of May 24, 1992 specifically provides for "withdrawal of armed formations ... and ...disbanding of forces of self-defense."[44] Breakdown of the similar provision is also reflected in the regulations of the JPKF[45], which prohibits specifically "existence and activities of illegal armed persons and formations." The same article lays explicit and rigorous prohibition on "delivery (transportation) of weapons, techniques, other means, which may be used in acts of terror and sabotage to the zone of conflict."[46] Based on the JCC decision of Decree of 6 December 1994, JPKF has had the responsibility to "decisively block the activity and disband any military formations", "removal of heavy technology and weapons from the zone of conflict", "not to permit ... the transit in the zone of conflict and ensure removal from it of weapons, armaments, military technology, other military property, as well as explosive and poisonous substances and of other materials".[47] In defiance of the mentioned obligations, armament and heavy military hardware has been constantly flowing into the conflict zone, armed groups operated in there and have been constantly attacking and terrorizing civilian population of the ethnic Georgian villages, firing at the positions of the Georgian battalion of the JPKF, etc.[48] The Ministry of Defense of the proxy regime operated freely under the shelter of the Russian and North Ossetian battalions, as well as so called special forces: OMON, 'President's' Special Guards.

In 2006 due to Russian military assistance, the military arsenal of the separatists included eleven infantry battalions that have two (2) units of antiaircraft emplacement (while there was only one

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[44] Sochi Agreement, Article 3, Para 1;

[45] Regulations of Joint Peacekeeping Forces (JPKF) and Law and Order Keeping Forces (LOKF) in the Zone of Conflict (Annex 1 To Protocol #3 of the JCC Session dated July 12, 1992), Article 3;

[46] See idem. See also Article 10 of the Regulation on the Joint Control Commission for the Settlement of the Georgian-Ossetian Conflict (Annex to the Joint Control Commission Decision of 31 October 1994. Moscow) "*On the basis of the mandate ... the command of the peacekeeping forces will ... implement necessary measures ... for the disarming of illegal militarized formations.*"

[47] Regulation Concerning the Basic principles of Operation of the Military Contingents and of the Groups of Military Observers Designated for the Normalization of the Situation In the Zone of the Georgian-Ossetian Conflict (Annex #1 to the JCC Decree of 6 December 1994), Article 3.

[48] For more details, see the Chronology, Answer to the Question 1 of the First Set of Questions on Military issues, and see answer to question #3 of the First set of questions on legal issues to the Governments of Georgia and Russian Federation;

unit in the summer of 2006) The number of antitank grenade cup discharges (as well as the mobile antitank missile complex "ФАГОТ" ("Fagot")), howitzers and grenade cup discharges, belonging to the said battalions has tripled.

Significant changes occurred in terms of the number of tank and anti-aircraft artillery mounts as well. In 2007 the proxy regime of Tskhinvali possessed at least twelve (12) units of T-60 type tanks (deployed in the Java region) and twenty-two (22) units of 122-mm self-propelled artillery equipment 2C1 "Гвоздика" ("Gvozdika") (deployed in Zivgomi, Java region). The military parade dedicated to the 'day of independence' on 20 September 2005, gave a display of military detachments and armoured vehicles, three (3) self-propelled howitzers (2S1), four (4) tanks (T-55), four (4) armoured personnel carriers (BTR-70), 3 BMP-2, four (4) armoured infantry fighting vehicles (BMP -2), three (3) 120 mm mortars and three (3) anti-aircraft guns ZU 23-2. This armour was openly paraded in Tskhinvali irrespective of the fact that Tskinvali was defined as a limited weapons zone under existing agreements.

The 58th Army of the Russian Federation deployed in the North Caucasus has been used as an active tool in providing the separatists with military equipment. Different kinds of military equipment allocated to the 58th army have periodically been transferred to proxy authorities. Vehicles loaded with firearms, munitions and technical equipments were constantly crossing the Georgian border via Roki Tunnel with a view to supplying the proxy regime.

To further strengthen the military capacity of the proxy regime of Tskhinvali, the Russian side actively used transports registered in the possession of Russian peacekeepers. During the rotation of peacekeeping forces of Russian and so called North Ossetian Battalions, regular transfers of military columns and equipment took place through the Roki Tunnel, which has not been under the control of Georgian authorities since the 1990s war *(see answer to Legal Q3 for more information regarding the issue of Roki Tunnel control) as well as was beyond the reach of international monitors.* In addition, the Russian-registered vehicles at the disposal of Russian Military contingent periodically drove in the direction of Tskhinvali through the Dzara Road, specifically built to facilitate illegal arms delivery. In the same way, the commodities, including the munitions and fuel, officially allocated to the peacekeeping contingent has been transferred to the *de facto* Ministry of Defence of South Ossetia.

Aside from the role of Russian peacekeepers in the provision of above mentioned commodities to the proxy regime, direct military support was further provided under the disguise of humanitarian assistance.

Beyond and above, when special needs would arise, the Russian Federation provided *direct military assistance* to the separatist government, by sending its military personnel. During the August 2004 events marked by the escalation of the conflict, mercenaries from the North were arriving in the composition of military contingents for the assistance of Tskhinvali proxy regime.

By the end of 2002 appointment of Russian officials to high ranking position of the proxy regime's security agencies (defence, security, intelligence etc.) accelerated (see sub-chapter ***Staff composition as a direct means of control of the Proxy Regime in the text above***). On January 17, 2005, Moscow named the Head of the Federal Security Service's (FSB) office in the Russian Republic of Mordovia, Anatoly Yarovoy, as chairman of the South Ossetian KGB. In March

2005, Lieutenant-General Anatoly Zaytsev, former deputy commander-in-chief of the Russian Trans-Baikal Military District, already Deputy Minister of Defense of the proxy regime in Abkhazia, was appointed Chief of the General Staff. On April 25, 2005, the former Chief of Staff of the North Ossetian branch of the Russian Ministry of Interior, Mikhail Mindzaev, was appointed Minister of Interior of South Ossetia. On July 4, 2005, Yuri Morozov, the commercial director of the Kursk fuel company in Russia and an old business partner of the South Ossetian leader, Kokoity, was named Prime Minister of South Ossetia.

These appointments were accompanied by an increase in Russian subversive activities in Georgia. In a remarkably brazen incident, an explosion on February 1, 2005, destroyed the police headquarters in the Georgian town of Gori, killing three policemen and wounding seventeen others. A five month-long investigation by the Georgian Ministry of Interior established that the explosion had been organized by the Russian military intelligence service, the GRU.[49]

- **Construction of Russian military bases**

Construction of military facilities had been taking place intensively over the past years in the territory of the Tskhinvali region/South Ossetia, with the direct engagement of the Russian Federation.

In 2006-2008, the Russian government built two military bases in South Ossetia – one in **Ugardanta**, Java district and the other in the north-western part of the town of Tskhinvali , both for 2000-2500 soldiers each[50]. The construction works of the Tskhinvali military bases were carried out by "Praktika.LTD," a Russian construction company registered in the town of Essentuki, Stavropol Krai, headed by **Leonid Mikhailovich Vaganov**, a former GRU officer.

Construction of a similar military base was planned in the area surrounding Daba Znauri as well. Russian military experts have visited the place chosen as an intended location of such base.

In 2005-2006, the Russian government opened new military base in the **Zaka valley**, North Ossetia, just 7 kilometres from the northern entrance of the Roki Tunnel. In August 2008, Russian troops used this base as a bridgehead for entering South Ossetia.

Furthermore, in the area of Tskhinvali "Эмальпровод" ("Emalprovod"), a military equipment repairing point has been installed, which also produces launching devices for NURS-type missiles. All these activities take place without the prior agreement or approval from the Georgian government.

In this connection, particular attention should be given to the statement of Znaur Gassiev, the Chairman of the self-proclaimed parliament of South Ossetia to the effect that construction of

[49] "Georgian interior minister proud of "high precision" work on Gori blast case", Imedi TV, Tbilisi, 27 July 2005, in BBC Monitoring; "Georgian minister says Russia not helping with car bomb probe", Radio 1, Tbilisi - 10 November 2005, in BBC Monitoring; "Georgian TV shows documentary on Gori car bombing", Rustavi-2 TV, Tbilisi, 1 February 2006, in BBC Monitoring

[50] Visual materials enclosed Under "Reference 50".

Russian military bases in the Tskhinvali region/South Ossetia is a matter of common knowledge.[51]

- **Training of the Military Forces of the proxy Regimes**

Beyond what has already been stated, the military staff of the South Ossetian proxy regime has been periodically undergoing military trainings at the Russian military base of the 58th army, located in North Ossetia. It is a notable fact that only in the course of last year, Russian military instructors held eighteen (18) military exercises for different units of the de facto 'Ministry of Defence' of South Ossetia. These exercises for the most part took place on the base of North Ossetian peace-keeping battalion and were carried out with the application of heavy weaponry. (*More information is provided in Answers to Legal and Military Questions on roles and activities of the peacekeepers.*)

2. ABKHAZIA, GEORGIA

2.1. ASPECT OF POLITICAL CONTROL

In terms of political support, same trend as it is described in the sub-chapter on Tskhinvali region/South Ossetia, has been applied to Abkhazia. Statements supporting independence of the region were part of this pattern. On 6 December 2006, the State Duma of the Russian Federation adopted several statements in relation to the non-recognized republics existing on the territory of Georgia; [52] On 22 December 2006, the Council (upper chamber) of the Parliament of the Russian Federation passed a special statement on the recognition of the independence of Abkhazia and South Ossetia. In the given statement the Russian Parliament expressly called on the international community to recognize the right to self-determination of South Ossetia and Abkhazia. Later on, the statement of State Duma was upheld by the Parliaments of other territorial administrative units of the Russian Federation.

Numbers of agreements was concluded between entities of the Russian Federation and the Abkhaz proxy regime without seeking the consent of the Government of Georgia. For instance, agreements have been concluded with the Stavropol Territory (the Russian Federation) in the fields of industry, commerce, culture and education; and with the Administration of Krasnodar Territory (the Russian Federation) in the field of rehabilitation and reconstruction of highways and railways in Abkhazia.

- *Visits of representatives of Russian official structures*

Without prior consultations with the Georgian authorities, the Abkhazia, Georgia has been frequently visited by representatives of official structures of the Russian Federation, and while

[51] "It does not represent secret to anybody that Russian military bases are being built in South Ossetian territory, which are built by special construction agency of the Ministry of Defense of the Russian Federation". The interview was given on 14 September 2007 to www.utro.ru

[52] See statement of State Duma dated 6 December 2006.

doing so they violated state border control regulations as well as established practices on visits to the Abkhazia,Georgia being conducted after proper notification and approval by Georgian authorities. Numerous meetings between the leaders of the proxy regime and the highest officials and Members of the Parliament of the Russian Federation have taken place without prior approval from the central government of Georgia. To name but a few examples of this type of "high-level" meetings, the following instances are perhaps worthy to note: 19.12.1997- Chairman of the Foreign Affairs Committee of Duma of the Russian Federation- V. Lukin; 20.01.1999- The State Duma Deputy – Baturin; 21.01.1999- The State Duma Deputy- Mitrofanov; 22.08.1999-Chairman of the CIS Affairs Committee of Duma of the Russian Federation - G. Tixonov; 28.11.2001-Commander of the North Caucasus Military District of the Ministry of Defence of the Russian Federation - General G. Troshev (11-08/61); 06.08.2002- Deputy Chief of the President Administration of Russian Federation -V. Surkov (11-08/927); 06.08.2002- Chief of the Secretariat of the President Administration of the Russian Federation - V. Rumiantsev; 06.08.2002- Deputy Minister of Finances of Russian Federation - A. Petrov; 06.08.2002- Deputy Minister of Economic Development and Commerce- M. Tsikanov; 30.09.2003- President of the Republic of Tatarstan- M. Shaimiev; 30.09.2003- President of the Kabardino-Balkar Republic - V. Kokovi; 30.09.2003-President of the Republic of Bashkiria- M. Raximov and etc. throughout the years and up to now.

- ***Staff composition as a direct means of control of the Proxy Regime***

a) On March 10, 2006, **Alexander Stranichkin** was appointed as Vice Premier of Abkhazia. He was born on April 5, 1955 in town Chita. In 1983 he graduated from the State Ecological Institute of Rostov as an economist. He has been elected in Abkhazian parliament twice and was elected Vice Speaker in 2002.

b) **Olga Koltukova,** a Russian citizen, was appointed as the Minister of Labor and Social support of Abkhazia in March 2005.

c) On April 30 2008, **Aleksandr Pavliushko** was appointed Deputy Minister of Defense of Abkhazia by a decree of the Abkhazian *de-facto* President. Mr. Pavliushko is a former head of the Russian peacekeeper's staff. Later, in August 2009, Mr. Pavliushko, was responsible for planning and conducting operation for the occupation of the Kodori Gorge.

d) In March 2005, **Anatoly Zaitsev** was appointed as Chief of the General Staff of the Abkhazian *de-facto* Ministry of Defense; he had been a high-ranking official at the Russian Ministry of Defense.

e) Sultan **Sosnaliev** served as the Chief of General staff until 2005 and Minister of Defense and Vice Premier of Abkhazia since 2005 (he died in 2007). He was born in 1944 and graduated from Sizransk Aviation College and Military Academy. After he resigned to the reserve forces, he served as a deputy director of the joint stock company "Kabbalgrazhdanstroy". Since August 1992 he participated in military activities in Abkhazia, Georgia as Chief of the Defense Staff and Chief of the General Staff. He then resigned to reserve in rank of Lieutenant General of the Abkhazian Army.

f) **A.Voinsky** - Deputy Secretary of the National Security Council of Abkhazia, former Russian Naval Commander.

g) **D. Markov** – russian citizen appointed as Chief of Air Defense of Abkhazia.

h) **V.Gaidukov** – russian citizen appointed as Deputy Interior Ministry of Abkhazia.

i) **D. Ermichev** – russian citizen appointed as Deputy Head of the Division of International Military Cooperation of the Ministry of Defense of Abkhazia.

j) **V. Solovyov**- russian citizen appointed as Chief of Staff of the Service of Armament and Equipment of the Defense of Abkhazia.

- ***Russia's direct engagement in illegitimate elections in Abkhazia, Georgia***

Russia's direct engagement in illegitimate elections in Abkhazia, Georgia held in October 3, 2004 is a good example of non tolerance by the Russian Federation of any possibility of any kind of decision making on important political issues by population remaining in the region independently from the Russian authorities. Above all it clearly shows that total dependence of the region over Russian Federation enabled Russian authorities effectively to attain their goal.

The nature of these elections was well assessed in the letter of Mr. Revaz Adamia, the Ambassador and the Permanent Representative of Georgia to the UN, addressed to the President of the UN Security Council, dated 26 October 2004: "The holding of the illegitimate and self-proclaimed presidential elections by the Abkhaz separatists on October 3, is yet another attempt to imbue legality to the demographic changes resulting from the conflict. It is being done in flagrant disregard of the position of the international community manifested in numerous Security Council resolutions and Presidential Statements to affirm the illegitimacy of the elections when nearly 300.000 civilians are forcibly driven out of the region. By the same virtue, the elections fail to sustain even scant semblance of democracy putting aside its violation of international law in the environment where violence and human rights violations constitute routine of life."

Russia not only disregarded the position of Georgia and of the international community in general but did not refrain from openly showing its interest in the elections as well as its preferred outcomes. The President of the Russian Federation Vladimir Putin openly endorsed Mr. Raul Khajimba, one of the Abkhaz Presidential candidates, when Mr. Putin met him in Sochi on 29 August 2004.

On September 30, 2004, a member of the State Duma of the Russian Federation, Vladimir Zhirinovsky and Konstantin Zatulin attended the celebration of Independence Day of Abkhazia in Sokhumi. The same day, Vladimir Zhirinovsky declared that if the Abkhaz do not support the candidacy of Mr. Khajimba, Russia will close its borders and stop granting pensions and citizenship to the Abkhaz population.

Following the elections, the Russian Federation -which praised the elections in a statement of October 4, 2004 - as "calm and democratic", was the only member of the international community to lend its support. Members of the Russian Government were directly involved in the pre-electoral campaign in Abkhazia. The support was so strong and open that the President of the Russian Federation himself directly supported one of the candidates, Mr. Raul Khajimba, in the Presidential elections on August 29, 2004."[53]

The candidate supported by President Putin did not receive enough popular support to take office. As a result, Russia interfered immediately and the self-proclaimed Central Electoral Commission and the self-proclaimed Supreme Court of Abkhazia nullified the results of the elections. N. Khashba, a Russian citizen and the Head of the Department for Investments and Main Funds of the Ministry of the Emergency Situations of the Russian Federation, the former Mayor of Sokhumi, was appointed as the *de facto* Prime Minister of Abkhazia and immediately dispatched to Sokhumi.

On November 1-2, 2004, both Mr. Khajimba and Mr. Bagapsh, the winning Presidential candidate, were summoned to Moscow. As mentioned above, both Mr. Khajimba and Mr. Bagapsh are Russian citizens. On November 10, 2004, the Prime Minister of Georgia, Zurab Zhvania, criticized the Russian authorities for holding consultations with the representatives of breakaway Abkhazia in Moscow: "It is alarming when open consultations are being held in Moscow with the separatist regimes."

On November 12, 2004, a representative of the Ministry of Foreign Affairs of the Russian Federation, A. Iakovenko, made a declaration, noting, that "the Russian Federation would be obliged to resort to any means in case of deterioration of the situation in Abkhazia in order to protect its own citizens." Furthermore, Russia closed the Georgian-Russian border on Psou River to exert pressure and achieve desirable outcome.

Immediately, on 12 November 2004, the Ministry of Foreign affairs of Georgia responded in a statement declaring that:"The Ministry of Foreign Affairs of Georgia expresses its strongest protest in relation with the declaration made by the Russian Ministry of Foreign Affairs..."

These unilateral and illegal actions in breach of the UN Security Council resolution 1554 (2004), remind "all concerned to refrain from any action that might impede the peace process" clearly show a divergence of Russia's actions from its formal role of the facilitator in the UN-led peace process in Abkhazia, Georgia,

As a result of Russian interference, including the visit of the Deputy General Prosecutor, Kolesnikov and Deputy Minister of Interior Alexander Chelkalin, Mr, Baghabsh was announced President and Mr. Khadjimba – Vice President, in a coordinated "electoral compromise".

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[53] See - the letter of the Permanent Representative of Georgia, Mr. Revaz Adamia, addressed to the UN Security Council, 26 October 2004.

- *Passportization: Abkhazia, Georgia*

The passportization policy in Abkhazia, Georgia has been conducted with the same pattern described above in the case of the Tskhinvali Region/South Ossetia. Numerous protests over this policy have been made and registered by the Government of Georgia however ,no results or changes have taken place.[54] Despite the numerous appeals of Georgia at the UN General Assembly, including protest notes of the Ministry of Foreign Affairs of Georgia and protest resolutions of the Parliament of Georgia (20 March 2002).

(Information on process and dynamics as well as aims of this police are given in the Answer to the Legal Question #2.)

- *Visa Free Regime*

(The same pattern has been used as in the Tskhinvali Region/South Ossetia, see relevant section above.)

2.2 Policy of Economic Support

The Russian Federation, in direct violation of the fundamental norms of international law and CIS decisions, has been engaged in unilateral economic and financial assistance to the proxy regime in Abkhazia, Georgia. Under the pretext of economic assistance Russian Federation maintained the regime in Abkhazia which was directly responsible for the ethnic cleansing and other gross violations committed during the hostilities in 1992-1994 and have been permanently pursuing the policy of ethnic discrimination against the Gali Georgian population.

In violations of Decision made by the Council of the Heads of States of CIS on Measures for Settlement of the Conflict in Abkhazia, Georgia on 19 January 1996, according to Article 6 of which "Confirming, that Abkhazia is an integral part of Georgia, the member states of CIS, without consent of the Government of Georgia will not exercise trade-economic, financial, transport or other operations with the authorities of the Abkhaz side", state agencies and authorities, commercial entities and business institutions of the Russian Federation have nevertheless established close relationships with the proxy regime of Abkhazia, advancing and maintaining its survival.

The Russian Federation and the proxy regime in Sokhumi actively cooperate in export-import of electricity; joint production of brick and roofing slate; construction of a gas-transmitting terminal in the territory of Abkhazia and export of propane through it; expansion of Russian Mobile communications operator services on the whole territory of Abkhazia; television and radio broadcasting; distribution and realization of Abkhazian agricultural products on the Russian

[54] For example: Resolution of the Parliament of Georgia of 20 March 2002; The note of the Embassy of Georgia in the Russian Federation of 17.07.2003; As for the practice of granting citizenship see Statement By Mr. I. Menagarishvili, Minister of Foreign Affairs of Georgia, New York, 19 September 2002, the 57th Session of the UN General Assembly.

market; licensing Russian fishing-ships in Abkhazian waters; methodical consultations to the Abkhazians by the authorities of Moscow in the fields of stock-taking, farming, legislation etc.

- **Policy of acquisition of the immovable property in Abkhazia by the Russian Federation**

After the armed conflict proxy regime of Abkhazia started to dispose abandoned property that previously belonged to the Georgian population ethnically cleansed from their homeland. The purchasers are mainly citizens of the Russian Federation. Confiscation of private property of Georgians is being carried out by the *de facto* administrations of local governance bodies. Namely, with assistance of Abkhaz forces, local administrations blame the IDPs, who actually were forced to flee from their homes more than fifteen years ago, for non-payment of utility or other payments for a long period of time. Explanations like this became grounds for seizing property, which later were sold to citizens of the Russian Federation.

Russian entrepreneurs and entities have gotten engaged in acquisition of land, estates and natural recourses in Abkhazia. The Ministry of Foreign Affairs of Georgia protested to Russian authorities with regard to implementation of trade-economic projects and conclusion of agreements between Russian entities and the proxy regime of Abkhazia.

Large investments have been made by Russian high-ranking officials and influential businessmen in the rehabilitation of seaside resorts. The contracts were concluded with travel agencies of Russia ("Amtatsa," "Ruta," "Jhar-Ptitsa," "Rustal-Tour," "Gladolicus" etc), which offer holidays in famous Abkhazian resorts.

Purchase of real estate, resorts and food objects by private firms, companies and citizens of the Russian Federation led to dramatic increase in real estate prices in Abkhazia, Georgia. If in 2005 the cost of a two-storey house in the centre of Sokhumi was approximately 15 – 20 000 USD, in 2007 the similar house would cost about 60 000 USD.

Increased demand of citizens of the Russian Federation to purchase real estate in Abkhazia has led to the increased number of real estate agencies in the region. For instance, a real estate agency "Iug" (South) is functioning in Sokhumi at the address: No.69, Peace Avenue. The majority of clients of the agency are citizens of the Russian Federation.

Facts of purchasing houses of Georgians by citizens of the Russian Federation:

2004 – 2006:

- Sergeant of the No.309 checkpoint of the Russian Peacekeeping Forces Andrey Zhilin (Located in the village Anaklia of the Zugdidi region), has purchased a house in the city of Ochamchire, in he Gamarjveba Street for 80 000 Russian Rubles; assistance in this case was rendered by the proxy regime of Abkhazia.
- Andrey Kalugin, military servant, residing in Moscow, has purchased a three-room apartment in Sokhumi, Tbilisi Highway (currently (Akirtava Street), in the 14- storey building located adjacent to the tourist base.

- Former servant of the Ministry of Defense of Russia, the Moscow resident, has purchased an apartment at the address: apt. No.76, 13, Tbilisi Highway (currently Akirtava Street), Sokhumi. Shortly after arrival to Sokhumi, the mentioned person has started working at the Ministry of Defense of proxy regime.
- A citizen of the Russian Federation has purchased a three- room apartment in the 14- storey building, located at the tourist- base territory for 25 000 USD. A new owner of the apartment uses it only during summer.
- In 2005, upon initiative of Aslan Bagatelia, Gamgebeli (governor) of the village Ganakhleba of the Gulripsh region, and his deputy Edic Tsargosh, 20 Chechen families were settled in abandoned houses in the village of Nikolaevka, previously belonging to ethnic Georgians, currently forcibly displaced and residing in other parts of the country.
- With assistance of the de facto administration of the village Estonka of the Gulripsh region, citizens of the Republic Armenia are being settled in abandoned by Georgians houses. Armenians enter Abkhazia from the territory of the Russian Federation, crossing the border on the river Psou; then they try to obtain residential land plots.
- A hotel was built on the territory of compact settlements of Georgians in Sokhumi, in the Lakoba Street. The private houses were dismantled.
- In Gagra, Rustaveli Avenue:
  - Hotel is built on the territory of the Nukri Kakuchia's residence;
  - Shops chain is built on the residential territory of Sichinava, Gulordava and Pipia;
  - Café-bar and a restaurant is opened on the residential territory of Zura Jinjaradze and Shota Jinikidze;

Representatives of the separatist regime of Abkhazia actively work in the republics of the North Caucasus. Their aim is to attract and settle as many residents of the North Caucasus as possible. Namely:

- In the city of Ochamchire, the 5-storey building (the so-called "Khrushevka" type) was transferred to Khatal-Ali Kunzhiev from Karachay-Cherkessia, who, in turn brought his relations there. In addition, residencies are given to Mukhamed Uzdenov and Gennady Tsiutov.
- In Sokhumi, a so- called Militia school, functions in the premises of the No.2 Secondary school; students from the North Caucasus attend the Militia School. The majority is trying to purchase living houses in Abkhazia. Namely, one of the students, of Kabardinian nationality, Burat Pliev, has purchased a flat in Sokhumi.
- Lately, the number of brokers from the North Caucasus has increased. Mainly, they are engaged in the business of sale-purchase of dachas. One such broker is Alkhazur Suleimanov from Chechnya.

In 2002-2006 representatives of the Russian Authorities as well as private companies purchased the following sites in Abkhazia:

- In Sokhumi, at a prestigious location, a park situated between the "Tbilisi" Hotel and seashore was purchased by the Moscow Mayor – Yury Luzhkov. The mentioned territory is located 20 meters from the sea and is an ideal location for hotel construction.

- The building (under construction) hotel at the adjacent to the "Dioskuria" restaurant territory in Sokhumi belongs to Yury Luzhkov as well.
- In 2005, territory of the collective farm in the village of Machara of the Gulripsh region, was purchased by a member of the Russian Federation Duma, Vladimir Zhirinovsky. Currently, about 45 000 units of different varieties of grapes are being grown.
- A member of the Duma of the Russian Federation, Joseph Kobzon, has purchased approximately 1-hectare land plot in the Gulripsh region, where construction of a dacha is underway.
- Beria's dacha in Gagra – was purchased by the Governor of the Krasnodar Kray Alexander Tkachev for 25 million Russian Rubles; however, the mentioned dacha is registered in the name of the Nizhegorod Company "Invest Plus".
- Rest – house "Communist" for 420 beds was purchased for amount of 1.5 million USD by the Saratov oblast Governor Pavel Ipatov. The rest house is registered in the name of the company "Stroyex".
- The Stalin dacha "Kholodnaia Rechka" was bought for 10 million USD by the Russian billionaire Oleg Deripaska.
- Hotel "Ritsa" was bought by the former member of the de facto Abkhazia parliament, currently - a businessman - Beslan Butba for 60 000 USD.
- Citizens of the Russian Federation have purchased some fashionable dachas in Daba Bichvinta. Some of them are built in the Bichvinta-Miusera preserved territory. The Governor of the Orel oblast Igor Stroev built a dacha on the preserved territory; the dacha occupies quite a large land plot (is surrounded by the concrete fence), which is also located close to the seashore.
- Businessmen from the Russian Federation have privatized sanatoria "Ukraine" and "Samshitovaia Rosha".
- A firm "Beriozka" registered in Mordovia (Russian Federation) has become an owner of the rest house "Miusera" in Gudauta and the rest- house "Abrskili" in Gagra.
- In Ochamchire, a seashore territory between rivers Ghalidzga and Anaria (former ordnance yard (so-called "Tsarka") of the USSR Military Forces) was entirely purchased by the Russian businessmen and the resort system is being constructed there.

Following sites are transferred (rented) to the State structure, private persons and companies of the Russian Federation:

- On August 15 2001, by the Resolution of the de facto Cabinet of Ministers of Abkhazia, the Gagra rest- house "Kavkasia" was rented to the enterprise "Yaroslavna", which represents an affiliated company of the Russian Society "Russian Compatriots" from the city of Tiraspol of "Transnistria Republic".
- In January 2004 the 4th Division of the Ministry of Defense of Russia has leased a rest- house "Archfund" for the term of 25 years. The rest house is located in Gagra, Lenin Street. Negotiations with the Abkhaz side were conducted by General Yasov and General Vladimirov.
- In 2004, the sanatorium "Armenia" was transferred for use to the Ministry of Defense of Russia for a term of 25 years.
- In 2004, the house of art "Litfund" in Bichvinta was leased for a term of 15 years to the Ministry of Energy of the Russian Federation.

- In August of 2005, the construction company "Promishlennoe Grazhdanskoe Stroitelstvo" from the city of Nizhny Tagil (Russian Federation) has purchased several sites in Ochamchire, including the Farm market and private apartment houses. The company conducts repair works, financed by the Russian Joint-Stock Company "Uralnepht".
- In 2005, in the village Kindghi of the Ochamchire region, the rest house "Sokhumi" and the Sokhumi rest house "Tkvarcheli" became property of the companies "Zarli and "Kagov Garant" from Karachay-Cherkessia of the Russian Federation.
- In 2005, the Russian company "Mostorg Invest" leased the citrus farm located in the village of Makhunjia of the Gali region; rehabilitation works have been completed.
- The rest house, so-called "Literaturnaia Gazeta", located in the village Agudzera of the Gulripsh region was leased by the *de facto* authorities to the company "Rakada" registered in St. Petersburg of the Russian Federation.
- The *de facto* President of Abkhazia Sergey Bagapsh transferred the Sokhumi rehabilitation centre for children with heart diseases to the President of the Karachay-Cherkessia Mustafa Badiev.
- The control stock of the hotel "Sokhumi" located in Sokhumi was obtained by a Russian businessperson residing in the city of Samara in the Russian Federation.
- Some resort and recreation sites were transferred into temporary use to companies like "Lukoil" and "Gazprom".
- In 2006, citizens of the Russian Federation purchased some land located on the territory of the so-called "viem" in the Baratashvili Street of Sokhumi; according to the disseminated information some modern rest houses and sanatoria will built there.

Official structures and private companies of the Russian Federation carry out significant investments in Abkhazia; as a result of such investments, the infrastructure of Abkhazia is being rehabilitated with Russian financial resources: Mr. Bagapsh and Moscow Mayor Yury Luzhkov have signed an agreement on economic cooperation in March of 2005.

2005

- The St. Petersburg Telephone Company replaced outdated equipment at the Sokhumi Telephone Station with a digital one. The cost of the work amounted to $ 600 000. On October 29, Mr. Bagapsh and the Speaker of the *de facto* Parliament of Abkhazia Nugzar Ashuba met representatives of the St Petersburg Amalgamation "Dorservice", who will take part in construction of roads, streets and squares, as well as fortification of the coastal and mudflow zones.
- The bread bakery joint-stock company "Starooskolsky Combinat Khleboproduktov" and the Sokhumi LLC "D.D. and Komp" signed an agreement, based on which in October of 2005, flour for the cost of 38 000 USD was brought into Abkhazia.
- Joint-stock company "Papillon" of the city of Miasi of the Cheliabinsk oblast delivered to the separatists's Ministry of Internal Affairs a dactyloscopic equipment at the cost of 26 790 USD.
- In the framework of the cooperation agreement, signed between Omsk Academy of the Ministry of Internal Affairs of the Russian Federation and the Sokhumi Militia School, the Omsk Academy supplies the Sokhumi School with the special equipment and printed materials.

- The company "Yakhont" in Sokhumi is established based on the Russian investment; the company bottles and sells the mineral water "Avadrakha" in Russia.
- It is planned to modernize and privatize the Sokhumi plant "Sokhumkhelsatsko" with assistance of Russian businesspersons. Currently, the tea cutting manual electric devices workshop is being assembled at the plant.
- The Russian company "ROEL-consulting"[55] is rendering assistance to Abkhazia in developing economic strategies.

2006

- By instructions of Yury Luzhkov, the Moscow City Hall planned repair works at the Gali School No.1 and purchase of school inventory and computers for the same school.
- A well known company in Russia "Interdormstroy" has started rehabilitating the Psou-Sokhumi 107 km section; Director General of the company is Sergey Sirinko. The "Interdormstroy" intends to create a sound industrial base in Abkhazia.
- The affiliated company JFC "Fruit Company" has started its activities in Abkhazia; the company is engaged in preparation of fruit juices. The company received seasonal harvest from the local population and exports citruses to Russia.
- Administration of the Rostov oblast intends to lease the TB dispensary in the Gulripsh region for a term of 25 years; it is planned to open a cardiology section there with assistance of Russian specialists; heart surgeries and, most probably, human organs transplantation operations will be conducted there.
- The Abkhaz LLC "Integral" and Armavir closed JSC "Armavir Communications Factory" signed an agreement on replacement of cables.
- On February 10, in Sokhumi, the Tula Armory representatives and "Sokhumkhelsatsko" achieved agreement on cooperation. Based on the agreement, the Sokhumi factory will allocate a workshop, where the Tula Armory will install the special equipment to produce wooden butts.

- ***Russian control over the financial institutions in Abkhazia, Georgia***

The Russian Federation established absolute control over the financial sector in Abkhazia including through provision of financial assistance to the proxy regime by extending long-term credits with favourable terms.

The Russian currency, Rouble, has been in circulation on the territory of Abkhazia and represents Abkhazia's legal tender.

The proxy regime and its commercial banks have close business relationships with and are dependent on banking and financial structures of the Russian Federation. The banking institutions functioning in this region operate without a license issued by the National Bank of Georgia: they

[55] Established in 1995, is engaged in the consulting business aimed at optimization of organizational activities of enterprises. It is owned by the Russian businessman Vladimir Kakhman. Annual turnover amounts to 340 million USD

violate principles set under Georgian legislation, including the norms which deal with the supervision and inspection of banking institutions, ensuring elimination of money laundering and terrorism financing, and, therefore, they represent illegal structures.

Abkhazian banks enjoy credit and settlement services of Russian banks and are engaged in the international money transfer system such as "Contact" (organizer – JSC C/B "Russlavbank"), VIP Money Transfer (Organizer – "VIP-Bank"), Russian Inter-Bank Payment System "Golden Crown" (functioning of the system is provided by the Uniform Settlement Center-Non-Bank Clearing Credit Organization (NCCO) "Payment center"), etc. Through the above-noted systems, as well as various banks of Russia, Abkhazia, Georgia may carry out financial operations practically worldwide. It should be emphasized in this regard that not only commercial banks have close financial relationships with the Russian banking system but also the so-called "national bank" of Abkhazia, which has a number of accounts opened in "Kraiinvestbank" of Krasnodar Region of the Russian Federation.

All of the above mentioned was in violation of Memorandum concluded by CIS member countries on February 10, 1995 on "Facilitating the Peace and Stability in CIS", Pursuant to paragraph 8 the parties (including the Russian federation) are committed not to provide the separatist regimes with economic, financial, military and any other assistance, and the Resolution of the member states to CIS on "Actions for Regulating Abkhazian Conflict" (January 19, 1996) by which the signatory parties recognizing the territorial integrity of Georgia, assume the obligation not to perform commercial, economic, financial, transport and any other types of operations with the illegitimate government structures of Abkhazian party without agreement with Georgian authorities.

In fact, financial and credit institutions of the Russian Federation that cooperate with the illegitimate banks operating on the territory of Abkhazia, Georgia ignore the Base Core Principles for Effective Banking Supervision as well as the customer due diligence for owners of bank accounts (including paragraphs 49-50, according to which banks should establish correspondent relationship with only those banks that are subject to appropriate control on the part of respective organs. The National Bank of Georgia should be regarded as such an organ for Abkhazian banks). This has created a situation where financial and credit institutions of the Russian Federation violate Russian laws as well as the norms established by Provision #262-II dated August 19, 2004, issued by the Central Bank of Russia.

Georgian authorities have discussed with Russian authorities the problems caused by the illegitimate banking system in Abkhazia. The issue has been raised at meetings of top authorities of the central banks of the CIS member states and directly discussed with the Central Bank of the Russian Federation. Official notification was sent to the Financial Action Task Force which the Russian Federation is a member of and to the Council of Europe MONEYVAL Committee by Georgia.

This policy continued by withdrawal of the Russian Federation from the January 19, 1996 CIS Heads of States Decision on "the Measures for the Conflict Resolution in Abkhazia, Georgia." In particular, on March 6, 2008, the Ministry of Foreign Affairs of the Russian Federation officially informed the Executive Committee of the CIS on its withdrawal from the January 19, 1996 CIS Heads of States Decision on "the Measures for the Conflict Resolution in Abkhazia, Georgia."

The said CIS decision imposes restrictions and bars the transfer of military hardware and assistance to Abkhazia. While the Russian Foreign Ministry sought to emphasize the 'humanitarian' motives of its withdrawal from the CIS restrictions—arguing that these measures prevent "realization of socio-economic programs"—in fact the document in question primarily prohibits military assistance and weapons transfers to the separatists. Moreover, various UN agreements stipulating restrictions on Abkhazia specifically exempt humanitarian assistance from the list of prohibitions. It is the view of the Government of Georgia, therefore, that supposed humanitarian motives are merely pretence.

By this withdrawal, Russia formally and officially refused to obey international obligations taken within the frameworks of that decision. Namely, the obligation:

- To prevent the sale or supply of arms, military equipment all of types, spare parts, ammunitions, military vehicles and equipment by their citizens, or from their respective territories, or through their ships and aircraft to the conflict zone (article 3).
- To prevent recruitment of their citizens and their detachment to the conflict zone for participation in the activity of any armed formations (article 5.a).
- Not to exercise trade-economic, financial, transport or other operations with the authorities of the Abkhaz side without consent of the Government of Georgia (article 6.a).
- Not to engage in official contacts with the representatives or officials of the structures established in the territory of Abkhazia, nor with the members of military formations of Abkhazia without consent of the Government of Georgia (article 6.b.).

Russia's unilateral withdrawal from the above-mentioned decision was a clear manifestation of its policy and position about the conflict in Abkhazia, Georgia, which run contrary to the formal role of a mediator effectively abused for years by the Russian Federation.

- ***Railway, sea and land connections between Russia and Abkhazia***

On December 25, 2002, the Sochi (Russia) - Sokhumi (Abkhazia, Georgia) railway link was opened by Russia without seeking agreement of the Georgian Government and in violation of the decision of CIS leaders of 1996. According to paragraph 6 of this document, State parties declared that "Abkhazia is an integral part of Georgia and they affirm that they will not carry out any economic, financial, transport or other kind of operations with the Abkhazian authorities without the permission of Georgian Government". In his statement made at the 58th Session of the United Nations General Assembly General Debates on 2 October 2003, in New York, Minister of Foreign Affairs of Georgia, Mr. I. Menagarishvili, protested the opening of the railway connection.

On December 26, 2002, the Ministry of Foreign Affairs of Georgia sent a protesting note to the Ministry of Foreign Affairs of Russia, which stated that "the Ministry of Foreign Affairs of Georgia considers the unilateral action of the Russian Federation – resumption of railway commuting between Russia and Abkhazia - as an infringement of the sovereignty of Georgia in glaring disregard of the principles of inviolability of borders, refraining from intervention into internal affairs and execution of international obligations in good faith. The Georgian side is once again compelled to draw attention of the Russian side that the crossing of the border between Georgia and Russia is subject to the rules set forth in the Agreement between the Government of

the Republic of Georgia and the Government of the Russian Federation of October 8, 1993, which is the only legal instrument in force that governs the above-mentioned issues. Pursuant to Article 4 of the Agreement, "the Parties undertake to open and close the points for crossing through the customs border by mutual agreement." It was agreed to determine the timeframe for opening the points, as well as all forms of transportation through these points by exchange of notes. These rules have not been complied with in respect of the Abkhazian section of the Georgian-Russian border. It has also to be noted that the Ministry of Foreign Affairs of Georgia has brought several times to the attention of the Russian side that by the Order of the President of Georgia No. 140 of 31 January 1996 the Abkhazia section of the Georgian-Russian border is closed for all forms of international shipments and transportation. By virtue of its actions, the Russian side ignored the decision of a sovereign State, violated universally recognized principles and norms of international law, in accordance to which the decision to open the state border shall be carried out only on the basis of agreement with the bordering state."

Opening of the railway link between Sochi (Russia) and Sokhumi (Abkhazia, Georgia) was also protested by Revaz Adamia, the Permanent Representative of Georgia to the UN at the UN Security Council on 30 July 2003.

On July 25, 2004, a railway repair-work army brigade of Russia began rehabilitation and reconstruction of Vesioloe (Russia) – Sokhumi (Abkhazia, Georgia) railway line. With regard to this fact, the Ministry of Foreign Affairs of Georgia sent protesting notes on August 3, 2004, on August 9, 2004 and on August 4, 2004.

On September 9, 2004, the Ministry of Foreign Affairs of Georgia sent another note to its Russian counterpart, according to which, the Government of Georgia protested the planned opening of two new railway routes: Sokhumi (Abkhazia, Georgia) – Rostov (Russia) and Sokhumi (Abkhazia, Georgia) – Moscow (Russia). Russia has never protested the fact of railway connection with Abkhazia, but stated that the railway crossing was carried out by private entities of Russia and the Russian Government had no information in this respect.

Argument of the Russian Federation used in its reply to numerous protests of Georgian government that the railway connection was carried out by the private entity and it had nothing to do with the Russian government had no standing in international law.

In addition, with the opening of railway communications Russia directly violated the Sochi Agreement of 6-7 March 2003, which envisages opening of the Sochi-Sokhumi railway communication, provided that, it is synchronized with the return of refugees and IDP's to Abkhazia.

Russia displayed disregard for the Security Council resolutions on the conflict in Abkhazia, Georgia in particular the resolution 876(1993) which "calls on all States to prevent the provision from their territories or by persons under their jurisdiction of *all assistance*, other than humanitarian assistance, to the Abkhaz side."

On March 31, 2004, bus connection between Sokhumi (Abkhazia, Georgia) and Rostov (Russia), as well as sea connection, in August 2004, between Sochi (Russian) and Akhali Atoni (Abkhazia, Georgia) were opened by Russia. These unilateral acts of Russia constitute an infringement upon

the sovereignty and independence of Georgia and violation of the basic principles of international law. Notes of protest in this respect were sent to Russian authorities by the Ministry of Foreign Affairs of Georgia.

On August 1, 2003, the Ministry of Foreign Affairs of Georgia submitted a letter to the UN General Assembly, protesting the sailing of a motor ship, Vega-1, between Russia and Abkhazia. According to this letter:

"Such actions by the Russian side are incompatible with the principles of good neighbourliness between the two States, the requirements of international law, particularly the 1982 United Nations Convention on the Law of the Sea, and the provisions of the Agreement between the Governments of Georgia and the Russian Federation on Commercial Navigation.

Such actions by the Russian side are in flagrant violation of the provisions of the Memorandum on the maintenance of peace and stability in the Commonwealth of Independent States (CIS) of 10 February 1995 and the decision of the CIS Council of Heads of State on measures for the settlement [of the conflict] in Abkhazia, Georgia, of 19 January 1996 and constitute virtual approval of the initiation of maritime service with the so-called "Republic of Abkhazia", which, together with other illegal and unilateral steps, particularly, the establishment of a simplified procedure for crossing the border on the Abkhaz section of the Georgian - Russian border, the granting of Russian citizenship to inhabitants of Abkhazia, Georgia, the resumption of the rail service and so forth, is a continuation of the policy of all-round support for the separatist regime in Abkhazia, Georgia.

The Ministry of Foreign Affairs of Georgia reiterates that the Sokhumi seaport and port points, the maritime area and the section of the State border lying within Abkhazia, Georgia, are closed for all forms of international transport, with the exception of shipments of humanitarian aid, in accordance with the established rules. Should similar illegal actions recur, the Georgian side demands that it be notified immediately and that the violator vessels be detained pending an appropriate response by the Georgian side."

2.3. MILITARY ASPECTS OF SUPPORT

After the cessation of armed hostilities in the 1990's, the Russian Federation continued military support for the proxy regime in Abkhazia (**details about the violations attributable to peacekeepers are provided in Answers to Legal Question #3 and Military Question #3).** Military support to the proxy regime has been comprehensive and thorough throughout the years and included both provision of arms and munitions and manpower/training. Some of the most vivid examples include but are not limited to the following:

- ***Russian Security/Officials in Abkhazia***

On April 30 2008, **Aleksandr Pavliushko** was appointed Deputy Minister of Defense of Abkhazia by a decree of the Abkhazian *de-facto* President. Mr. Pavliushko is a former head of the Russian peacekeeper's staff. Later, in August 2009, Mr. Pavliushko, was responsible for planning and conducting operation for the occupation of the Kodori Gorge. In March 2005,

Anatoly Zaitsev was appointed as Chief of the General Staff of the Abkhazian *de-facto* Ministry of Defense; he had been a high-ranking official at the Russian Ministry of Defense. Sultan **Sosnaliev** served as the Chief of General staff until 2005 and Minister of Defense and Vice Premier of Abkhazia since 2005 (he died in 2007). He was born in 1944 and graduated from Sizransk Aviation College and Military Academy. After he resigned to the reserve forces, he served as a deputy director of the joint stock company "Kabbalgrazhdanstroy". Since August 1992 he participated in military activities in Abkhazia, Georgia as Chief of theDefense Staff and Chief of the General Staff. He then resigned to reserve in rank of Lieutenant General of the Abkhazian Army.

- ***Military Base of the Russian Federation in Gudauta, Abkhazia, Georgia***

The Gudauta Base once served as the dislocation spot for the Soviet Air Force and provided major military support for the Abkhaz proxy regime during the conflict in early 1990's. The Bombora Airfield outside Gudauta was home to a Soviet-era unit, the 345th Airborne Regiment, later redesigned as the 10th Independent Peacekeeping Airborne Regiment. The base has always been a significant factor in during the conflict. Virtually all command and control over the military operations has been planned and supervised from that base.

Russia has maintained a military base in Gudauta, Abkhazia, which operates against the consent of Georgia and in contravention with the international commitments undertaken by the Russian Federation during the OSCE Istanbul Summit to withdraw the base by 2001.

Non-fulfilment by Russia of its obligations in accordance with the decision of 1999 OSCE Istanbul Summit, regarding the withdrawal and closure of Gudauta military base, was the subject of protest by the Parliament of Georgia in its resolution of 20 March 2002.

Georgia has consistently protested against the illegal presence of the Russian military base in Gudauta. On July 30, 2003, Georgian representative in the United Nations declared at the Security Council Meeting that the "illegal operation of the Russian military base in Gudauta is another element exacerbating the situation in Abkhazia and straining bilateral relations... It would appear that this imperative has limitations once it concerns a permanent member of the Security Council. No other definition but indirect annexation of Abkhazia can be given to the process of accumulation of political and military control, together with illegal acquisition of property. Continued infringement on the sovereignty of Georgia can hardly be considered helpful to the peace process..."

In his statement at the 58th Session of the United Nations General Assembly General Debates of 2 October 2003, the Minister of Foreign Affairs of Georgia, Mr. I. Menagarishvili, protested the illegal presence of the Russian military base in Gudauta (Abkhazia) and stated that it was an additional element exacerbating the situation in Abkhazia.

The protests of Georgia have been supported by international organizations as well. In the Declarations and Recommendations adopted by European Union Parliamentary Cooperation Committee at its 3rd meeting on 18-19 June 2001, the EU underlined the importance of respecting the terms and conditions of withdrawal of the Russian military bases from the territory of

Georgia as set out in the OSCE Istanbul Summit Declaration and expressed its concern because of the delays in the withdrawal of the military detachments from the Gudauta base.[56]

Pursuant to the 1999 Istanbul Summit decision, Russia claimed that the base was abolished in 2002. However Russia never handed over documents of closure to Georgian side. Georgian intelligence confirmed that the base was kept fully operational. Russian side has even publicly admitted that the base has been used by peacemaking forces (footnote needs to be added). In this regard it should be noted that any use of the base even for peacekeeping mission's purposes where in violation not only of already existing obligations with regard to the closure of Gudauta base but even of the mandate of the peacekeeping mission itself. Under the Decision made by the Commonwealth of Independence States of 22 August 1994, the CIS peacekeepers should have been located only within the territorial limits of the security zones (within 12 kilometers radius of the both sides of Enguri River). Any presence of peacekeepers in the Gudauta military base, any use of the military equipment and of airport of the base were clearly in violation of the territorial limits of the mandate of the peacekeeping mission.

On numerous occasions at various international fora Georgia requested possibility of international verification of claimed withdrawal of Russian military forces from Gudauta Base, Russian Federation never allowed its materialization.

On 10 march 2005, the parliament of Georgia adopted a resolution on the military bases of the Russian Federation located on the territory of Georgia, according to which:

> "[..] In accordance with the Istanbul joint statement, the Russian Federation committed itself to liquidate the Vaziani and Gudauta military bases prior to July 1, 2001, while in the course of 2000 the sides had to complete negotiations regarding the duration and modalities of the functioning of the Russian military bases at Batumi and Akhalkalaki. On the ground of the Istanbul joint statement, so far, eight round of Georgian-Russian negotiation on military issues have been held.
>
> With regard to the liquidation of the Gudauta and Vaziani military bases, Russia has fulfilled the international commitment taken within the Istanbul joint statement only partially. Namely, the Vaziani military base has been liquidated, however, only weaponry and military machinery restricted by the CFE Treaty have been removed from the Gudauta base.
>
> Due to the unconstructive stance of the Russian side, up to now it has been impossible to carry out inspection of the base, which would verify its closure. At the same time, one-off inspection is not good enough to prove closure of the military base; it is essential to take specific measures aimed at guarantying permanent transparency in terms of further usage of certain facilities of the base.

[56] EU – Georgia Parliamentary Cooperation Committee - Declaration and Recommendations, ref:IRE/PCC/GH/KM/cs, 27 June 2001, para. 28.

> Despite the fact that the Russian side declares the Gudauta military base closed, about 300 Russian military servicemen still remain there. This means that the base is not closed and that position had been maintained repeatedly by the Georgian side at the Joint Consultation Group (JCG) meeting in Vienna and shared by the majority of OSCE member States."

Thus, Russia maintained the Gudauta military base in violation of international agreements while the base has been used to ensure military and political support of the proxy regime of Sokhumi and was used as a significant tool for enhanced control of the region by the Russian Federation.

During the intergovernmental negotiations on withdrawal of the Russian military bases from Georgia, the Georgian government put forth comprehensive and clear criteria by which Russia's claim on shutting down the base could have been verified. This included not only regular international inspections, but destruction of the runway in the base that has capability to receive significant number of airborne troops in a very short time.

The fact of illegal exploitation of the military base of Gudauta by the Russia for its military and political interests was once again confirmed by the fact of shooting down an Unmanned Aerial Vehicle belonging to the Ministry of Internal Affairs of Georgia by a Russian MIG-29. In particular, on April 20, 2008, at 9:48 a.m. a Russian MIG-29 took off from the Gudauta military airport and shot down a Georgian UAV. The information is confirmed by the Ministry of Defense of Georgia based on the information of radars. After the shooting down, the MIG-29 left to the north and entered the airspace of Russia at 10:06. The Government of Georgia has distributed a high quality video[57], which undoubtedly illustrates Russian ownership of the aircraft, not to mention that the proxy regime in Sokhumi could not afford to purchase or maintain a modern fighter of this class.[58] This act of Russian aggression has been verified by UNOMIG Joint Fact Finding Mission, OSCE within the framework of Vienna Document as well as independent international experts.

The above mentioned incident violates paragraph 4 of article 2 of the United Nations Charter, which envisages the prohibition of the use of force against the territorial sovereignty and political independence of any other state. Furthermore, the abovementioned action represents an "act of aggression" as defined in paragraph "b" of Article 3 of the Annex to the UN General Assembly Resolution of 1974 on Definition of Act of Aggression, which states that any act of use of weapons against the territory of other state represents the act of aggression. The presence of fighter aircraft at the Gudauta airport represents a direct violation of the 1999 OSCE Istanbul undertakings, which oblige Russia to shut down the Gudauta military base and to withdraw the personnel.

- ***Russian Activitites in Upper Abkhazia/Kodori Gorge***

[57] Please, see the annexed video file under "Reference 57".

[58] Report by UNOMIG, pages 3-6 is available at http://www.unomig.org/data/other/080526_unomig_report.pdf

On 20 September 2007, a special task unit of the MIA of Georgia neutralized an armed grouping of 10 people in Kodori Gorge, which had planned an attack on the new road connecting Upper Abkhazia with the rest of Georgia. The commander of the grouping and his deputy were killed in the exchange of fire. They were identified as Igor Muzavatkin (Vice-Colonel of Russian armed forces, a former member of the CPKF, who served on the contract basis in the border troops division of the Abkhazian separatist security service) and Artur Zorin (Major of Russian armed forces, also a former member of the CPKF). Seven members of the subversive group that identified themselves as members of the border troops division of the Abkhazian separatist security service, were arrested and later, as a gesture of good will, released and handed over to the Abkhazian separatist government.

- ***Russian military Attack on the Kodori Gorge***

On 11 March, 2007, from 22:10 till 24:00 the Kodori Gorge suffered from simultaneous artillery and air attacks. At least 17 "Grad" type missiles were fired from the ground, and at least one "Ataka" type guided missile from the air. The investigation revealed that the attack was carried out by BM-21 type artillery system and two MI-24 type helicopters. The target of the air-attack was the Administration building in the village of Chkhalta. The targets of the artillery attack were the Administration building in the village of Chkhalta, the storehouse of oil and fuel materials and the Police station in the village of Ajara. The combined use of aviation and artillery, the night flight of helicopters in the mountainous area, highly precise air attack by modern missiles and massive artillery bombing indicate that this was a well-organized and planned military operation, which could only have been conducted in this region by the Russian side.

- ***Significant increase of Russian military presence and support to the proxy regime in 2008***

Since April 30, 2008, the Russian Federation has been deploying its military forces in the conflict zone under the cover of the peacekeepers and without the consent of the Government of Georgia. Notification was sent to the Ministry of Defense of Georgia on April 29, 2008, by the Head of the CIS Peacekeeping Forces Mr. S. Chaban, who in fact was suspended from his position in February 2008. This notification did not contain information about the time and place of deployment as well as the number of the troops deployed.

In violation of the CIS's agreement on peacekeeping operations, Moscow deployed an airborne battalion from the Novorossiysk airborne division to Abkhazia beginning in April 2008. In early May these forces were equipped with three "Buk" anti-aircraft complexes, fourteen additional D-30 self-propelled cannons, ten 122mm BM-30 multi-rocket launchers, twenty anti-tank cannons, 120 anti-tank rockets, two helicopters, and 180 Russian technical specialists to service this equipment.[59] The Russian Black Sea Fleet performed eight military exercises focusing on

[59] David Kezerashvili's comments to the Temporarily Parliamentary Comission on October 27, 2008 [http://www.parliament.ge/index.php?lang_id=ENG&sec_id=1329&info_id=21926]

infantry shore landings. On May 1, Russian troops set up additional unauthorized checkpoints within Abkhazia on roads in the Tkvarcheli and Ochamchire districts. A week later, Moscow confirmed an increase of its troop numbers in Abkhazia from 1,997 to 2,542.[60] Georgian sources, on the other hand, claimed that the real number of Russian troops on their territory was 4,000. On May 14, Sergei Bagapsh asked Russia to establish a permanent military presence in Abkhazia.[61] Immediately, Commander-in-Chief of the Russian Air Force colonel-general Alexander Zelin supported the idea.[62]

Several new Russian Su-25 and Su-27 fighter aircraft landed at the air base in Gudauta by June 6 and, at the same time, the Zelenchuk Mountainous Infantry Brigade of the NCMD (North Caucasus Military District), deployed in the immediate vicinity of the Georgia- Russian border, began a ten-day exercise "to perfect its actions on unknown territory and at a distance from its permanent base." Soon thereafter, Georgian authorities detained a group of Russian peacekeepers in the Zugdidi district on the Georgian side of the Georgian-Abkhaz administrative boundary, confiscating twenty anti-tank missiles and other heavy armament that were transported in violation of agreed procedure and without any documentation. In response, the Deputy Head of the Russian General Staff, General Alexander Burutin, promised a bloodletting the next time Georgia confiscated Russian arms since, according to him, Russian "peacekeepers" had the right to open fire.[63] In his interview to the Rezonansi newspaper, Russian military analyst Pavel Felgengauer said that the decision to launch war against Georgia was already taken and predicted that military operations would supposedly start in August.[64]The Russians started to rebuild the military base in Sokhumi's Maiak (lighthouse) settlement. On 30 April about 40 train cars entered the Sokhumi railway station loaded with various types of armament, part of the cargo was taken to the Maiak military base, and another part to Tsebelda mountain battalion.

In the beginning of May, 2008, 400 soldiers from the Novorossiysk and Pskov Airborne Divisions, together with 30 units of BMD-2 (combat vehicle of airborne troops), artillery and air defense units were moved to Abkhazia[65].

In the beginning of May, 2008, a delegation of Don Cossacks visited Abkhazia and met with Sergei Bagapsh. According to the head of Don Cossacks, in case of a Georgian attack, about 10-15 thousand volunteers will be sent to Abkhazia.

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[60] Russia's MOD threatens to increase number of peacekeepers in the zone of the Georgian-Abkhaz conflict up to the highest limit, http://www.newsru.com/russia/08may2008/minobor_print.html

[61] Sokhumi is ready to deploy the Russian base in Abkhazia, http://www.regnum.ru/news/999755.html?forprint

[62] Air Force Chief: Air base in Abkhazia will improve quality of border protection, http://www.regnum.ru/news/1000830.html?forprint

[63] "Russian General to Georgia: Russian peacekeepers' patience running out", *International Herald Tribune*, 19 June 2008.

[64] Pavel Felgengauer, Russia will supposedly launch the war against Georgia in August, http://www.apsny.ge/news/1213985330.php

[65] Komsomolskaya Pravda, May 7, 2008.

On May 3, 2008 5 units of 120mm artillery systems and several antiaircraft defense systems BUK-M1 were located at the military base in the Ochamchire seaport.

On May 6, the Minister of Foreign Affairs of the separatist government, Sergei Shamba stated that Abkhazia is ready to place its territory under Russia's military control in exchange for security guarantees.

In April-June Russia has additionally deployed in Abkhazia approximately:

- 3 BUK air defense systems;
- 40 D-30 type howitzers;
- 10 BM-21 "Grad" systems;
- 20 Shilka, ZU-23-2, ZU-23-4 AA guns;
- 120 anti-tank missiles.
- 2 MI-24 helicopters;
- 50 aviation Specialists;
- 30 military experts;
- 100 communication and antiaircraft defense experts;

In May, Russian armed forces strengthened the following check-points, increasing the number of soldiers there:

- Akamara
- Rechkhi
- Muzhava
- Lekukhona
- Saberio
- Dikhazurga
- Chuburkhinji
- Pichori
- Nabakevi
- Otobaia Nakarghali

On May 31, 2008, explaining its actions as "humanitarian assistance for Abkhazian population", the Russian Ministry of Defense deployed 400 soldiers of Volgograd's 76th Unit of Railway Forces in Abkhazia. In order to provide logistical support to planned Military operations, those troops repaired 54 kilometers of railway from Sokhumi to Ochamchira. The Russians forces also repaired the strategically important railway bridges on the Mitka River leading to the Kodori Gorge. The reconstruction works were finished by August 2. Those railway routes have not functioned during the last 10 years and their economic importance was close to zero. During a short period of time, Russian military forces repaired 55 buildings, 2 large and 44 small bridges, one tunnel and other infrastructure. During the August invasion of Russian military forces, these infrastructure were exclusively used by Russian troops for transportation of armored vehicles and other military equipment and cargo. All the above mentioned facts allow us to conclude that the

reconstruction works done by Russians in haste were aimed at providing logistics support to Russian troops during the intervention.

On June 6 2008, several "SU-25" and "SU-27" type fighter planes (in armed condition) were detected at the Bombora military base in Gudauta.

According to the press-service of the Abkhazian Ministry of Defense, on June 24-27, 2008, Abkhazian armed forces were conducting mobilization and operation-tactical trainings. High level representatives of Abkhazian MOD, including commanders and officers of the Eastern Group of the Armed Forces, representatives of air defense and artillery together with officers of Russian General Staff participated in the trainings[66].

On June 28, 2008, the Academy of Security, Defense and Law Enforcement Problems of the Russian Federation awarded Minister of Defense of Abkhazia Lieutenant General Merab Kishmaria and First Deputy Minister of Defense of Abkhazia Lieutenant General Anatoly Zaytsev with the Academic Degree "candidate of military science". An Academic Degree of law was given to Deputy Minister of Defense of Abkhazia colonel Gary Kupalba[67].

With the help of Russian specialists, the construction of Okhurei military base in Tkvarcheli district was finished. On July 8, 2008, additional Russian soldiers, 4 BTR-70 and 4 BRDM type military vehicles and several anti-aircraft systems were deployed at the base.

In his July 7, 2008 interview with Russian information agency "Utro", *de facto* Minister of Defense of Abkhazia Merab Kishmaria declared: "Russian instructors prepare Abkhazian soldiers. I pay them according to contract... We are just doing this without publicity"

By mid July 2008 several hundred soldiers and 44 military vehicles were observed at the Bombora military base, which should have been closed according to the Istanbul agreement of 1999. With Russian assistance, three large barracks were rebuilt at the Bombora military base, waiting for the deployment of fresh forces.

On July 30, 2008, the Commander of Russian railway troops, Lieutenant General S. Klimets visited Abkhazia and together with Abkhazia's Vice Premier, Alexander Stanichkin opened the reconstructed railway.

The Moscow Agreement of 1994, which is a reference in the CIS decision of August 22, 1994 and the protocol thereto, explicitly defines territories where peacekeepers enjoy freedom of movement. Accordingly, in any other case, movements of peacekeepers, including opening of new check-points shall be agreed with the Government of Georgia.

Despite this obligation, the exact location of new checkpoints, place of deployment of the military personal as well as the number of personnel itself was never agreed with Georgia. The

[66] Respublika Abkhazia, June 28, 2008.

[67] Respublika Abkhazia, June 28, 2008

United Nations Observer Mission in Georgia (UNOMIG), which has a mandate to monitor peacekeeping operations did not provide accurate information about the location of additional troops deployed in the conflict zone. This is a violation of the sovereignty of Georgia since no country is allowed, either under cover of the peacekeeping or without it, to deploy its military troops on the territory of another country without the consent of the latter. Moreover, even in the case of consent, the host country has the sovereign right to be informed about the number and location of the troops. Georgia was most alarmed about the declared and verified presence of the Russian military forces in Abkhazia Georgia that, according to the Russian media and officials were beyond the peacekeeping mandate and served, as claimed for the, "security of Russian forces and nationals in the conflict zone."

III. THE DECLARATION OF THE ESTABLISHMENT OF DIRECT LEGAL TIES WITH PROXY REGIMES, BY THAT BEGINNING AN OPEN POLICY OF UNDERMINING GEORGIA'S TERRITORIAL INTEGRITY AND SOVEREIGNTY AND ENHANCING ITS POLICY OF CREEPING ANNEXATION

1. RUSSIAN PRESIDENT OFFICIALLY DECLARES INTENT TO ESTABLISH DIRECT COMMUNICATION LINKS WITH THE DE FACTO AUTHORITIES

On April 3, 2008, Russian President Vladimir Putin wrote a letter to the proxies in Abkhazia, Georgia and the Tskhinvali Region/South Ossetia, referring to them as "presidents" and promising them firm Russian support. In the letter, Mr. Putin asserted that any policies implemented by the Government of Georgia "to exert pressure on Abkhazia and South Ossetia" will be "unsuccessful and counter-productive." More importantly, Mr. Putin claimed that Russian support of the separatists will be "not declarative, but practical"—citing Russia's withdrawal from the abovementioned CIS restrictions as one such practical step.

On March 21, 2008, the State Duma of the Russian Federation adopted a resolution urging the Russian Government to consider "the expediency of recognizing the independence" of two regions of Abkhazia and the Tskhinvali region/South Ossetia. The resolution also calls upon the Kremlin to intensify efforts aimed at protecting Russian citizens in the regions under proxy regime control, once again highlighting genuine aims of the illegal Russian passportization policy. Additionally, the resolution calls upon the Russian Government to consider reinforcing the Russian troop contingents in both regions.

On April 11, 2008 the Chief of Staff of the Russian Armed Forces announced that his country would undertake both military and "other measures" if Georgia enters NATO, refusing to clarify what those "other measures" could have been.

On April 16, 2008, the President of the Russian Federation issued decree instructing the Government to intensify direct cooperation with proxy authorities in Abkhazia, Georgia without any prior consultation and communications with the Georgian Government.[68]

[68] See on the official web-side of the Ministry of Foreign affairs of Russia Federation : http://www.mid.ru/brp_4.nsf/sps/FD56A80A7198CD7CC325742D003F807C

The decree enabled various ministries and state structures of Russia to open representations in Abkhazia and South Ossetia, in order to establish direct official cooperation with the respective structures of both proxy regimes; deployment of its active service diplomats in the Georgian conflict regions without the Government of Georgia's approval.

According to the open sources citing the Decree, further steps could have included signing military agreements with Abkhazia and South Ossetia; followed by the deployment of Russian forces on the Gudauta military base and re-opening the navy base in Ochamchire. Formal recognition of Abkhazia and South Ossetia would also remain an option if Georgia would have joined NATO or attempted to use force against the separatists.[69]

By this act the Russian Federation began to openly undermine the territorial integrity and sovereignty of Georgia. The establishment of direct legal tics of this nature represented a blatant violation of Georgia's territorial integrity and sovereignty, and a continuation of the policy of creeping annexation of the Tskinvali Region/South Ossetia and Abkhazia, Georgia.

Establishing a range of legal ties between Russia and Georgia's separatist territories of Abkhazia and South Ossetia marked a dramatic escalation in Moscow's annexation policy. The move had profound consequences on the prospects for peace in the region, on the fate of hundreds of thousands of persons forcibly expelled from the territories, and on relations between Russia and Georgia.

Russia's actions were immediately condemned by the international community. "I am deeply concerned by the actions Russia has taken to establish legal links with the Georgian regions of Abkhazia and South Ossetia," NATO Secretary-General Jaap de Hoop Scheffer said, noting NATO's support for Georgia's territorial integrity. "The Russian steps undermine that sovereignty. I urge the Russian Federation to reverse these measures." EU foreign policy chief Javier Solana criticized Russia's "unilateral decisions," expressing "concern" while underscoring the Union's support for Georgian sovereignty.

[69] Article text is available at http://www.ng.ru/cis/2008-04-14/1_abhazia.html?mthree=1

Question2: Please explain the process and dynamics of acquiring Russian nationality by persons residing in Tskhinvali region/South Ossetia and Abkhazia and explain the reasons for the conferral of Russian citizenship. How do you reconcile this with your assessment of the international legal status of the territories.

The process and dynamics of granting Russian citizenship to persons residing in Tskinvali region/South Ossetia and Abkhazia can properly be described as the process of illegal passportization of the remaining population of these two regions of Georgia, designed and implemented as a significant component of Russia's creeping annexation of Tskinvali Region/South Ossetia and Abkhazia, Georgia. It represented a deliberate and well-constructed policy aimed at directly changing the legal status of the local population to establish a pretext for the right to protect its citizens abroad with the actual aim of interfering in the internal affairs of Georgia, including in the scenario of military intervention of the Russian Federation on the territory of Georgia.

The process of implementation of this policy as well as its aims directly contravene the fundamental norms of international law as well as relevant articles of the UN Charter, namely the principles of territorial integrity and sovereignty of Georgia, non interference in internal affairs of sovereign states, and, the principle of resolving disputes through peaceful means.
It is important to note that the policy of passportization had been continuously carried out in the regions where the ethnic composition of the local population had already been dramatically changed as a result of ethnic cleansing of the majority of the pre-war local population, mostly Georgians[1].

Continuation of the policy of passportization after the war in August, 2008 and Russia's Occupation of Tskhinvali Region/South Osetia and Abkhazia currently violates requirement of Geneva Convention IV.

The passportization of the remaining local population in these regions clearly posed a great threat to the success of peace process and was contrary to the formal role of a mediator of the Russian Federation.

The process of passportisation of Georgia's breakaway regions also violated EU-Russia Visa Facilitation agreement. In addition, by distribution passports illegally and en masse, Russia breached that very agreement: Para 3 (c) of the above agreement stipulates that 'citizen of the Russian Federation shall mean a person who possesses or has acquired citizenship of the Russian Federation in accordance with its national legislation.' Russian passports in both Abkhazia and South Ossetia were distributed by various sub-contractors mainly affiliated with the Russian Ministry of Defence and none of them are or have been recognized by Russian law as legitimate authorities to issue passports.

There are several elements of the process of passportization which support this analysis:

[1] See declarations of three summits of OSCE heads of states adopted unanimously by all member states, including by Russia itself, in Budapest (1994), Lisbon (1996) and Istanbul (1999) as well as by the UN General Assembly in May 2008

- the process was not driven by individuals willing to accept Russian citizenship on ad hoc basis, it was designed and implemented an masse as part of specific policy of the Russian Federation;
- the process was neither sporadic, nor disorganized, it was well prepared and coordinated among various agencies of the Russian Federation;
- the implementation of this policy had been conducted with complete disregard of the national legislation of Georgia, citizens of which were an masse granted Russian citizenship, thus clearly violating sovereign rights of Georgia and principle of good neighbourly relations;

Active preparations for massive passportization of the remaining populations of both regions started in the summer of 2002. It is noteworthy that initially the same policy was designed to cover at that time semi de facto independent region of Adjara as well. However after 2004, when the central authorities managed to integrate Adjara into the political life of Georgia, all preferential treatment from the Russian Federation of this region, including simplified visa regime for its population was terminated.

Having resolved to pursue illegal passportization of Georgian nationals, Russia amended the relevant legislation in order to facilitate and even legalize the process. Specifically, the Russian State Duma passed amendments to the Law on Citizenship, which evoked a strong protest from Georgian President Eduard Shevardnadze.[2] It is noteworthy that in parallel to that active use of the concept of protection of nationals abroad had become an integral part of the Russian Foreign Policy.

The illegal distribution of Russian passports to the population of the Tskhinvali region/South Ossetia and Abkhazia was executed in an accelerated manner. Immediately after the Rose revolution of November 2003, on November 29, Igor Ivanov met the leaders of Russia's proxies in Georgia: Eduard Kokoity from South Ossetia, Aslan Abashidze from and Abkhazia's de facto Prime Minister Raul Khadjimba. One of the decisions taken at the meeting was to accelerate the process of granting Russian citizenship to residents of these three Georgian territories. On December 5, the Russian mass media reported that the Ministry of Foreign Affairs was preparing tens of thousands of blank passports for these regions.

In Tskinvali Region/South Ossetia and Abkhazia actual issuance of passports was carried out by entities which were not state agencies ordinarily tasked under the legislation of the Russian Federation to grant citizenship as well as to issuing passports. Passports were issued by non state actors, such as Russian Communities Congress in Abkhazia (foot – Georgian MFA protest note of 21.07.99), subcontracted by various state agencies including Russian MOD).

It is to be noted, that pre-printed Russian Passports were also brought in by the Russian army in August 2008. On August 9th the Military Police of the Georgian Armed Forces came across a vehicle with 2 Russian soldiers, who ran away abandoning the vehicle and leaving behind a bag full with Russian Passports. These passports were issued in the same period of time, although issuing time imprinted in the passport varies from 2000 to 2008. The passports had been printed not long before August and bore the same unique identification codes. The mentioned fact is incoherent from the legal point of view as well: according to the Russian Law on Citizenship ,

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[2] "Georgia Protests about Russian Citizenship Law Amendments," Rustavi-2 Television 1600 GMT, 10 June 2002, in BBC Monitoring.

the passport numbers are successive and they increase according to the date of issue, whereas in this case consecutive passport numbers are used on documents, issue dates of which range by several years. An identification codes of other passports the verify above mentioned as well. Presumably, 4,600 similar passports have been issued during five days which makes more than 1,400 passports per day.

None of these passports are signed by owners. All of the photos in the passports are old, most likely taken from other documents, as traces of previously removed stamps are visible. According to the Georgian Central Registry, none of the Georgian citizens whose names are given as passport holders have forfeited their Georgian citizenship.

The policy of granting Russian citizenship to the local population has been further encouraged with economic and social incentives: Russia paid pensions that were higher than the pensions paid in the rest of Georgia to Russian passport holders; they received other social benefits and could cross the border with Russia without impediments. These incentives served twofold aims, encouraging the process of passportization as well as further economic dependence of these regions over the Russian Federation.

Before the Russian aggression in August 2008, the majority of residents of the Tskhinvali region/South Ossetia and Abkhazia, with the exception of about 42,000 ethnic Georgians residing in the Gali District, had received Russian passports. (for example According to Elbruce Kargyev, Ambassador of the Russian Federation in South Ossetia, the Ministry of Foreign Affairs of the Russian Federation issued 32,519 passports to the residents of the Tskhinvali Region/South Ossetia.[3]) In order to receive the passport, the person had to *inter alia* show proof of residence on the territories beyond the control of the central government; thus even the IDPs from these regions could not benefit from the simplified regime since they did not have residence proof issued by the proxy regimes.[4]

Moreover, this policy has been implemented in light of the unilateral introduction of visa regime with the rest of Georgia in 2002. A Russian passport naturally enables its holder to move freely across Russian territory. Thus the mechanism provoked the interest of the local population in obtaining Russian citizenship, at a time when the movement of Georgian citizens in and to Russia has been fully restricted. As discussed below, the Russian Federation unilaterally imposed a visa regime for Georgian nationals that would not apply to the people residing in the conflict zones if they had obtained Russian passports under a simplified regime. The Tskhinvali proxy regime therefore offered temporary passports of the "South Ossetian Republic" to Georgian nationals, provided they withdrew from their Georgian citizenship; a fact that has not been the case with respect to Russian nationals.

Process of passportization continued more rigorously following the Russian-Georgian war in August 2008, including the forcible passportization of ethnic Georgians residing on the territory of the occupied Akhalgori district. The statement in this regard has been made by the OSCE High Commissioner on Ethnic Minorities, Mr. Knut Vollebaek. The High Commissioner, in his

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[3] Idem.

[4] Vice-President: In the process of issuance of national passports of citizens of Abkhazia mass violations have taken place that will seriously affect the issue of security of the country; available at http://www.regnum.ru/news/994089.html

letter of November 27, 2008, addressed to the OSCE Chairman in Office, expressed concern about the situation, in particular in the Gali districts, since ethnic Georgians residing in those territories, are under the danger of losing their identity, language and culture. The practice of illegal pasportization, especially in Akhalgori and Gali districts has also been brought to the attention of the Chairman-in-Office. According to the High Commissioner, the situation in those districts is especially alarming, since ethnic Georgian residents face "imposing of ... Russian citizenship"[5] since they are given no choice other than to accept Russian passports, or to leave their homes." By now more than 90% of the population of occupied the Tskhinvali Region/South Ossetia have already received passports of the citizens of the Russian Federation.[6]
It is noteworthy that the population of Abkhazia (south osetia?) took part in the elections of the President of the Russian Federation, which was held on March 14, 2004.

This practice of the Russian authorities has been condemned by the international community. The European Union emphasized in its document that this action was a challenge to the territorial integrity and sovereignty of Georgia, which could be considered as a *de facto* annexation of those regions."[7]

Statement in this regard has been made by the OSCE High Commissioner on Ethnic Minorities, Mr. Knut Vollebaek. The High Commissioner, in his letter of November 27, 2008, addressed to the OSCE Chairman in Office: "States should refrain from conferring citizenship en masse to residents of other States, which is in violation of the principles of sovereignty and good neighborly relations. The presence of one's citizens or "ethnic kin" abroad must not be used as a justification for undermining the sovereignty and territorial integrity of other States."[8]

Russia actively used results of the passportization process for the sake of interference in internal affairs of Georgia even before the war. On various instances the executive branch of the Russian Government noted that its intensified relations with the proxy regimes of Abkhazia and the Tskhinvali Region/South Ossetia were aimed at the protection of the interests of the residents of said regions, including the citizens of the Russian Federation.

Russia used this pretext during the August of 2008 as well. Despite the attempts of the Russian authorities to justify the use of force "for the protection of the nationals abroad" it cannot, for the purposes of international law, invoke this right since its has no direct and genuine link with them as was defined by the International Court of Justice in the *Nottebom* case (Lichtenstein v. Guatemala). In the *Nottebom* case the Court opined that "a State cannot claim that the rules it has laid down are entitled to recognition by another State unless it has acted in conformity with this general aim of making the legal bond of nationality accord with the individual's genuine connection with the State which assumes the defense of its citizens by means of protection as against other States."

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[5] http://www.osce.org/documents/html/pdftohtml/35655_en.pdf.html

[6] "Almost all the Residents of South Ossetia have Received Russian Citizenship" http://rus.postimees.ee/?id=122840

[7] Declarations and Recommendations adopted by EU Parliamentary Cooperation Committee at its 3rd meeting on 18-19 June 2001, IRE/PCC/GH/KM/es, 27 June 2001, para. 27.

[8] https://www.osce.org/hcnm/item_1_32663.html

In the current situation, under international law, no state is bound to recognize Russia's link with the population in Abkhazia and the Russian Federation has no standing to exercise any protection of "its citizens" in Abkhazia due to the lack of genuine link required by international law. Moreover, the existence of the right to use force for the protection of nationals abroad is not universally supported in international law; in particular, it is unprecedented for a neighboring state who claims to be an intermediary in the conflict and is a peacekeeper, to pursue a policy aimed at changing the ethnic composition of the disputed territories and then use force under the pretence of the "protection of the nationals." Any tolerance of such a policy and practice would be contrary to the spirit of the UN Charter, and principles of sovereignty and friendly relations between states.

Since Russia is an occupying power, any action aimed at an artificial change of the composition of the local population or the settling of its own population, as well as any kind of forcible transfers or deportations is a violation of international humanitarian law and the IV Geneva Convention in particular.

Question #3 .Please give accounts on implementation of Sochi Agreement of 1992 related to Tskhinvali region/South Ossetia as well as Moscow Agreement on a ceasefire and separation of forces of 1994 related to Abkhazia and relevant protocols to those agreements and their implementation in reality by the parties. How do these relate to the movement of Russian troops immediately before August 7, 2008.

Russian peacekeeping forces have been deployed in the territories of Georgia (Abkhazia and the Tskhinvali Region/South Ossetia) based on the Moscow Agreement on the Non-use of Force and Separation of Forces of May 1994 signed by the Georgian and Abkhaz sides, the CIS Decision of August 22, 1994 and the Sochi agreement of June 24, 1992 signed by the heads of states of Georgia and the Russian Federation.

To stop the bloodshed and advancement of Russian Troops Georgia had no choice[1] but to agree to Russian proposed cease fire agreements. Thus, both arrangements were made in the specific environment, where Georgia had to agree to Russia's military presence under the veil of Peacekeepers. This reality undermined tangible outcomes expected from peace processes[2] and initiatives, including confidence building measures; monopoly of military presence in the regions was used well by Russian Federation to enhance control and sustain the proxy regimes. Georgia throughout years strived at all available forums and international platforms, including UN, OSCE, CoE to establish meaningful, result oriented international security arrangements, never denying Russia's participation. Georgia has been concerned about individual cases of violation by Russian peacekeepers, but the main cause of the concern has always been, that peacekeepers represented yet another tool for control and manipulation by Russian Federation. After the massive distribution of Russian passports [3] "protection of Russian "citizens" in Georgian conflict regions, rather than neutral peacekeeping became official policy of the Russian Federation. **As to the role of Russian military units and those under its control during the Russian invasion in August war, please, see answers to Military Question #3 "What were the roles and activities of the Peacekeeping Forces in Abkhazia, Georgia and Tskhinvali region/South Ossetia as well as Military Question 1 "Chronology".**

1. *Peacekeeping in Abkhazia*

At the time of the signature of the Moscow Agreement, Russian troops were already deployed on the Enguri River between Abkhazia and the Samegrelo region of Georgia. The Moscow Agreement "legalized" their presence on the territory of Georgia. Later on August 22, 1994 the Council of the Heads of States of the CIS framed the Russian peacekeeping forces within the mandate of the CIS; however, the deployed troops and the commander have always been exclusively Russian.

The Moscow Agreement formalized the commitment of both sides on the non-resumption of the hostilities and determined:

[1] See enclosed letter by E. Shevardnadze to the President of Russian Federation requesting cease fire.
[2] See answer to the Legal Question #5 / section describing peace proposals
[3] See Answer to the Legal Question #2

a) The establishment of a security zone and restricted-weapons zone –the former banning the presence of any armed forces and/or heavy military equipment while the latter restricted the entrance of any heavy military equipment[4];
b) The deployment of the Peace-Keeping Force of the Commonwealth of Independent States and military observers in the security zone[5];
c) The demarcation of a detailed map and a plan for the separation of the forces in initial phase of deployment of the Peace-Keeping Forces to be prepared and presented by the Command of the Peace-Keeping Forces[6];

In this regard:

- Notably, the Command of the Peacekeeping forces had to provide demarcation of a detailed map and a plan for the separation of the forces. This requirement has never been fulfilled as the Georgian Government has not received a detailed map nor a plan of demarcation from the Command of the Collective Peace-Peacekeeping Forces, but merely had been guided by the general scheme as to where the CIS Peacekeeping Forces had to be stationed in case of deployment in accordance with the Cease-Fire Agreement of 1994.
- The Moscow Agreement listed deployment of *military observers* along with the CIS-Peacekeeping Forces, while the Protocol placed the aforementioned forces under the operation of the *Interim Unified Command* (IUC). Neither the group of military observers nor the IUC had been established. The Command and Control of the existing Peacekeeping Forces had been in whole directed and guided by the Russian military authorities and not by the joint IUC of Commonwealth of Independent States.

In relation, the Protocol of the Moscow Agreement concerning the Peacekeeping Forces further prescribed:

d) The promotion of the safe return of refugees and IDPs,
e) Compliance by the forces with local law and regulations;
f) The unimpeded functioning of the local civil administration; operation of the Peacekeeping Forces under the Interim Unified Command and the Commander of the Peacekeeping Forces;

- ***Safe and Dignified Return of IDPs and Refugees***

The Cease-Fire Agreement explicitly noted that the Peacekeeping Forces were tasked with a mandate to promote the safe return of IDPs and refugees to Abkhazia, Georgia. Consequently, the Collective Peacekeeping Forces in their commitment to act to comply with the requirement of the Cease-Fire Agreement as well as with CIS Decision of 1994 had this duty incumbent upon them. In addition, the relevant CIS Decision of 28 March 1997 on Development of the Peacekeeping Operation entrusted the Peacekeeping Forces with the task within one month to enlarge the borders of the security zone on the Abkhazian side for promoting the safe return

[4] Article 2(a) of the Moscow Agreement;
[5] Article 2(b) of the Moscow Agreement;
[6] Article 3 of the Moscow Agreement;

process of IDPs to that region[7], in particular for the organized return process of IDPs to the Gali Region. These requirements have not been met and no such steps have been taken;

Despite the presence of Russian peacekeeping forces under the CIS mandate, massacres and mass killing of ethnic Georgians was carried out between 1995-1996 which resulted in 450 deaths and thousands of IDPs fleeing eastwards.[8] Peacekeeping Forces or its members have been engaged in these repressive activities carried out against the local population of the Gali region by the armed proxy forces of the proxy regime in Abkhazia, Georgia. It is ntoeworthy to mention the events of May 1998[9]. The Moscow Agreement (so called Ceasefire Agreement) provided for a number of provisions related to the return process of IDPs, however its implementation became problematic due to increased resistance of the proxy Abkhaz side[10]. The Georgian population who returned spontaneously to Gali found themselves in difficult and insecure conditions which erupted into open hostilities in May 1998. At that time, Abkhaz militias swept through Gali on a path of destruction, systematically torching and looting villages, displacing some of 40,000 people[11]. In particular, eye witness accounts of Gali events of 1998 recall facts when the representatives of the Russian Peace Keeping Forces were directly involved in the attacks carried out against Georgians or allowed the Abkhaz, as well as Chechen and Kazak *boevics* carry out attacks in their presence (at the villages Saberio, Dikhazurga, Zemo Barghebi, Pirveli Otobaia, Gagida, Chuburkhiinji, Sida, Ganakhleba, etc.)[12].

Russian peacekeepers have participated in the harassment of the Georgian population in the Gali District with or without Abkhazian militia and armed groups. The exact chronology of the human rights violation committed by or otherwise attributable to the Russian peacekeepers is not available to the Georgian side due to objective reasons. However, cases of beating, shooting – often resulting in casualties among ethnic Georgians by Peacekeepers, mainly in drunk condition, as well as cases of looting are recorded.

These forces harassed and intimidated the local population. Sometimes, Russian peacekeepers themselves appeared with the Abkhazian militia. For instance, on April 29-30, 2006, Russian peacekeepers patrolled Georgian villages in Gali District, to verify whether the ethnic Georgians had obtained so-called Form#9 - a document required by the proxy regime to allow this population move within Abkhazia as well as to cross the Enguri bridge back to return to Gali from Zugdidi, where these people have to travel to get the means of survival.

- ***Russian peacekeepers participated in arms delivery to the Abkhaz proxy militia and smuggling***

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[7] http://www.nrc.ge/law/ged_1997_03_28_e.htm?lawid=1159&lng_3=en .

[8] US State Department, Country Reports on Human Rights Practices for 1993, February 1994;

[9] In May 1998 the hostilities and acts of violence outburst in Gali district as a result of which approximately 40 000 people from Gali district had to been forcefully displaced second time to the other Side of Inguri River (including the burning down of the Georgian villages constructed with the support of the UNHCR) – see United Nations Secretary General's Report S/1998/647, Report of the Representative of the Secretary General on Internally Displaced Persons, Mr. Francois Deng, Mass Exodus and Displaced Persons – Georgia, E/CN.4/2001/5/Add.4 of 25 January 2001;
Jared Feinberg, Scoville Fellow Center for Defence Information available at http://www.cdi.org/weekly/1998/issue22/#4 ;

[10] See also Forced Migration: Repatriation in Georgia, Open Society Foundation, NY, June 1995 available at http://www.osi.hu/fmp/html/g_ii.html ;

[11] See supra note 6;

[12] Witness Interrogation Protocols in Regard to Criminal Case No. 9798820;

The Georgian side does not have an exhaustive list of all violations committed by the Russian peacekeepers due to the lack of access to the territory; however, among others following cases have been confirmed:

- In December 2007, Russian peacekeepers delivered armored vehicles and ammunitions to the Abkhaz armed forces. These arms and ammunitions were allocated by the mountain fighters brigade in Tsebelda.
- On March 26, 2006, Russian peacekeepers pretended that they have lost arms and ammunitions kept in Gudauta base (it is a separate illegal action committed by the Russian peacekeepers to use Gudauta base located in the middle of Abkhazia for their military purposes). Later, it was evident that the arms and ammunitions were given to the Abkhazian militia and armed groups *(Answer to Legal Question 1 for additional information).*

As a general rule, Russian Peacekeepers had a blind eye on violations by Abkhaz proxy authorities and even participated in such violations i.e. in March 2006, Abkhaz so called border guard units launched construction of their headquarters in violation of the Moscow Agreement near the Russian peacekeeping checkpoint #210. Instead of taking measures to stop the construction process, Russian peacekeepers themselves participated in the process. Unfortunately, Russian Peacekeepers planned and participated in undertaking of much more serious events by its nature and intent, then the above case: On 20 September 2007, a Special Task Unit of the Police/ Ministry of Internal Affairs of Georgia neutralized a subversive grouping of 10 people in Kodori Gorge, in the process of undertaking a planned attack on the new road connecting Upper Abkhazia with the rest of Georgia. The commander of the grouping and his deputy were killed in the exchange of fire. They were identified as **Igor Muzavatkin** (Vice-Colonel of Russian armed forces, a former member of the CPKF, who served on the contract basis in the border troops division of the Abkhazian proxy security service) and **Artur Zorin** (Major of Russian armed forces, also a former member of the CPKF). Seven members of the subversive group, that identified themselves as members of the border troops division of the Abkhazian proxy security service, were arrested and later, as a gesture of good will, handed over to the Abkhazian proxy authorities.

Yet another example of Peacekeepers direct role in Proxy regime arrangements is appointment of Alexandr Pavlushko: Head of the Staff at the Russian Peacekeeper's , **Aleksandr Pavlushko**[13] **moved to take a position of Abkhazian de-facto Deputy Minister of Defense in April 30, 2008.** From his peacekeeping experience, he was fully informed about all locations of Georgian police in Kodori/Upper Abkhazia. Later, in August 2009, he was made responsible for planning and conducting operation for occupation of Kodori/Upper Abkhazia.

- ***Russia used peacekeepers as a tool to manipulate the processes and maintain control over the situation in the region.***

Over time it is clear that Russian peacekeeping forces, deployed under the CIS mandate, were not performing their function and to the contrary, were supporting the proxy regimes, often

[13] On Aleksandr Pavlushko, reference 13.

participating into the violence and illegal activities. This worrisome trend made it clear that without a change of the peacekeeping format, a peaceful solution of the conflict appeared unlikely. Therefore, Georgia has raised the issue of format change many times at different levels.[14] However, the Russian Federation remained consistently opposed to any change, claiming that the Abkhaz side objected. Clearly, Abkhaz proxy regime and their Russian supporters played the same game.

The use of a peacekeeping mandate for political and military purposes became more apparent in 2008, when Russian authorities launched an openly aggressive policy against the Georgian state.

On April 29, 2008, the Russian Ministry of Defense informed the Ministry of Defense of Georgia about the unilateral increase of CIS Peacekeepers deployed in Abkhazia. Russia stated that one of the motives of the troop increase was to "protect its nationals" residing in Abkhazia, Georgia. In fact, under the cover of the peacekeepers, Russia deployed heavy military equipment, including contingents of the Russian Airborne battalion and heavy artillery that is not allowed under the Moscow Agreement and CIS Heads of States Decision of 1994. Neither the Government of Georgia nor UNOMIG were informed about the exact deployment of those troops on the Georgian territory of Abkhazia[15].

The unilateral increase of the Russian military presence in Abkhazia, Georgia violated the existing legal framework related to the CIS (Russian) peacekeepers in Abkhazia, Georgia as well as the fundamental principles of international law and constituted an infringement upon the sovereignty, political independence and territorial integrity of Georgia. Georgia has never been consulted either about the increase in number of the CIS forces or the deployment of the Russian airborne troops that do not formally constitute part of the Peacekeeping Forces. More specifically, following build-up has been recorded in spring 2008, after April 16, when Russian President Vladimir Putin issued a decree instructing the Russian government to establish direct relations with the proxy authorities of Abkhazia and South Ossetia[16]

- On April 17, several "Ural" type trucks carrying 300 Russian contract soldiers entered the military base in Ochamchire seaport.
- On April 20, at 10:00, a Russian fighter plane, attacked and shot down a Georgian Unmanned Aerial Vehicle "Hermes-450" above village Gagida, Gali district. This fact was confirmed by the UN special investigation.
- On April 29, the Russians started to increase their peacekeeping contingent deployed in the Georgian-Abkhazian conflict zone, as stated by the Russian Ministry of Defense and the Russian Ministry of Foreign Affairs.
- On April 29, an echelon of 30 train cars crossed the Georgian-Russian border near the river Psou by railway carrying 26 units of camouflaged armor vehicles, among them BMDs, D-30 type howitzers, etc. The echelon had 4 additional passenger cars, carrying soldiers from the Novorossiysk military base. The cargo was unloaded in Sokhumi railway station and from there the soldiers and armament were distributed to Maiak military base in Sokhumi, to

[14] see answer to Legal Question #5/section on peace initiatives
[15] UN Secretary-General Report on the Situation in Abkhazia, Georgia dated 23 July 2008, S/2008/480;
[16] Bullets bellow are extracts from the Chronology of Russian Aggression against Georgia in 2008 (Answer to Military Question#1). Please refer to Chronology for evidences provided in annexes;

Tsebelda military site (in the direction of Kodori Gorge), to Ochamchire seaport, as well as to Tkvarcheli and Gali districts.

- On May 1, additional checkpoints were opened on almost every strategically important road in Ochamchire and Tkvarcheli districts, among them at villages Nakarghali, Arasadzikhi and Akamara in Abkhazia, Georgia.
- On May 3, 5 units of 120mm artillery systems and several antiaircraft defense systems BUK-M1 were located at the military base in Ochamchire seaport.
- On May 6, the Russian deployment of additional airborne battalion (at least 400 soldiers) of the Novorossiysk and Pskov Airborne Divisions into Abkhazia that had started on April 29 was completed. This fact was further confirmed by numerous media reports, including the Russian Defense Ministry's official newspaper "Krasnaya Zvezda".
- On May 31, the Russian Ministry of Defense deployed 400 soldiers of Volgograd's 76th Unit of Railway Forces in Abkhazia. These forces began reconstruction of the railway from Sokhumi to Ochamchire, as well as reinforcing platform, thus preparing railway for the transportation and unloading of the heavy military equipment (see annexes 12 and 13).
- In April-June, Russia reinforced the military bases in Sokhumi (Maiak), Bombora (Gudauta), Ochamchire and Okhurei with:
  - 3 BUK air defense systems;
  - 40 D-30 type howitzers;
  - 10 BM-21 "Grad" systems;
  - 20 Shilka, ZU-23-2, ZU-23-4 AA guns;
  - 120 anti-tank missiles.
  - 2 MI-24 helicopters;
  - 50 aviation specialists;
  - 30 military experts;
  - 100 communication and antiaircraft defense experts;
- On June 6, several SU-25 and SU-27 type fighter planes in armed condition were detected at the Bombora military base in Gudauta (Georgian intelligence data, HUMINT).

- ***Response to allegations concerning Georgia's compliance with the Moscow Agreement due to its operation in Kodori Gorge in 2006***[17]

Since the end of July 2006 through early August 2008, the Ministry of Internal Affairs of Georgia maintained from 380 to 580 police officers in Upper Abkhazia (the number varied at times according to security needs). A large part of these police officers, those from the Criminal Police Department and the Special Tasks Main Division of the MIA, were rotated on a monthly basis and a small part of them (up to 100) were recruited locally by the Border Police Department of the MIA to guard the Upper Abkhazia section of the Georgian-Russian border. At one site, such a large number of police officers for a relatively small area, was due to the fact, that Abkhaz proxy authorities continuously threatened to attack the Gorge (including in public statements). Even if a minor scale subversive operation was launched by the proxy regime, Georgian Government would not have been able to strengthen law enforcers in needed time, considering the lack of access to the Gorge (7-8 months out of the year, Gorge was inaccessible via land route till the Government undertook the rehabilitation of the road).

[17] See more details in Answer to Military Question #4;

Georgian police units (in average groups of 30-40 policemen) were permanently present in the villages of Kvabchara, Mramba, Ptish, Chkhalta, Ajara, Left Gentsvishi, Right Gentsvishi, Omarishara and Sakeni, and were armed only with light weapons. The police officers conducted routine patrols in these and other villages of the Gorge (22 villages in total).

On 12 October 2006, UNOMIG and the CIS CPKF resumed regular joint patrolling of Upper Abkhazia. During the next joint patrolling, on 14-16 December 2006, UNOMIG and CPKF witnessed the demolition of a large stock of armaments that had been seized by the MIA in July 2006 belonging to the local Strongman Emzar Kvitciani's illegal armed formation. The next UNOMIG/ CPKF patrols were on 5-7 March 2007, 14-15 May 2007 and 4-6 June 2007.

In July 2007, UNOMIG reestablished its team presence in village Ajara and since that point was able to monitor the whole Gorge on a daily basis, until 9 August 2008. During this time, UNOMIG observers did not witness any violations of the 1994 Moscow Agreement by the Georgian side in Upper Abkhazia, while Abkhazian proxys, aided by the Russians, staged several serious armed provocations (see annex 1 for UN reports on Kodori Gorge).

- ***Russian Peacekeepers allowed attacks on Kodori***

On 11 March, 2007, from 22:10 till 24:00 the Kodori Gorge suffered from simultaneous artillery and air attacks. At least 17 "Grad" type missiles were fired from the ground, and at least one "Ataka" type guided missile from the air. The investigation revealed that the attack was carried out by BM-21 type artillery system and two MI-24 type helicopters. The target of the air-attack was the Administration building in the village of Chkhalta. The targets of the artillery attack were the Administration building in the village of Chkhalta, the storehouse of oil and fuel materials and the Police station in the village of Ajara. The combined use of aviation and artillery, the night flight of helicopters in the mountainous area, highly precise air attack by modern missiles and massive artillery bombing indicate that this was a well-organized and planned military operation, which could only have been conducted in this region by the Russian side.

- ***Russian Peacekeepers Directly Participated in Attacks of Kodori***

On 20 September 2007, a special task unit of the MIA of Georgia neutralized an armed grouping of 10 people in Kodori Gorge, which had planned an attack on the new road connecting Upper Abkhazia with the rest of Georgia. The commander of the grouping and his deputy were killed in the exchange of fire. They were identified as Igor Muzavatkin (Vice-Colonel of Russian armed forces, a former member of the CPKF, who served on the contract basis in the border troops division of the Abkhazian separatist security service) and Artur Zorin (Major of Russian armed forces, also a former member of the CPKF). Seven members of the subversive group that identified themselves as members of the border troops division of the Abkhazian separatist security service, were arrested and later, as a gesture of good will, released and handed over to the Abkhazian separatist government.

2. ***Peacekeeping in Tskhinvali region/South Ossetia***

Joint Peacekeeping Forces („JPKF") were established under the Sochi Agreement of 24 June 1992 for the purpose of accomplishing the objectives of the Joint Control Commission (Article 3, paragraph 3). Thus the JPKF stands as a mechanism for achieving the tasks and objectives defined in the Sochi Agreement that first and foremost mean the resolution of the conflict by peaceful means. Hence the force was set up based on the Sochi Agreement and the latter represents the only legal source of its powers and mandate.

By virtue of the Vladikavkaz Protocol of 4 July 1992, namely Article 3, the JPKF is directly subordinated to the Joint Control Commission. In accordance with the Protocol #2 dated 6 July 1992 (issue #4), " a State that has allocated its military contingent to serve in the joint peace-keeping forces, assumes the responsibility for violation of the Sochi agreement" Thus, in case of the violation of the Sochi Agreement by the JPKF, the contributing state bears primary responsibility for such breaches.

In this connection, the command structure of the JPKF and decision making process is of particular relevance. Protocol #11 of 21 April 2001 approved the organizational and command structure of the JPKF. There ,so called scheme Number 3 establishes a unilateral command structure, instead of a collegial model that was envisaged by Article 2 of the 6 December 1994 Regulations. The aforementioned provision reads as follows: the military contingents and military observers are subordinated to the ***unified command*** composed of the Russian, Georgian and North Ossetian parties. The Georgian, Russian and North Ossetian battalions of the JPKF operate under a joint command coordinated by the JPKF commander.[18] The latter is nominated by the Russian Defense Ministry and appointed by the JCC. Battalion commanders (the senior military representatives) are appointed directly by the sides.[19]

The Ossetian Battalion within the peacekeeping forces comprised, at the beginning, recruits from North Ossetia (Russia). However, over time, it de facto became a South Ossetian battalion filled with recruits from local residents. International observers confirm the Ossetian battalion was, except for a few officers, manned by South Ossetians and was "the biggest employer in South Ossetia".[20] It was an opportunity for Russia to train and equip the South Ossetian militia and ensure their accurate coordination with Russian troops deployed in the Tskhinvali region. This proved a valuable asset during invasion of Georgia in August[21].
Russian peacekeeping forces have failed to perform their mandate. The failure is particularly clear in the field of disarmament. Peacekeepers grossly failed to accomplish their mandate, especially as it relates to disarming illegal armed formations, liquidating fortifications and

[18] The June 1992 agreement created a trilateral JPKF: Georgia, Ossetian and Russian. A common misperception is that it is quadrilateral, including both South and North Ossetian sides but there is only one Ossetian battalion. It is under the command of a North Ossetian officer but most troops as well as officers are from the South Ossetian militia. Each side can also have 300 reservists, who can be deployed to the zone of the conflict in case of escalation. Crisis Group interview, JPKF commander, March 2007. General Kualkhmetov took charge of the JPKF in autumn 2004. International analysts say his performance is very professional and a major improvement over that of General Nabzdorov, his predecessor.

[19] JCC Protocol #3.

[20] International Crisis Group, Georgia's South Ossetia Conflict: Make Haste Slowly, pp. 17-18.

[21] see Answer to the Military Question 3 for peacekeepers role during the war;

withdrawing heavy military equipment. Instead, with the connivance of the Russian peacekeeping forces, the number of armaments in the conflict zone increased significantly.

- **Failure of disarmament/disbandment of the existing in the region illegal armed units and their withdrawal from the conflict zone.**

The major points of reference here are Protocol #3 of 12.07.1992, appendix #1, article 3; Decision of JCC of 31.10.1994, clause 10; Decision of JCC of 6.12.2006, appendix #1, article 3; Moscow memorandum of 16.05.1996, article 6; Protocol #7 of 13.02.1997, as well as JCC protocols #33,41,44,45 and the meeting between Georgian Prime Minister Zurab Zhvania and proxy authority leader Eduard Kokoity on 5.11.2004.

In the security zone controlled by Russian peacekeeping forces, the "Peacekeepers" regime continued to deploy its troops illegally and to manufacture and sell weapons in breach of the agreement of 21 July 1992[22]

The most eloquent example of the inability of the peacekeepers to carry out into functions was a military parade in Tskhinvali that took place on 20 September 2005, which demonstrated that the JFMP leadership was unwilling to act in accordance with the mandate, that is, not to allow a concentration of weaponry in the conflict zone, which is its direct obligation. At the military parade, along with the military units, heavy artillery was displayed. This provocative display of illegal heavy weapons by the Ossetian *de-facto* government was fully neglected by the Russian peacekeeping forces. [23]

Furthermore, due to the complete inactivity of Russian peacekeepers, the formation of new military units, including a "border guards" took place in the conflict zone. Hundreds of Russian mercenaries, so-called "boeviks" crossed the Georgian border through the Roki Tunnel. They entered Georgian territory via the Russian border check-point without any resistance on the part of Russian customs officers nor border guards. Furthermore, in their presence, military manoeuvres of the mercenaries took place using light and heavy weaponry. In 2006, eighteen (18) illegal military trainings were conducted with prohibited equipment in the territory of South Ossetia - many with the direct participation of Russian 'peacekeepers'.

- **Non Liquidation of fortifications**

The reference point here derives from the results of the meeting between Georgian Prime Minister Zurab Zhvania and *proxy* leader Eduard Kokoity on 5.11.2004; Protocol #40 of 19-20 November 2004, clauses 1 and 2; Protocol #42 of 16-17 March 2005, article 2; and Protocol #44 of 22-23 June 2005, clause 2.3).

In spite of the agreements on the withdrawal of illegal military units from the conflict zone and liquidation of fortifications, the reverse process unfolded. The number of fortifications increased substantially and the process of regular consolidation of these fortifications. The unified

[22] See relevant paragraphs in answer to the Legal Question #1

[23] See photo report by Regnum, and attached visual materials. See also http://www.cacianalyst.org/view_article.php?articleid=3740;

command of the JPKF was approached on numerous occasions by the Georgian side (JCC Protocol #48, 27-29 March 2006, Vladikavkaz; Correspondences: letter #4-9/286 dated 5 April 2006; letter #4-9/479 dated 2 June 2006, and letter #4-9/592, dated 4 July 2006) with the request to present the list of fortifications existing in the conflict zone with a view to elaborating the schedule of their liquidation.

The request was never met. In a response letter #88 dated 11 May 2006, General Kulakhmetov responded with the following postulate "кто откапывал, тот должен и закапывать" *("whoever dug it, he must fill it")*, that amounts to escape from discharging the obligations derived from the mandate.

- **Russian Military build up in and near South Ossetia**

In 2007-2008, the Russian government built two military bases in South Ossetia – one in Ugardanta, in the Java district and the other in the north-western part of the town of Tskhinvali[24] (here are relevant satellite pictures of these bases, also see videos attached).

1. The military base in the so-called Bam settlement of Tskhinvali was built in the shortest period. It started at the end of 2007 and the main construction works were finished before August 2008.

2. The construction of Ugardanta military base in the Java district began in 2006, but intensified since the end of 2007. The base was finished by July 2008. Russian troops which entered the Roki tunnel on the morning of August 7, gathered at this base.

3. The construction works of the Ugardanta and Tskhinvali military bases were carried out by "Praktika:LTD," a Russian construction company registered in the town of Essentuki, Stavropol Krai, headed by **Leonid Mikhailovich Vaganov**, a former GRU officer.

4. In addition to these two Russian military bases, the Russian government helped South Ossetian proxy authorities in building military infrastructure, including the tank battalion of the South Ossetian proxy Ministry of Defence, located in the village of Buzala, Java district (see picture), as well as new offices for the South Ossetian irregulars, Ministry of Interior and State Security Committee (KGB) in Tskinvali.

5. During 2004-2008, the Russian government equipped South Ossetian paramilitary forces with tanks, armored vehicles, military trucks, as well as different kinds of armament and ammunition. Russian military and police specialists helped to train and equip South Ossetian paramilitary forces.

- ***Russian Military Bases close to the Russian-Georgian border***

[24] Relevant satellite pictures of these bases, also see videos attached

- In 2005-2006, the Russian government built a new military base in the Zaka valley, North Ossetia, just 7 kilometres from the northern entrance of the Roki Tunnel. In August 2008, Russian troops used this base as a bridgehead for entering South Ossetia.

- By the end of 2007, the Russian government created special mountain brigades in the Northern Caucasus – the 33th brigade in Botlikh, Dagestan (for conducting operations against Georgia in South Ossetia) and 34th brigade in Zelenchuk, Karachai-Cherkessya (for conducting operations against Georgia in Abkhazia). During the August war, both units were deployed respectively in South Ossetia and Abkhazia [25].

  - **Non-admission of penetration of heavy weaponry into the conflict zone and control over withdrawal of heavy weaponry.**

Reference points are Protocol #3 of 12.07.1992 appendix #1, article 3; Decision of JCC of 6.12.2006, appendix #1, article 3).

On 20 July 2004, several armoured vehicles entered the Tskhinvali Region/South Ossetia, and active movement of militaries was noted. In the territory adjacent to the Roki Tunnel, t 7 tanks and 2 armoured vehicles were stationed, ready to be moved to Georgia, while live military force and armoured vehicles were being mobilized in one of the stations of Vladikavkaz. All these reports were followed by memorandum of protest of the Georgian Ministry of Foreign Affairs.

On 7 July 2004, the officers of Georgian Ministry of Interior, at Kekhvi Village seized a column of vehicles owned by Russian peacekeepers two of which were loaded with up to 300 NURC-type uncontrolled reactive grenades. During the monitoring, the OSCE observers found the trace of "БМП"-type armoured vehicle, which can only be possessed by the JPKF.[26]

The so called North Ossetian peacekeeping battalion played a role of intermediary between the Russian peacekeepers and the South Ossetian armed groups to deliver arms and ammunitions to the latter. Colonel Nikolai Phriev and Philip Khachirov were in charge of this "cooperation."

Moreover, Russian military instructors in charge with the training of South Ossetian armed groups very often formally were encrypted in the Russian peacekeeping battalion.

- **Russian peacekeepers involved in smuggling:**

It is noteworthy that Russian Peacekeepers were actively involved the smuggled goods entered into the Tskhinvali region/South Ossetia through the Roki tunnel.

The peacekeepers also have been caught for abducting ethnic Georgians. For instance, on August 29, 2007, members of North Ossetian battalion abducted journalists from two Georgian broadcasting companies Rustavi-2 and Mze. After the negotiations and interventions by the Georgian authorities and the OSCE they were released.

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[25] Article available at http://www.arms-expo.ru/site.xp/049051124049051050055.html

[26] OSCE Spot Report July 8, 2004;

- **Russian peacekeepers not neutral forces but a means for the exercise of Russian policy in the region:**

Under the cover of the peacekeepers, Russian authorities penetrated intelligence officers in the Tskhinvali region/South Ossetia. These people were responsible for carrying out intelligence operations and even planning and carrying out terrorist acts and other sabotage. For instance:

- One of the organisers and masterminds of the Gori terrorist act of February 1, 2005 was a Russian intelligence officer deployed to Georgia under the cover of peacekeeping. Moreover, a Vice-Colonel of the Russian peacekeeping forces **Roman Boiko** was personally involved in the preparation of the terrorist act. He was charged by the Georgian law enforcement and is wanted via Interpol red notice.
- A ,member of the Russian intelligence service (GRU) **Anatoly Sisoev**, who at the same time was a military advisor to Eduard Kokoity, created an organised group that committed a number of violent acts: a) the explosion of high voltage power transmission lines "Kartli 2" and "Liakhvi" located near the village if Shavshvebi, Gori Dstrict on October 9, 2004; b) the explosion of the Grakali-Metekhi railway joiner in the Kaspi District on October 9, 2004; c) the explosion of the radio transmission system of the oil pipeline near Chorchana, Khashuri District on Novemebr 17, 2004. It is worth of noting, that this is the same Sisoev, that was arrested and served sentence in Azerbaijan from 1995-2001, for attempt of *coup d'état* and attack on Azerbaijan President Aliev.

Authority of the JPKF was divided between the commander of the peacekeeping forces, General Marat Kulakhmetov and his deputy Igor Grudnov between January 2006-January 2007, Alexsandre Klimenko between January 2007-January 2008 and General Viktor Kniazov since January 2008. This is noteworthy because under this arrangement, the commander was personally in charge of the coordination of assistance to the proxy regime in the field for intelligence and military intelligence operations; **while the deputies were responsible for the law-enforcement field not in general, but rather in quite literary terms**: General Kniazov was an advisor to Mr. Kokoity in law-enforcement affairs and the supervised law-enforcement activities in the Tskhinvali region/South Ossetia.

- **Russia preventing peacekeeping mandate or international control is exercised over Roki Tunnel, Dzara Road and Gupta Bridge**

The composition of the Joint Control Commission, established under the Agreement on Principles of Settlement of the Georgian - Ossetian Conflict (Sochi Agreement of June 24, 1992) also did not allow for elaboration and implementation of realistic and constructive decisions, since the Commission's decision making power was based on the principle of consensus. Attempts to define the operation area for JPKF would serve as good illustration of the difficulties encountered by the JCC. In 1992, under Protocol #3 of July 12, and its Annex #1, the JCC defined "conflict zone" – 15 kilometers around the center of Tskhinvali City, and the "Safety Corridor" – 7 kilometers on each side of the so called "administrative border"[27]. Although,

[27] Protocol #3 of the Meeting of Joint Control Commission (JCC) For the Georgian-Ossetian Conflict Settlement; July 12, 1992. Vladikavkaz.

according to the above definitions Dzara Road and Gupta, falls within the ambit of the Safety Corridor, the JPKF under the Russian command avoided to comply with its direct responsibility, referring to another Decision[28] of the JCC, which defined the zone of responsibility of the JPKF excluding strategic communications southward of Roki Tunnel – Gupta Bridge and Dzara Road, which contradicted the Sochi Agreement as well as other decisions of the JCC.[29] Dzara Road has vital strategic importance; putting the road in operation is to enable the Tskhinvali proxy regime to intensify the process of political, economic and affiliation with Russia. Since the road is a roundabout route, it provided an easy and fast way to bring weaponry, ammunition and armoured vehicles from Russia through the routes beyond the control of the peacekeepers into the conflict zone, as it has often been the case.[30]

All the attempts to ensure the control of these strategic objects form the JPKF have failed. So have the efforts before the OSCE: Russian Federation has been blocking any steps within the OSCE aimed at establishing international control over the Roki Tunnel and the Didi Gupta Bridge. [31]

Such resistance from Russian side for even minimal transparent control of Roki Tunnel, Zara Road and Gupta bridge is justified by clear intention to continue unimpeded and uncontrolled movement of militaries and equipment.

Ultimately, Russia indeed effectively used its control over the Roki Tunnel and Dzara Road for covering up intrusion into Georgia. Similarly, in Abkhazia, rehabilitated railway was used for intrusion from the west.

Russian Federation's abuse of both peacekeeping formats, and using of peacekeepers as an tool to implement its aggressive policy and intervention to Georgia is evidenced in Answer to Military Question 3 and also, in Military Question 1 (Chronology of the Russian Aggression).

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[28] Decision of the Joint Control Commission (JCC) For the Georgian-Ossetian Conflict Settlement on Rehabilitation of Economy in the Zone of The Georgian-Ossetian Conflict;

[29] See supra note 2.

[30] On 20 July 2004, several armoured vehicles entered in the Tskhinvai region, and active movement of militaries is noted. In the territory adjacent of Roki Tunnel, there had been stationed 7 tanks and 2 armoured vehicles ready to be moved to Georgia, while live military force and armoured vehicles were being mobilized in one of the stations of Vladikavkaz. All these reports were followed by memorandum of protest of the Georgian Ministry of Foreign Affairs. See also, Statement by the Delegation of Georgia to the OSCE on January 30, 2003; fact sheet on the Development of Events in Tskhinvali Region distributed by the Delegation of Georgia in the OSCE on July 29, 2004; statement of the Minister of Foreign Affairs of Georgia Mrs. Salome Zurabishvili at the OSCE Permanent Council on August 24, 2004; http://www.mfa.gov.ge/print.php?gg=1&sec_id=36&info_id=1792&lang_id=ENG

[31] Remarks of President of Georgia Mikheil Saakashvili to the Parliamentary Assembly of the Council of Europe, January 26, 2005.

Question #4: Please explain Russian Troop movements before and during the conflict in August 2008. How does it relate to the amended Treaty on Conventional Forces in Europe and the Russian practice during most of the time preceding the conflict? Please explain Georgian military posture and the troop movement before and during the conflict.

The Adapted Treaty on Conventional Forces in Europe (A-CFE), signed on November 19, 1999 has been ratified only by four countries, including Russia. The Adapted Treaty will enter into force when all 30 states/parties have ratified the agreement. At the time the Adapted Treaty was signed at the 1999 OSCE Summit in Istanbul, Russia agreed on a number of commitments related to the withdrawal of forces and facilities in Georgia, in accordance with the core principle of host-country consent regarding the stationing of foreign forces, also enshrined in the 1990 CFE Treaty. These Istanbul Commitments[1] form an integral part of the CFE Final Act, and the latter forms an integral part of the Adapted Treaty.

The 1990 CFE Treaty allows for the stationing of conventional ground and air forces on the territory of another state with the condition that "no State Party stations conventional armed forces on the territory of another State Party without the agreement of that State Party" (Article IV, paragraph 5). By continuing to station forces on the territory of Georgia without Georgia's consent, Russia has been in gross violation of the host-nation consent principle, a fundamental principle of the CFE Treaty.

Delays in ratification of the A-CFE have been triggered by the continuous violation by Russia of the 1990 CFE undertakings, as well as Istanbul Commitments in general, including the particular part of commitments on Georgia. The adoption of the Istanbul Commitments at the 1999 OSCE Istanbul Summit was yet another confirmation that Russia, for years before 1999, has been in continuous violation of the provisions of the CFE agreement, often referred to as the "cornerstone of European security".

The importance of the Article IV, paragraph 5, violated by Russia, was once again underlined by "the final document of the first conference to review the operation of the Treaty on Conventional Armed Forces in Europe and the concluding act of the negotiation of personnel strength" (Vienna, 15-31 May 1996), Article II, paragraph 13, which stressed "the importance of full and continuous respect for the provisions of Article IV, paragraph 5, in the context of maintaining the viability of the Treaty, as well as for the sovereignty of the States Parties involved."

On July 14, 2007, the President of Russia issued a decree intended to suspend the observance of treaty obligations, effective 150 days later, stating that it was the result of "extraordinary circumstances (...) which affect the security of the Russian Federation and require immediate measures". Notifications to that effect have been issued to all the States Parties to the CFE agreement. It must be mentioned that there is no provision in the Treaty that would allow for a unilateral moratorium on implementation of the Treaty: the decree issued by the President of Russia intended to impose a moratorium on the application of the treaty was done in violation of international law and Article XIX of the Treaty in particular, which does not envisage the notion of "suspension" or the possibility of imposing a "unilateral moratorium" on the implementation

[1] See Reference 1 of the Answer to the Question # 2 of the First Set of Legal Questions.

of the obligations under CFE Treaty. Furthermore, "suspension" or any other act having effect similar to suspension goes against the object and purpose of the Treaty itself (2). Accordingly, suspension of the implementation of Treaty obligations constitutes a direct and gross violation of the Treaty and international law.

One of the guiding principles of the Treaty on Conventional Armed Forces written in the preamble clearly states that the States Parties recall "their obligation to refrain in their mutual relations, as well as in their international relations in general, from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes and principles of the Charter of the United Nations" (Treaty Preamble, paragraph 4). It is also stressed in the preamble that the States Parties are "conscious of the need to prevent any military conflict in Europe," and "striving to develop further and consolidate a new pattern of security relations among all the States Parties based on peaceful cooperation and thereby to contribute to establishing a common and indivisible security space in Europe." Russia's invasion of Georgia's sovereign territory in August 2008 is a clear violation of the abovementioned principles.

Similar wording is used also in the Adapted CFE Treaty, paragraph 3 of the Article 2 which states that "Conventional armaments and equipment of a State Party in the categories limited by the Treaty shall only be present on the territory of another State Party in conformity with international law, the explicit consent of the host State Party, or a relevant resolution of the United Nations Security Council. Explicit consent must be provided in advance, and must continue to be in effect as provided for in Article XIII, paragraph 1 bis". Here one should underline that despite the fact that the Adapted CFE has not yet entered into force, State signatories are obliged to act in a manner consistent with the object and purpose of the Adapted Treaty until it enters into force.

By launching direct military aggression against Georgia in August 2008, Russia acted against the object and purpose of the CFE agreement, not to mention the breach of the fundamental principle of host nation consent.

Article 2, paragraph 2 of Joint Statement of the Russian Federation and Georgia of the FINAL ACT OF THE CONFERENCE OF THE STATES PARTIES TO THE TREATY (Istanbul. November 1999) stresses that "the Russian military bases at Gudauta and Vaziani will be disbanded and withdrawn by 1 July 2001." The Russian side never fulfilled its commitment regarding the withdrawal of the Gudauta military base and continues to violate this obligation. Moreover, since the August aggression it has started to reinforce old and to build new military bases in Abkhazia, Georgia and the Tskhinvali Region/South Ossetia regions, and without host state consent has deployed in the occupied territories a large number of additional treaty limited equipment.

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[2] "Striving to replace military confrontation with a new pattern of security relations among all the States Parties based on peaceful cooperation" ... "Committed to the objectives of establishing a secure and stable balance of conventional armed forces in Europe at lower levels than heretofore, of eliminating disparities prejudicial to stability and security and of eliminating, as a matter of high priority, the capability for launching surprise attack and for initiating large-scale offensive action in Europe...", Preamble, Treaty On Conventional Armed Forces In Europe, 1990.

The Russian refusal to accept international inspections on its territory within the area of application of the Treaty is also a violation of Article 14, paragraph 1 of the Adapted CFE, according to which "for the purpose of ensuring verification of compliance with the provisions of this Treaty, each State Party shall have the right to conduct, and the obligation to accept, within the area of application, inspections in accordance with the provisions of the Protocol on Inspection."

By ceasing the provisions of the information stipulated by the relevant provisions of the Treaty Russia also blatantly violates the "PROTOCOL ON NOTIFICATION AND EXCHANGE OF INFORMATION," by which the parties agreed on procedures and provisions regarding notification and exchange of information pursuant to Article XIII of the CFE Treaty, according to the paragraph.1 of which "for the purpose of ensuring verification of compliance with the provisions of this Treaty, each State Party shall provide notifications and exchange information pertaining to its conventional armaments and equipment in accordance with the Protocol on Information Exchange."

Georgia was and continues to be in full compliance with all CFE Treaty requirements, including the ceilings established for the relevant categories of the Treaty Limited Equipment (TLE).

Before the Georgian-Russian War the Georgian Armed Forces units were stationed in the places of their dislocation, functioning in usual mode and carrying out planned activities (please see attached the schedule of the exercises of the Georgian Armed Forces units from January 1, 2008 till August 7, 2008).

On August 7, 14:30, the Georgian Armed Forces were mobilized (for information about the rationale of the mobilization please find the answer on the second question of the "First set of questions to the Government of Georgia related to military issues") and the units started movement towards their indicated places of dislocation.

The information about the movements of the Georgian Armed Forces units during the war is given in the answer on the second question of the "First set of questions to the Government of Georgia related to military issues".

Question #5: Please give legal and other reasons for the Russian recognition of the territories of Tskhinvali region/South Ossetia and Abkhazia, Georgia. Please qualify the legal status and the objectives of the friendship treaties concluded respectively between the Russian Federation and the Tskhinvali Region/South Ossetia and with Abkhazia respectively on September 17, 2008.

On August 26, 2008 the President of the Russian Federation signed Decrees No. 1260 and 1261 recognizing Abkhazia and South Ossetia as independent states[1]. Both Decrees stressed the free will of the Abkhaz and South Ossetian people for recognition as sovereign and independent states. The Decree instructed the Ministry of Foreign Affairs of the Russian Federation to initiate diplomatic relations with the Abkhazian/South Ossetian sides and to prepare a draft treaty on friendship, cooperation and mutual assistance; in addition, it determined the appeal of the Abkhazian/South Ossetian "Presidents" as legal grounds on which the presence of the Russian forces on the respective territories could be "justified" until signature of the aforementioned treaties[2].

The President of the Russian Federation based its decision on the results of the referendums conducted and on the decisions taken by the Parliaments of the two republics, which appealed to the Russian Federation and have been supported by the Federation Council and State Duma[3]. It is noteworthy that the request for recognition had been made several times before 2008. However, at that time the executive branch of the Russian government refrained from the approval of the request. Decision on illegal unilateral recognition of these regions by the Russian Federation has only been taken after the invasion and occupation of Georgian territories in August 2008.

The President of the Russian Federation has substantiated two major "justifications" for recognition: a) the will of the Abkhaz and Ossetian people as expressed in the referendums; b) the violation of international agreements by Georgia and disruption of the peacemaking process and peace negotiations[4]. A similar line of argumentation can be traced in the Statement of the Ministry of Foreign Affairs which added a slight emphasis on the 'right to self-determination of Abkhazian and South Ossetian people'[5].

The recognition, followed by the conclusion of the treaties should be viewed as violation of the territorial integrity and sovereignty, as well as the principle of non-interference into internal

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[1] The original versions of the decrees available on internet are at http://en.wikipedia.org/wiki/File:Decree_recognising_Abkhazian_independence.png#file and http://en.wikipedia.org/wiki/File:Decree_recognising_South_Ossetia_independence.png

[2] See Security Council Meeting 5969, 28 August 2008 available at http://www.undemocracy.com/securitycouncil/meeting_5969

[3] Statement by President of Russia Dmitry Medvedev of 26 August 2008 available at http://www.kremlin.ru/eng/speeches/2008/08/26/1543_type82912_205752.shtml

[4] Ibid;

[5] http://www.mid.ru/brp_4.nsf/0/FF61E0682D1506E1C3257523003F9DD6

affairs of Georgia[6]. Arguments provided by the Russian Federation as a legal justification for recognition do not find support in modern international law. In essence recognition of these regions represents a direct attempt of the Russian Federation to change borders of a neighboring sovereign state as a result of its military invasion and occupation.

Recognition of the entity created through the use of force and based on ethnic cleansing is a violation of international law:

The Russian Federation has argued that its decision regarding the recognition of independence of Abkhazia and South Ossetia has been in line with the relevant rules of international law; in particular, President Medvedev argued that in his decision (recognition), he has been guided by provisions of the UN Charter, the 1970 Declaration on the Principles of International Law Governing Friendly Relations Between States, the OSCE Helsinki Final Act of 1975, and other fundamental international instruments. Quite the contrary, the recognition violates the above-mentioned and other norms of international law.

According to the general rules of international law, a state shall refrain from recognition of an entity created in violation of one or more of the fundamental norms of international law[7]. In this regard, Georgia considers that the Russian Federation had to withhold recognition based on *the obligation of non-recognition* of those act or act's results which are in conflict with the fundamental norms of international law[8]. The obligation of non-recognition is strongly linked to the principle of *ex injuria jus non oritur* according to which "acts contrary to international law cannot become a source of legal rights for a wrongdoer"[9].

Unilateral Recognition of Independence by the Russian Federation of Abkhazia, Georgia and Tskinvali Region/South Ossetia was a direct result of military intervention and the continued occupation of Georgian territories by the Russian Armed Forces, representing a violation of Article 2(4) of the United Nations Charter, as well as peremptory norm of international law - prohibition of aggression.

Set in this background, the Council of Europe considered the act of recognition by the Russian Federation itself as a violation of the relevant principles of international law:

> "The [Parliamentary] Assembly condemns the recognition by Russia of the independence of South Ossetia and Abkhazia and considers it to be a violation of international law and of the Council of Europe's statutory principles. The Assembly reaffirms its attachment to the territorial integrity and sovereignty of Georgia and reiterates its call on Russia to

[6] See Statement of the Ministry of Foreign Affairs of Georgia of 27 August 2008 available at http://www.mfa.gov.ge/index.php?lang_id=ENG&sec_id=59&info_id=7769

[7] David Raic, Statehood and the Law of Self-determination, Kluwer Law International, pp. 105-113;

[8] Lauterpacht, Recognition in International Law, Cambridge 1947, p. 413;

[9] David Raic, Statehood and the Law of Self-determination, Kluwer Law International, p 109;

withdraw its recognition of the independence of South Ossetia and Abkhazia and to fully respect the sovereignty and territorial integrity of Georgia, as well as the inviolability of its borders."[10]

Another relevant fundamental norm of international law to be considered in this context is the right of people to self-determination, which should be interpreted and applied in line with the relevant rules of international law. In this context in addition to the fundamental norm of international law - principle of territorial integrity of sovereign states, other norms of international law have also to be taken into account.[11] In this regard, the most profound norm of international law violated by unilateral declaration of independence by Abkhazian and South Ossetian proxy regimes, as well as unilateral recognition of their independence by Russian Federation is prohibition of ethnic cleansing.[12] It is noteworthy that Russia itself played a significant role in ethnic cleansing conducted in both regions (of the majority Georgian population and other ethnicities residing in both regions), through its representatives actively engaged in the ethnic cleansing and/or failing to prevent such actions conducted by representative of Abkhazian and South Ossetian militia falling under their control. Practice of the international community has always been consistent and firm in applying relevant norms of international law and not allowing any validation of violations of this nature including through recognition of such de facto regimes as states under international law[13].

Apart from the substantive abuse of the right to self-determination, Georgia considers that the declaration of independence by Abkhazian and South Ossetian proxy regimes lacked legal validity as it was issued in violation of the relevant rules of international law governing the right to self-determination and secession[14].

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[10] Parliamentary Assembly, Resolution 1647 (2009). The implementation of Resolution 1633 (2008) on the consequences of the war between Georgia and Russia, available at http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta09/ERES1647.htm

[11] The right to self-determination has to be balanced against the principle of "territorial integrity", as argued in 1970 Declaration on Friendly Relations:

"Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour."

[12] See *Application on International Convention on the Elimination of All Forms of Discrimination*, Georgia v. Russian Federation, International Court of Justice, Request for the indication of the Provisional Measures, available at http://www.icj-cij.org/docket/index.php?p1=3&p2=3&code=GR&case=140&k=4d

[13] The instance of South African Homeland Territories and South Rhodesia, found in Raic, Statehood and the Law of Self-determination, pp. 128-140;

[14] See Crowford, The Creation of State in International Law, 2nd edition, pp. 376-415;

Georgia's alleged refusal to peacefully resolve conflicts:

One of the arguments used by the Russian Federation for the justification of its illegal unilateral recognition of Tskinvali Region/South Osetia and Abkhazia that it was prompted by Georgia's alleged disruption of negotiating process has no standing in international law. However for better understanding of the context in which illegal unilateral recognition of these regions had been exercised by the Russian Federation short analysis of relevant information could be useful.

The policy of the Republic of Georgia has always been to support a peaceful resolution of territorial disputes. The current government of Georgia has, since 2004, adopted a policy in which the greatest possible autonomy and constitutional rights should have been granted to the territories of Abkhazia and South Ossetia, within the framework of Georgia's sovereign territory. Georgia has on numerous occasions presented proposals that would have advanced a peaceful resolution of the disputes. In doing so, Georgia sought to respect the existing diplomatic processes created and hoped that the Russian Federation would start to respects its formal role of the peace-keeper.

Throughout this period, it should be noted that the Government of Georgia exercised no economic or security control in the territories. Moreover, it was and remains a core belief of the Government of Georgia that its own political and economic reforms, initiated after the political changes of November 2003, should be viewed as the basis for a liberal, humane, tolerant and peaceful re-unification of the country.

All Georgian proposals were based on certain principles:

- the territorial integrity of Georgia should be respected,
- the right of return for those displaced by conflict in the regions should be applied,
- the reincorporation of Abkhazia and South Ossetia into Georgian sovereign political life should be carried out gradually to build confidence of both sides,
- Both territories should and could enjoy the widest possible constitutional autonomy,
- peace-keepers should exercise full neutrality,
- negotiating formats should be brought up to date
- direct negotiation with proxy authorities

These proposals did not result in any positive progress and the principles outlined above were never reciprocated. Repeatedly, Georgian proposals were met with diplomatic obstruction by the Russian Federation or by actions on the ground by the Russian Federation and proxy authorities that further separated the territories from the Republic of Georgia.

The evidence indicates that, with the passage of time, steps were taken by Russia and proxy leadership in the territories, both on the ground and diplomatically, to:

- deepen the separation from Georgia,
- prevent the return of the displaced,
- limit confidence-building measures
- reinforce the grip of the Russian Federation over the de facto leadership

- enhance the presence of Russian security personnel in the territories,
- legalize Russia's political and economic presence in the territories,
- ignore Georgia's direct approaches for resolution,
- prevent the full participation of proxy authorities in fora designed to negotiate settlement.

The facts, as viewed in Tbilisi, pointed to a deliberate dual strategy of non-engagement in substantive negotiation by proxy authorities and the Russian Federation and a parallel deepening of Russia's engagement in and control of the politics, economy and security of the two regions.

Unwilling, and unable, to challenge by force this attritional policy of substantive non-engagement in negotiation by Russia and the proxy leadership in the territories, the Government of Georgia escalated its public objections to the facts that were unfolding on the ground, intensified the frequency with which it presented its proposals for a peaceful resolution and appealed for direct involvement of third parties to offer their good offices to intercede with the Russian Federation.

The need for international intercession and mediation became acute during 2008. The escalation of the Russian Federation's activities in the territories, notably in Abkhazia, from March 2008, became a source of deep concern to the Government of Georgia. The timing of these Russian activities leads the Government of Georgia to conclude that they were related to decisions regarding the status of Kosovo (the Unilateral Declaration of Independence by Kosovo on February 17 and its subsequent recognition by a number of states) and the March 2008 decisions of the NATO Summit.

By May 2008, the situation on the ground had altered dramatically. The Russian Federation appeared to have opted for a path that would result in either occupation or annexation and had moved far beyond the pretense of being an impartial mediator. Confronted by this reality, the Georgian Government sought international mediation and also approached the Russian Federation directly to promote negotiations.

It is not for the Republic of Georgia to comment on why increasingly intense public and private appeals by the Government of Georgia to the international community to intercede in a worsening situation, especially during 2008, failed to translate into effective mediation and to prevent a conflict. The answer to that lies in other capitals. However, Georgia can assert and attest to the fact that it was ready to be present at any time, in any form, anywhere and without precondition to engage in negotiation should that occasion arise.

Throughout this process, the Government of Georgia was engaged in a historically unprecedented program of internal reform, opening the economy, building democratic institutions and enforcing the rule of law. To do so, the government created an entirely new police system and reformed the armed forces. It did so with direct assistance from a variety of friendly partner nations and within the context of Georgia's policy to deepen its ties with the European Union and NATO.

This point concerning the internal evolution of Georgia since November 2003 is central to both the facts and the narrative leading to conflict in August 2008. Georgia's reforms may have strengthened the economy but they also rendered the country vulnerable to any neighbor who would want to influence negatively the economic growth of the country. It is no coincidence that the Russian Federation imposed unilateral economic sanctions on Georgia in 2006. To restore a semblance of order to the functioning of the state, Georgia had to establish a new revitalized form of order in both police and armed forces. This process established order in Georgia for the first time in the post-soviet era. However, it also was used by Russian propaganda to claim falsely that Georgia was arming itself for conflict in the region. Moreover, Georgia's choice of international partners was and remains a sovereign right of any nation, in this instance democratically supported by the population in elections and referenda. The alternative to the pursuit of these policies, in the view of the government of Georgia, would have been continuing chaos, disorder, poverty and isolation.

The remainder of this note draws attention to some of the initiatives taken by Georgia to initiate a peaceful resolution to the territorial disputes of South Ossetia and Abkhazia.

Georgia was not only actively engaged in the peace process but on various occasions proactively proposed serious peace process initiatives. Below we enclose an illustrative list of some of the major peace initiatives that were proposed by the Government of Georgia or representatives of the international community since 2004. Unfortunately, the aforementioned initiatives mainly failed due to rejection from the Abkhazian/South Ossetian sides, backed by the Russian authorities and/or due to direct rejection of the Russian Federation. For more details of negotiations between Georgia and Russia on the peaceful solution of the conflicts, the chart depicting the process in detail is attached.[15]

With regard to the Tskhinvali region/South Ossetia, Georgia, some of the recent peace proposals included:

- Protocol of Commitments signed on 24 January 2005 in Tskhinvali[16];
- Initiatives of the Georgian Government with respect to Peaceful Resolution of the Conflict in South Ossetia of 24 March 2005, including political status, language and education, social and economic rehabilitation[17];
- Memorandum on the Agreement of Further Activities aimed at the Final Settlement of the Conflict in Tskhinvali Region/South Ossetia, Georgia[18];
- The Georgian- South Ossetian Peace Plan developed by the Government of Georgia dated 8 November 2005[19]; Supported by OSCE on 6 December 2005 in Ljubljana (statement on Georgia,

[15] See Reference 15;

[16] http://www.rrc.ge/law/Protoc_2005_01_24_e.htm?lawid=1349&lng_3=en

[17] http://www.rrc.ge/law/tsinad_2006_24_03%20_E.htm?lawid=1684&lng_3=en

[18] See Reference 18;

[19] http://www.rrc.ge/law/oseti_2005_11_08_e.htm?lawid=1496&lng_3=en

Second day of the Thirteenth Meeting, MC(13) Journal No. 2) initially supported and then rejected by Russia [20];
OSCE proposed peace talks in late July 2008 were rejected by South Ossetian, proxy government. OSCE Chairman in Office, Finish Foreign Minister Alexander Stubb, proposed organization of talks in Helsinki in early August between South Ossetian proxy regime and the Georgian Government. Proxy government rejects the proposal.

Increasing the number of OSCE military monitoring officers in the Tskhinvali Region/South Ossetia was high on the OSCE's agenda at different forums throughout 2006, 2007 and 2008. Such a step would have contributed to the higher degree of transparency over the security situation in Tskinvali Region/South Osetia, as well as contributed to the confidence building measures. Possibility of increased number of monitors was discussed at length on numerous occasions under OSCE framework: Informal Group of Friends of Georgia, Advisory Committee of Management and Finance, Preparatory Committee of the Permanent Council, Permanent Council and Ministerial Council.

An overwhelming majority of the OSCE Participating States supported the idea. However, Russia persistently opposed this possibility. One of the examples of Russian opposition to this important possibility initiated and supported by the OSCE Chairmanship together with other OSCE Participating States took place during the Preparatory Committee meeting on 20 September, 2007. The Spanish Chairmanship, after long discussions and deliberations distributed a "Draft Decision on Increasing the Number of Mission Monitoring Officers". At the meeting this draft was supported by the overwhelming majority of OSCE Participating States. Georgia as a host country of the OSCE Mission in Georgia strongly supported the draft. However, the Russian Federation once again rejected the proposal, and did not join consensus and blocked the draft.

With regard to Abkhazia, Georgia, some of the recent peace proposals included:

- The "Road Map" of 2006 document prepared by the Georgian Government and aimed at the conflict resolution in Abkhazia, Georgia[21].

- The President of Georgia initiated a proposal regarding the resolution of the conflict in Abkhazia, Georgia on 28 March 2008[22], including:

    - *Broad political representation for the Abkhaz, including the new post of Vice President of Georgia to be occupied by an Abkhazian.*

[20] See Reference 20 (both Document and PDF files);

[21] See Reference 21;

[22] See Reference 22;

- *The right to veto legislation related to the constitutional status of Abkhazia, and to issues related to Abkhaz culture, language, and ethnicity.*
- *The establishment of a joint Free Economic Zone in the Gali region, including the sea port of Ochamchire.*
- *International guarantees of Abkhaz autonomy and an offer to Russia to help mediate a peaceful resolution of the conflict.*

[In 2001, the friends of the Un Secretary General started working on a document titled ***Basic Principles for the Distribution of Responsibilities between Tbilisi and Sukhumi"*** The so called Boden document – named after the Secretary-General's Special Representative for Georgia, Dieter Boden – establishes a division of powers between Georgian and Abkhazian authorities. The concrete wording of the document was held secret until January 2002. It is noteworthy, that earlier, in August 1, 2001 Abkhaz proxy Prime-minister A. Jergenia sent written statement to Secretary General K. Anan, reiterating the refusal of Abkhaz side to engage in any kind of negotiation regarding the "Boden Document". The final version of the document was welcomed by the Un Security Council in resolution 1393 of January 31, 2002. Still, "Boden Document" was rejected by Abkhaz side, and as I. Menagarishvili (at that time Minister of Foreign Affairs of Georgia) noted in the interview – Russians played significant role urging Abkhazians not to consent to the document.] ***See Annex I "Boden Document"***

- On June 23, 2008, the Deputy Minister of Foreign Affairs of Georgia, delivered a letter with additional details in line with the peace initiatives launched earlier by the President of Georgia to President Medvedev. Unfortunately, all were rebuffed in a response letter from President Medvedev on July 1st. ***See Annex A Letters of President Saakashvili and President Medvedev***

- The European Union organized peace talks for July 22-24, 2008 at which the separatists fail to appear. On July 22-24, the EU tried to hold talks in Brussels between representatives of the Government of Georgia and the South Ossetian proxy regime with the participation of the Russian Federation. The separatists refused to participate, initially objecting to the title of Minister Yakobashvili – "Minister for Reintegration." In response, the Georgian Government appointed Mr. Yakobashvili as a Special Envoy for Conflict resolution. The separatists once again refused to attend the talks on unspecified grounds.

- The Peace-Plan of the German Minister of Foreign Affairs "Steinmeier/German Plan" proposed in context of Group of Friends meeting in June 2008: On July 18, the Abkhaz proxy regime and Russia rejected a German-mediated peace plan and refused to attend peace talks scheduled in Berlin in early August[23].

All the various peace proposals were designed in a way to ensure the full protection of the ethnic identity, human rights and self-preservation of all peoples residing or who had resided in these territories. These included a voluntary, secured and dignified return of all IDPs and refugees. The

[23] See Reference 23;

regions were offered the broadest possible autonomy and representation at the central government level. Despite efforts of International Community and of Georgia, the position of Russia and its proxy regimes made adoption and further realization of these initiatives impossible.

Legal Status of Treaties of Friendship and Cooperation with Abkhazia and with South Ossetia Respectively

The Treaties of Friendship and Cooperation, as well as subsequent agreement on Joint Actions for Protection of State Borders, concluded by Russia with Abkhazia and Tskinvali Region/South Ossetia, do not have any legal significance whatsoever, as those treaties are per se illegal, and cannot be considered to be covered by international law.

According to the Vienna Convention on the Law of Treaties (1969), "treaty" means an international agreement concluded between ***States*** in written form and governed by international law. The cornerstone of the international law of treaties is the exclusive capacity of states (and other subjects of international law) to conclude treaties (Article 6 of the Vienna Convention). Since neither Abkhazia, nor Tskinvali Region/South Ossetia constitutes independent subject of international law, any agreement concluded by them shall be deemed as null and void.

As those two regions form inseparable parts of the Georgian state, conclusion of the mentioned treaties with them constitute an encroachment upon Georgia's sovereignty and territorial integrity. This constitutes additional ground for their invalidity under international law. According to Article 53 of the Vienna Convention "a treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law.

Question #6: In the course of the conflict and in terms of responsibility under international law how would you describe the formal and informal relationships between the Russian military and South Ossetian and Abkhaz armed forces respectively prior to 17 September 2008 and nowadays? Please explain especially the respective command chain.

The relations between the Russian Federation and the Abkhazian and South Ossetian proxy irregulars before the Russian-Georgian war in August, 2008 are described above in the Answer to Legal Question #1.

The Abkhazian and South Ossetian proxy irregular military formations did not independently control, direct or implement the military operations during either the armed conflict or the occupation periods. Rather, these proxy military formations acted as agents or de facto organs of the Russian Federation and as such constituted a simple continuation of the Russian Federation's armed forces. Acts perpetrated by the Abkhazian and South Ossetian illegal military formations were either directed and controlled by the armed forces of the Russian Federation, were facilitated by essential support from the Russian Federation, and/or were legitimated by the Russian Federation through a policy of tacit acquiescence. The entire scheme, strategy and policy pursuant to which the military operations were conducted derived from the Russian Federation as architect, controller, instructor and executor of the military operations. The reality of the relationship between the Russian Federation and the illegal military formations of South Ossetia and Abkhazia was that of complete dependence of the latter on the former, so that their establishment, existence and maintenance became possible only and exclusively through political, military, logistical and financial support provided by the Russian Federation. Indeed, during the August 2008 military operations, the proxy militias were headed by former Russian military officials.[1] These appointments enabled ease of instruction, direction and control of South Ossetian and Abkhazian military formations by the Russian Federation.

In this way, South Ossetian and Abkhazian military formations acted as mere instruments of the Respondent State.

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[1] The *de facto* Minister of Internal Affairs of South Ossetia since April 2005 had served for many years at the Ministry of Internal Affairs of the North Ossetian Autonomous Republic within the Russian Federation. Likewise, the *de facto* Minister before that had served as a deputy chief of staff of the North Ossetian Ministry of Internal Affairs and in 2004 he commanded a special task force during the counter-terrorist operation in Beslan. The *de facto* Secretary of the Security Council of South Ossetia since December 2006, was ranked colonel of the Russian army, and for four years after 2001 served as the first deputy military commissioner of Chechnya within the Russian Federation. Before being appointed to South Ossetia, he worked as a deputy military commissioner of the Stavropol Krai. The *de facto* Chairman of the State Security Committee of South Ossetia since November 2006 had worked for a number of years at the Federal Security Service of Moscow. The *de facto* Minister of Defence of South Ossetia since March 2008, ranked as a major general of the Russian army, served as a commander of ground troops and armoured vehicles platoons at Chebarkul military base in the Ural region. In 2003-2004 he served as a deputy commander of Army in Siberia. Until being sent on a mission to South Ossetia he served as a military commissioner of Perm Krai within the Russian Federation. During the August 2008 conflict, General Lunev became an acting commander of the 58th Army, the principle military unit of the Russian Federation.

Abkhazian high-rank military officials were also either citizens of the Russian Federation or former officials of the Russian armed forces. The Chief of General Staff and the First Deputy Defense Minister of Abkhazia was a lieutenant general of the Russian army. The Deputy defense minister of Abkhazia was the former chief of the Russian Peacekeeping Forces Joint Staff and the Deputy Secretary of the National Security Council of Abkhazia was a former Russian Naval Commander.

There is a direct causal nexus between the support provided by the Russian Federation and the very existence of the proxy militias. The Russian Federation was the only state which, contrary to international agreements and resolutions of the UN Security Council, overtly provided military, economic and political support to the proxy regimes of Tskhinvali region/South Ossetia and Abkhazia. As a result, all of their acts, including gross human rights violations, can be linked back to the Russian Federation.2

Eyewitness accounts indicate that the Russian armed forces and separatist militias did not act as separate entities, but rather their actions were coordinated and coherent. According to Mr Teimuraz Jashashvili, the Russian military assisted the South Ossetian illegal armed formations in the looting and burning of houses in Tkviavi village, Gori district:

> *On 14 August, Russian military troops entered the village on tanks and armored vehicles... The Russian military was followed by Ossetian gangs and other mercenaries....Russian soldiers were doing nothing to prevent the Ossetians and the mercenaries from attacking on the Georgian population. On the contrary, they assisted them by breaking into the locked yards with their armored machines, in order to give the looters the opportunity to move vehicles inside.*[3]

The testimony of Mrs Ana Datashvili shows that the proxy militias were brought to the villages by the Russian military:

> *Russian tanks with Russian soldiers inside entered the village. They occupied our village and part of the army went to Tskhinvali. The same day the Russian soldiers returned to the village, together with Cossacks and Chechens and other North Caucasus bandits. They began looting and burning Georgian houses on a massive scale... This continued for 6 days. ... On August 14 three armed men in Military camouflage entered my house. As I learned later, one of them was Russian soldier and the other two were Ossetians. The Russian soldier started yelling in a loud voice on me but I could not understand since I don't know Russian. Afterwards an Ossetian explained to me in Georgian that the Russian soldier had ordered me to leave the house since they were going to burn it down..... The Russian soldier forced me by physical abuse to leave the house. I saw how an Ossetian soldier threw an object resembling a bomb on the first floor on my house setting my house ablaze.*[4]

Another witness, Mr Enver Babutsidze attests that the actions of the Russian military and South Ossetian proxy military formations in the village of Kvemo Achabeti were

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2 *Ilascu v. Moldova and the Russian Federation*, cited above, judgment of 8 July 2004, § 382: In *Ilascu* case the Court considered that "the Russian Federation's responsibility [was] engaged in respect of the unlawful acts committed by the Transdniestrian separatists, regard being had to the military and political support it gave them to help them set up the separatist regime and the participation of its military personnel in the fighting"

3 See witness statement of Teimuraz Jashashvili.

4 See witness statement of Ana Datashvili.

coordinated:

> *They [the Russian soldiers] were accompanied by Ossetians wearing black and military green ... I witnessed soldiers from this tank break into a neighbour's house while other Russian soldiers remained outside. I then saw the soldiers who had run into the house return with the stereo and put it into the tank. After Russian soldiers finished looting the house they set it on fire. Nobody tried to put the fire out. The Russian soldiers were led by the officer with the rank of senior lieutenant who had three stars on his shoulders. This Russian officer coordinated the soldiers in collecting the stolen items and putting them into the tank. I then saw my uncle who told me that Russian soldiers had seized my neighbor, Vazha Vazagashvili ... I asked my uncle where they had taken him. My uncle pointed to about 15 meters away where I saw a group of Russian soldiers kicking and beating him. At that moment Russian soldiers suddenly jabbed me in the back with the point of his rifle and then hit me with the butt. He ordered my uncle and me to go with him. About ten more soldiers with some Ossetians came over and ordered my uncle to go inside the house.... Vazha and I started out for Tskhinvali on foot in the custody of a group of Russian and Ossetian soldiers. The number of soldiers varied between 5 and 20, since soldiers came and went. The leader was a lieutenant in the Russian Army...*[5]

The same eyewitness' statement indicates that the prison where detained Georgian civilians were kept, was jointly guarded and managed by South Ossetian soldiers and the Russian military forces. High-rank military officials on both the Russian and South Ossetian sides had frequent and direct communication with each other and jointly interrogated the detainees.6

In Kekhvi, Gori district, according to an eyewitness, Mrs Liza Gogashvili, the Russian and the South Ossetian troops entered the village together after bombings and started looting and burning the civilian houses. She said that the "Russian soldiers watched the Ossetians burning down Georgian homes and did not react." This is corroborated by the statement of Mrs Makhvala Melanashvili, also from the village of Kekhvi in the Gori district, who said:

> *Armed people entered the village and started burning down the houses of the Georgian population. They did not care if the owner of the house was there or not. Ossetian gangs did most of the robberies and house-burning; as for Russian soldiers, they watched the situation and did not prevent or suppress the raids against the Georgian population.*[7]

That the Russian and South Ossetian military formations acted in concert is clear from the statement of Mrs. Klara Khetaguri. Her testimony reveals that the looting and burning of houses were not spontaneous acts perpetrated by the South Ossetian military gangs acting alone, but

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5 See witness statement of Enver Babutsidze.

6 *Ibid.*

7 See witness statement of Makvala Melanashvili.

rather were acts carried out with the advance agreement of the Russian military.

> *My house was located near two buildings were the group from the Russian army was staying... I had good relations with these Russian soldiers because I gave them food.... The Russian soldiers tied pieces of white cloth to the buildings they were staying in. Because I was afraid that my house would be burnt down, the officer told me to tie a white cloth on my house to indicate Ossetians that my house, like the buildings were the Russian soldiers were staying, should not be burned. The officer told me that these buildings including my house would not be burned as long as Russians remained in the village.*[8]

[8] See witness statement of Klara Khetaguri.

Question #7 : Which measures did you take to protect civilians and to prevent looting and mistreatment of civilians during and after the hostilities.

During the hostilities, earlier trainings in human rights, military police presence and clear instruction coming from the superior authority was to ensure, that all civilians in the area affected by the war were protected. It is noteworthy, that Georgian militaries have not been accused of looting nor mistreatment of civilians. However, if any credible information becomes available to Georgian government, it will be thoroughly investigated .

It is noted by the Human Rights Watch, that Georgian military strictly followed the order of the President to "Protect Civilians":

> *The majority of witnesses interviewed by Human Rights Watch did not complain about other types of violations against them by the Georgian forces. Judging by their statements, **in most cases the troops entering the villages did not deliberately cause physical harm to civilians.** Several Ossetian interviewees said that Georgian soldiers told them they were under orders to look for and pursue Ossetian militias, **but to spare women, children and elderly during the ground offensive.**[1]*
>
> *Zareta Z., from the village of Sarabuki, said that when Georgian soldiers entered the basement where she was hiding with her husband, they told them, "Now you'll live with us, with Georgians, and we'll live in peace. **Misha [Saakashvili] told us not to touch women and children**. We're instructed to kill the young guys [fighters] only. And that's what we'll do. You are not to worry." Another woman from the same village, "Svetlana S.," also said that the Georgian soldiers were telling the residents, "**We have not killed any residents and we are not going to! Everyone is safe!**"[2]*

It is also to be noted, that even after Russian occupation Georgian Government tried its best to maintain at least minimal police presence to provide some protection to the civilians. Police was indeed the last to leave the villages and towns after Russian forces arrival. For the sole purpose of providing moral support to civilian population and at least record, if not to prevent the mistreatment and looting, police in Zugdidi (west Georgia) even agreed to be disarmed by occupational forces in exchange of the permission to stay.

However, it must be admitted, that no effective result was achieved from these efforts, as human rights violations by Russian militaries as well as their proxy authorities and irregular forces, mistreatment, looting, burning, killing and discrimination on ethnic grounds was a heavy burden on civil population of affected areas during the hostilities as well as aftermath.[3]

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[1] Human Rights Watch, *Up In Flames: Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia*, 2009. p. 61

[2] Human Rights Watch, *Up In Flames: Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia*, 2009. p. 61

[3] List of Incidents

Question #8: Which measures did you take to provide the relief and support to civilian population in the areas affected by hostilities and their aftermath?

Russian aggression created the need for a major relief effort in Georgia. The population directly affected by the hostilities increased daily starting from August 8th as Russian troops advanced deep into Georgia, till October 2008, when the EUMM deployment and return of Georgian police to area at that time referred as "buffer zone" relatively stabilized the situation.

According to the Civil Registry of Georgia in total 138,193 persons were affected (displaced) by war. After the partial de-occupation of Georgia, 31,245 IDPs remain.

Gender	0- 4	5 - 11	12 - 17	18 - 59	60+	Total
Male	4108	7388	7159	38355	5789	62799
Female	3995	6968	7147	47519	9765	75394
Total	8103	14356	14306	85874	15554	**138193**

During the actual hostilities, efforts of the Government were concentrated on providing:

Medical care to wounded and/or shocked populations in the villages occupied by Russian forces as well as those fleeing from Russian controlled areas. This effort was coordinated by the Ministry of Health and Social Affairs with the assistance of the Civil Emergency Department of the Ministry of Internal Affairs. Evacuation of civilians as Russian troops advanced, as well as their transportation (first to Gori, after Russian take over, to Khashuri and etc. ultimately, most of the IDPs from east were concentrated in Tbilisi, Rustavi, Mtskheta, Tianeti and IDPs from west - in Kutaisi,.) was handled jointly by the Ministry of Internal Affairs, Ministry of Health, Ministry for IDPs and Accommodation, Municipalities (as they provided means of transportation). International organizations also immediately mobilized to assist government of Georgia.

On August 8, an ad hoc committee on coordination of the emergency response was created at the Ministry; heads of 43 clinics of Tbilisi and other regions of the country attended the meeting.MoLHSA responded to the crises in accordance with the action plan for state of emergency situations. These plans, being part of the National Response Plan under the coordination of the Civil Emergency Department of the Ministry of Internal Affairs, have been worked out with the participation of line ministries and included detailed coordination mechanisms among different state bodies. The action plans were also shared with the key

hospitals, blood banks, pharmaceutical companies and other key constituents in the medical field to ensure proper coordination in the health sector in responding to natural or manmade disasters. A referral system was set up to adequately deal with the flow of people affected by the conflict.

A field hospital was established in the village of Tkviavi on 8th of August. 42 emergency vehicles and 14 reanimobiles were moved from Tbilisi to Tkviavi, all staffed with appropriate personnel. The Tkviavi field hospital served as a triage point during the aggression. Rescue team headquarters were also located in Tkviavi. The Military hospital in Gori, having high quality emergency and intensive care units was the primary recipient of the heavily wounded population from the Tkviavi field hospital. Others wounded and those that could be transported were transferred from Tkviavi to Tbilisi's 2 medical centers – Ghudushauri Clinic and First Republican Emergency center. The Kutaisi Emergency center was designated to receive patients evacuated from the west of Gori as well as from Upper Abkhazeti – Kodori Gorge;

Emergency vehicles were grouped in 3 teams – the 1st group would bring out the wounded from the conflict areas. The 2nd group would transport patients from Tkviavi to Gori Military Hospital and the 3rd group from Gori to Tbilisi; In total 111 emergency vehicles throughout the country were involved in the emergency response.

A 24 hour hotline was established at the Ministry of Health and provided the information to the relatives on the location of the wounded. Hotlines were established at the Ministries of Interior, IDPs and Accommodation and Reintegration Ministry also to receive information about people endangered, held hostage, imprisoned, or hiding in the woods and in need of evacuation.

2,232 individuals were treated in 43 hospitals around the country, no patient has died during the transportation; 3 people died in hospitals during surgeries. The rest were treated and released in appropriate times. 228 civilians were killed during the aggression. 2 doctors and 1 nurse were killed during the Russian bombardment of Gori. The Emergency Medical Center in Gori, with clear signs establishing it as a medical facility (several emergency vehicles parked outside) was hit directly by a rocket fired from an airplane killing one doctor and one nurse and heavily injuring the rest of the staff. The center was totally destroyed. A doctor was killed on the grounds of the hospital, wearing medical uniform, with a direct shot from a helicopter.

14 primary care clinics were affected during the conflict. A brand new state of the art primary care clinic in Karaleti was totally destroyed, the rest were looted and ransacked to various degrees. The Tkviavi primary care clinic was completely looted, with every single furniture piece destroyed. A modern hospital in Kurta was completely destroyed, as well as the one in the Kodori Gorge. Four emergency vehicles, with clear signs were fully or partially destroyed, three more were riddled with bullets.

During the Russian takeover of Gori, doctors and nurses remained in the city. For the first few days no emergency vehicles were allowed to enter or leave the city, which created a great strain on the emergency response, since bombs were still exploding in Gori and those killed and

wounded could not be transported to appropriate clinics. Because of the total blockade of Gori, the emergency crews could not replenish much needed stocks of medical supplies and medicines in the city. After a few days the emergency vehicles were allowed to go into Gori, but they were still refused to access the so called "buffer zones" established by the Russian military. People in those "zones" lacked medicine and medical supplies and Georgian crews could not reach them until after the withdrawal of the Russian troops in October.

Housing, food and medical treatment was provided to thousands of IDPs arriving daily from the western and eastern parts of the country to different relatively more secure cities and villages. This action was coordinated by the Ministry of IDPs and Accommodation with the assistance of the Civil Emergency Department of the Ministry of Internal Affairs, Ministry of Education and Science (as most of the IDPs were temporarily sheltered in schools) as well as international organizations.

Once the population started fleeing the conflict area, the Ministry of Health responded by strengthening the capacity of primary and secondary clinics, adding more doctors when necessary and distributing necessary medicines and medical supplies in those cities where the displaced were settled. In every collective center, where the population affected by the Russian aggression settled, the Ministry, through its network of primary clinics, established medical centers, comprising doctors and nurses, which were given appropriate supply of medicines and medical equipment. The treatment, both in primary and the secondary care facilities, for all the population affected by the conflict was free of charge and paid in full by the Ministry. The medical points in collective centers remained until the local primary clinics located nearby resumed full coverage of the population. During August 2008 – January 2009, 2,000 displaced received free medical care in hospitals.

As noted above, the number of IDPs increased daily during the first week. The arrival of IDPs was not always organized. As Russian forces blocked the roads as well as the main East-West highway of Georgia, many IDPs had to walk for hours and even days to reach a location, from where transportation could be provided by the authorities. Many arrived to Tbilisi and found shelter with friends and relatives. This initially caused registration problems.

The majority of IDPs came from South Ossetia and Upper Abkhazia and were placed in over 700 different locations in Tbilisi by the end of August. Most of these shelters (90%) were schools (public as well as private), kindergartens, VET centers, special schools for the children with disabilities, research institutions, higher education institutions, student dormitories.

Provision of food and water to IDPs in these collective centres was coordinated by MoES. Special care was given to mothers with infants and their special needs.

It has to be underlined, and it has been reflected in observations of international organizations as well, that along with state and international aid provided to new IDPs, a huge burden of support was taken by local communities. Every collective center was "adopted" by local private organizations, individual citizens from the neighborhood providing food (including hot meals), cloth, blankets, toys for children and many other large and small donations. This was welcomed and to facilitate the hundreds of thousands willing to help, special "aid corners" were established throughout the city to register and allocate volunteers, donations, charity.

Rescue operations and evacuations (where still possible) and the maintenance of public order/police visibility to manage panic and provide at least moral support to local population, even in occupied areas and even at the cost of surrendering police service weapons to Russian force, (i.e. Zugdidi) was undertaken by the Ministry of Internal Affairs.

- Rescue brigades assisted medical personnel in retrieving over 100 wounded and dead from the battle field.
- Approximately 300 civilians have been assisted to flee from Zemo Nikozi, Nikozi, Ergneti, Shindisi, Eredvi and Tkviavi on 8th and 9th
- Over 1,000 civilians have been evacuated from Kodori by the ministry of Internal Affairs and then transported to Kutaisi by the Ministry for IDPs and Accommodation
- 200 tones of Humanitarian assistance from 12 countries (33 airplanes) have been mobilized and distributed in 147 IDP collective centres
- 8 civilians were rescued from bombed houses in Gori, 1 dead female and 2 dead children were retrieved from collapsed buildings.

Aftermath:

Starting from September and already by the end December the Government of Georgia focused on providing durable housing and social protection for IDPs that could not have returned in mid and long term.

The principle of volunteerism has been met to the maximum possible extent, during the return of IDPs to areas de-occupied by the Russians. Housing solutions have been also developed to provide alternative choice for those that could not have or chose not to return:

Alternative 1) housing in new or existing settlements near the highway and/or in town (with urban employment opportunity); 2) housing in new or existing settlement in rural area with agricultural land, cattle, per family for farming opportunity; 3) compensation instead of housing for those choosing to make own housing arrangements; and also, houses and flats in the buffer zone, destroyed and/or damaged as a result of Russian aggression have been rehabilitated or compensation provided.

- 3,979 houses were built and 1,542 flats renovated in existing (empty) blocks mainly in Mtskheta-Tianeti; Kaspi; Gori; Kareli; Khashuri Tetritskaro; Marneuli; Gardabani; Bolnisi districts
- 453 houses purchased by government throughout the country.
- In addition: 9,342 houses and flats have been rehabilitated in so call "buffer zone" villages.
- 200 GEL has been allocated as aid per IDP.
- Each family has been provided with basic furniture and kitchen and other required equipment.
- 1,000 IDP children have been sent for rehabilitation abroad, project will continue in 2009.

More detailed information about housing is provided in Annex 2 (reflecting situation as for December 25th 2008). All of the above has been accomplished with budgetary resources.

Currently 400 families await housing to bebuilt by foreign donors (300 houses provided by Germany and 100 by Turkey).

Police and medical personnel were the first to return into villages and towns as the Russian troops withdrew.

Medical Personnel was (and still is) supplied with free medicines and medical supplies. All medical personnel that lost their place of work remain on the payroll and are being distributed in newly built settlements.

Every new settlement has access to a medical facility. Those primary care facilities that are nearby the settlements were strengthened by increasing their staff with more doctors and nurses, in some cases from the conflict areas. In large settlements, like Tserovani a new clinic was built (donated by the Czech government), the same is planned for Koda and other settlements.

In addition, all displaced that are residing in newly built settlements are entitled to a medical insurance voucher (those that are distributed to the population in poverty) that provides them with full coverage of medical services.

12 police stations have been refurbished and 2 built in Gori, Kareli, Khashuri, Kaspi districts affected by the war where population returned. The police presence was strengthened to deal with the feeling of insecurity within the local population.

51 public schools damaged during the war have been rehabilitated

The children from IDP families have been enrolled in schools near their current settlement. In order to meet the new challenges of increased enrollment, the MoES provided extra help and support for those schools. They were equipped with additional school desks. 1,094 desks were distributed among 32 schools. Average walking distance to the nearest schools for refugee

students is 2,5 km (min: 0,5 km, max: 20 km). To address the transportation problem, several schools were provided with school buses to serve refugee students.

In order to make sure that displaced children were also ready and equipped appropriately for starting the academic year, the MoES provided material support for their families. Each family with a school-age child was given a single-time aid in the amount of GEL 100. The MoES also provided sets of school textbooks free of charge for all displaced children. GEL 258,546 was spent for purchasing textbooks for grades 2 through 12 (textbooks for first-graders are provided for free for all citizens by the MoES) for 6,014 students.

In 2009, the Ministry of Education and Science within the framework of its needs-based grants program awarded grants (tuition waiver) to students affected by the Russian armed intervention. Students both from the conflict zone as well as Gori and nearby areas fell under the category. As a result, the state fully covered tuition cost for 1,400 undergraduate and graduate students. A total amount of GEL 1,845,000 was spent on this program.

In order to respond to the newly emerged need for integrating IDPs into the labor market, the Ministry of Education and Science offered vocational training opportunities. Various training programs are offered at centers located near the IDP settlements. Gori State University is developing educational infrastructure and short and long-term programs to meet training needs of internally displaced persons.

Employment and provision of sustainable livelihood projects to IDPs currently is the biggest priority. Already during the construction of IDP houses, first steps were made a) by choosing such a location that had employment prospect in urban area or farming opportunity, b) employing IDPs on construction sites.

Currently, a number of policy level initiatives as well as more local projects are in pipeline, for instance a project by the Ministry of Agriculture and WB WFP, USAID and other players. Most important state initiatives include:

- 500 livestock (cows) handed over to IDPs, that have chosen housing with farming land.
- 20 ha of land (arable land allocated to IDPs) have been plowed and fertilizer applied.
- 3,000 tones of grain harvested.
- 5,052 IDP families donated with 16 different seed materials (including potato) for steads
- Each IDP families donated with 50 kg of ammonium nitrate.
- Each IDP family received 50 kg wheat flour.
- With the assistance of international organization 1.5 mln has been allocated to families that have returned to "buffer zone", mainly for livestock feed commodity, as main income of this families is livestock farming.
- A candy (caramel) manufacturing plant is currently being built in Tserovani (largest non agricultural new settlement) that will employee at least 300 IDPs.

- A paper manufacturing plant is also being built in Tserovani that will employee 150 IDPs.
- Aschool, kindergarten and a supermarket are also being contracted in Tserovani (also in other settlements) employing IDPs.

The Government of Georgia adopted the State Action Plan for Implementation of the National Strategy on IDPs on 30 July 2008 (Government Decree No. 489). The Georgian-Russian War and subsequent occupation of the Georgian territories by the Russian authorities resulted in the new flow of IDPs (of Georgian origin). This new challenge required adjustment of the existing Action Plan to new realities. Therefore, the Government of Georgia entrusted the Ministry of Refugee and Accommodation with the revision of the existing Action Plan (Decree No. 854 of 4 December 2008). The process is managed by the *Joint Task Force*, represented by the leading governmental agencies and donor organizations.

The new Action Plan, apart from the prior-August 2008 priorities will cover measures aimed to promote IDPs socio-economic integration and stability in course of resettlement. The Action Plan's first draft has been prepared. Having said so, some additional information is required with respect to target groups (beneficiaries), types of needs and necessary financial allocations. Therefore, the Government of Georgia has entrusted relevant governmental institutions to take all necessary measures to finalize the process of drafting in the nearest future (see Decree No. 4 of 12 January 2009).

Persons displaced in August 2008 and subsequent occupation of the Georgian territory by Russian authorities, shall be officially granted the IDP status in the first half of 2009. Having said so, the Government has and continues to treat them as IDPs, providing all necessary aid and assistance.

At the same time, the Government remains cautious that proper assistance and attention should be paid to IDPs displaced in early 1990-ies. That is why, the Government acknowledged the need to meet the new challenges along with the existing commitments towards all IDPs in the territories falling under control of the Georgian authorities.

In relation to steps taken by the Government of Georgia, we would particularly note that the Ministry of Refugee and Accommodation of Georgia just recently (March 10, 2009) signed a project with the United National High Commissioner for Refugees regarding capacity-building and provision of durable solution to IDPs.

The Project set forth 4 main objectives encompassing IDPs from 1992/1993 as well as population displaced during the 2008 August conflict and aftermath:

1. To support the Ministry in fulfilling its obligations deriving from the Decree #4 of January 2009 and pertaining to self-privatisation of Collective Centres;
2. To conduct a technical analysis of the remaining Collective Centers Georgia wide;

3. To conduct a survey of privately accommodated IDPs that would facilitate tailor made durable solutions for this group;
4. To conduct IDP status granting exercise for the population that remains displaced with the August 2008 conflict;
5. To facilitate information sharing with the IDPs.

1. The Georgian denunciation of the Sochi Agreement (we have controversial information on whether such a denunciation took place).

2. The Georgian declaration that the Moscow agreement of 14 May 1994 on a ceasefire and separation of forces in Abkhazia is null and void (of 18 August 2008).

- **Georgian declaration that the Moscow Agreement of 14 May 1994 on a ceasefire and separation of forces agreement in Abkhazia is null and void**

With respect to Moscow Agreement, the Government of Georgia argues that this agreement shall not be read as an international treaty regulated by relevant rules of law of treaties. The Moscow Agreement as such represents a formalized commitment of the parties (Georgian and Abkhazian side) to the non-use of force and non-threat of use of force as expressed in respective communiqué of 13 January 1994. It formalized the separation of forces between those parties. Such agreements are being entered during or after armed conflicts (at the end of active phase of hostilities) and may contain mutual commitments of the parties to respect certain rules[1] – in case of Moscow Agreement separation of the armed forces, precise demarcation of the territory for deployment of peacekeeping forces, etc. In line with such practice, the Moscow Agreement aims to build confidence and secure protection to the population. It takes into consideration the capacity of non-actor which assumed certain commitment by the agreement.

As for the mandate of the CIS Peacekeeping Forces that have been deployed in Abkhazia, Georgia, it is regulated by the Decision of the CIS Heads of States dated August 22, 1994 (CIS Decision)[2]. The Moscow Agreement of 1994 and Protocol appear as a refcrence in

[1] A. Clapham, Human Rights Obligations of non-state actors, Volume 88, No. 863 September 2006, p. 493;

[2] CIS Decision of 22 August 1994 determined the use of the Peacekeeping forces for period of 6 months, while the CIS Decision of 21 October 1994 determined the mandate of the Peacekeeping Forces. The mandate was extended by CIS Decision of 26 May 1995 till 31 December 1995. The CIS Decision of 16 May 1996 noted extension of the activities of the Peacekeeping Forces without noting the extension period, while the CIS Decision of 17 October 1997 extended the mandate of the Peacekeeping Forces till 31 December 1997 or till the moment when either of the parties to the conflict expresses their will to terminate the operation. Similar CIS Decisions (wording with defined term or consent/will of the party to the conflict) were adopted until the last CIS Decision of 22 March 2003 extended the mandate of the CIS Peacekeeping Forces till 30 June 2003. CIS Decision of 2003 as the previous ones also provided the second alternative to the defined mandate period "until the moment when one of the sides in the conflict demands that the

the CIS Decision of August 22, 1994. It shares the spirit of the public international law related to the peacekeeping and the relevant practice that considers the consent of the state concerned as a necessary pre-condition for the operation: paragraph 1 noted that the deployment of the Collective Peacekeeping Forces shall be *agreed with the parties* to the conflict in accordance with the requirements of the Cease-Fire Agreement. With regard to Georgian declaration of halting the Moscow Agreement, the Parliament of Georgia adopted Decree 243 (28 August 2008) regarding the Occupation of the Territory of Georgia by the Russian Federation. By this Decree, the Parliament instructed the executive branch of the Government to take relevant measures required for the termination of all relevant legal acts which provided the legal basis for the presence of the Russian Armed Forces on the territory of Georgia, as the objective of the said legal acts were abrogated by the Russian Federation itself (through its illegal acts).

Respectively, the Government of Georgia issued Decree 552 (dated 29 August 2008) in relations to the measures to be taken within the context of occupation of the territory of Georgia by the Russian Federation. The respective Decree instructed the Government of Georgia to start immediate procedure of terminating the peacekeeping operations in Abkhazia, Georgia and South Ossetia, Georgia and ensure their (peacekeeping forces) withdrawal from the Georgian territories. In this respect:

- The Minister of Foreign Affairs of Georgia was instructed to send a relevant letter to the Executive Committee of the CIS as a depository of the CIS Council of Heads Decision of 2003 – the last CIS Decision dealing with the mandate of the CIS Peacekeeping Forces in Abkhazia, Georgia[3];
- The Minister of Reintegration of Georgia was instructed to prepare the relevant letters on behalf of the Prime-Minister of Georgia on the name of the respective Presidents of CIS member states, informing regarding the aforementioned decision of Georgia. Similarly, the Minister of Foreign Affairs of Georgia was

peacekeeping operation should be ceased". This was the last CIS Decision dealing with the mandate of the Peacekeeping Forces and it represented the legal basis for the continued presence of the CIS Peacekeeping Forces in Georgia – available at http://www.rrc.ge/admn/url12subpirx.php?idstruc=63&idcat=9&lng_3=en

[3] See supra note 2;

instructed to inform the Secretary Generals of the UN and CoE regarding the position of the Georgian Governments.

These measures were respectively implemented by the Ministers thus withdrawing any consent of the Government of Georgia regarding the presence of the Peacekeeping Forces in Abkhazia, Georgia.

Notably, this process took place in parallel with Georgia's decision to withdraw from the Commonwealth of Independent States (See Note Verbale No.7/228-10 and No.7/229-10) and should be considered separately from the withdrawal of the consent on deployment of the CIS peacekeeping forces in the Georgian territories. The Ministry of Foreign Affairs of Georgia withdrew its consent to the CIS Decision of 2003 thus, even the hypothetical justification for the deployment of the Russian peacekeepers in Georgia has been abolished (see enclosed the Note Verbale No. 7/244-10 addressed to the CIS Executive Committee of 1 September 2008)[4].

Both decisions of Georgia have not been met with any objection either by Commonwealth of Independent States[5] or by the Russian Federation, who has dominance in the organization. Interestingly enough, the Ministry of Foreign Affairs of Russian Federation expressly supported the position to terminate the mandate of the Peacekeeping forces in Abkhazia, Georgia[6]. He further defined the withdrawal as an "unfortunate" decision of Georgia[7].

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[4] The Statement of the Ministry of Foreign Affairs of Georgia on withdrawal from CIS is available at http://www.mfa.gov.ge/index.php?lang_id=ENG&sec_id=36&info_id=7526

[5] CIS Decision of the Minister of Foreign Affairs of 9 October 2008 regarding the CIS membership of Georgia noted that in accordance with the CIS Charter the date from which the 12 month period shall be considered is 18 August 2008 available in Russian language at http://www.cis.minsk.by/webnpa/text.aspx?RN=N90800548

With regard to withdrawal of CIS Peacekeeping Forces from Abkhazia, Georgia, the CIS Decision of Head of States of 10 October 2008 declared the mandate of the Peacekeeping Forces terminated/ceased and the CIS Executive Committee had been instructed to inform regarding the aforementioned the Secretariat of the United Nations – available in English language at http://www.cis.minsk.by/webnpa/text.aspx?RN=N90800581

[6] Minister of Foreign Affairs of Russian Federation stated "A technical decision was taken to terminate Georgia's membership in the CIS in accordance with its request. This termination will occur a year after

Consequently, the CIS Peacekeeping Forces mandate had been terminated by CIS Decision of Head of States of 10 October 2008, while the CIS Decision of the Ministers of Foreign Affairs of 9 October 2008 ruled over the termination of Georgia's membership[8]. However, it is Georgia's position that these declarations and the subsequent decisions are necessary formalities and the Russian troops lost legitimacy immediately after Russia invaded Georgia.

The Government of Georgia takes note of the operative paragraph 2 in UN Security Council Resolution 1866 (2009) which '*calls for the provision that were set in paragraph 2(a) of the Agreement on a Ceasefire and Separation of Force signed in Moscow on 14 May 1994(S/1994/583) to be respected, pending consultations and agreement on a revised security regime*" and notes that it would respect the aforementioned provision in good faith in line with the spirit of the UN Charter as a member of the United Nations[9].

- **Georgia's Denunciation of the Sochi Agreement[10]**

On 27 August 2008, the Parliament of Georgia issued Decree 243 and subsequently on 29 August 2008, the Government of Georgia issued Decree 552 regarding termination of all relevant legal acts which provided legal basis for the presence of the Russian Armed

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the receipt of the respective application, that is in August 2009. It was decided to instruct the Executive Committee to take stock of the agreements under which Georgia still has some obligations to the Commonwealth of Independent States. Upon our proposal a formal technical decision was also made to terminate the activities of the Collective Peacekeeping Force in Abkhazia, which was set up in the past by decision of the CIS heads of state" available at http://www.mid.ru/brp_4.nsf/e78a48070f128a7b43256999005bcbb3/f8239318a64b3edac32574de00287b06?OpenDocument

[7] Ibid;

[8] See supra note 5;

[9] It is the legal understanding of the Government of Georgia that the construed wording of the operative paragraph 2 of the UN SC Res. 1866 does not entail its application in context of the obligation as defined in article 25 of the UN Charter. In addition, the UN SC Res. 1866 or the respective resolutions mentioned within it (resolutions 1808 and 1839) were not adopted by the UN SC under Chapter VII of the UN Charter which would create a prevailing obligation with respect to all states/parties to the conflict unequivocally obligating to respect paragraph 2(a) of Moscow Agreement as part of UN SC Res. 1866;

[10] http://www.nrc.ge/law/xels_1992_06_24_e.htm?lawid=368&lng_3=en

Forces on the territory of Georgia, respectively, of the Sochi Agreement of 24 June 1992 (see *infra* detail information regarding the aforementioned Decrees). Georgia considers that unlawful intervention of the Russian Federation into the territories of Georgia which resulted into the military aggression of the Russian Federation, represented material breach of the objectives set forth within the Sochi Agreement regulating respective peacekeeping formats (Here, the Government of Georgia relies on the customary rule of international law allowing the state to terminate a treaty for breach)[11].

In this respect, the Ministry of Foreign Affairs of Georgia has officially announced regarding Georgia's position to the Ministry of Foreign Affairs of Russian Federation via the Diplomatic Note No.6/4141-10 of 1 September 2008, which further requested the immediate withdrawal of Russian "peacekeeping forces" present on the territory of Georgia under the Sochi Agreement mandate.

[11] Gabcikovo Case, ICJ Reports 1997, p. 3, para. 46;

Use of Force Issues Arising Out of The Russian Federation Invasion of Georgia, August, 2008

17th June, 2009

Executive Summary

On August 7th 2008, The Russian Federation launched a large-scale invasion of Georgia's sovereign territory. This use of force was illegal and unjustified under international law. It constituted an egregious breach of Georgia's political sovereignty and territorial integrity contrary to Article 2(4) of the UN Charter and customary international law. It violated also the key principle of non-intervention in international law and relations, and its magnitude and scale made it an act of aggression.

None of the existing (collective authorization, self-defence, consent) or purported (humanitarian intervention, protection of nationals, and protection of peacekeepers, force in support of a legitimate self-determination claim) exceptions to this general prohibition justify or render lawful the Russian invasion.

There was no Security Council resolution authorizing such action (indeed many members of the Council deplored the invasion) nor was there an armed attack or "imminent threat" of armed attack by Georgia against the Russian Federation capable

of activating a right to exercise force in self-defence nor was Russian invited by the Georgian State to use force on Georgian territory.

As for the purported exceptions to the prohibition on force, this memorandum has shown that there is no right under international law to use unilateral, unauthorized force for humanitarian purposes. No such right has been articulated in state practice or in institutional settings, and there are powerful policy arguments against supporting such a right. The Responsibility to Protect is concerned with the duties of sovereign states towards their own populations and with the role of the Security Council where such sovereign states fail these duties. It does *not* envisage unilateral and vigilante uses of force. Along with the absence of legal ground of this nature, there is not even factual ground capable of justifying Russia's use of force against Georgia in August 2008 even within the frames of this purported right for humanitarian intervention. Despite the significant escalation of the situation in Tskhinvali region/South Ossetia, the constant attacks on Georgian villages, and the casualties among Georgian peacekeepers, police and civilians, Georgia employed the utmost restraint and resorted to all available diplomatic measures to avoid use of force. Russian claim about genocide committed by Georgians against ethnic Ossetians proved to be propaganda aimed at justification of Russia's illegal activities and encouragement of Ossetian proxy militants and other armed formations to commit brutalities against ethnic Georgians in revenge for the "genocide and mass killings."

The so-called right to protection of nationals abroad lacks status under international law. Invasions, sought to be justified on these grounds, have generally been criticized by most members of the international community. Moreover Russia

fails to meet the international legal test of nationality with respect to the civilian population resident in Tskhinvali region/South Ossetia and Abkhazia as developed by the International Court of Justice in the *Nottebom* case. After the ethnic cleansing of Georgians in these two regions in early 1990s, *en masse* distribution of Russian passports to the remaining civilian population represented a deliberate and well-constructed policy aimed at establishing a pretext of the military intervention of the Russian federation on the territory of Georgia.

There is no general right to use force to protect peacekeepers operating in foreign states nor do any of the agreements entered into between Georgia and the Russian Federation provide for such uses of force. Peacekeeping is aimed *not* at offering a pretext for aggression but at preventing the sort of war that Russia engaged in August. The Russian attempt to justify its use of force as a means of protection of peacekeepers is legally and factually ungrounded. Georgia's defence operation started hours after the Russian invasion and no military clash between Georgian forces and peacekeepers had occurred before this. The first military clash between Russian peacekeepers and Georgian forces occurred at about 6 a.m. on August 8, while the large scale military deployment of the Russian troops started in the early morning of August 7. Moreover, the Russian peacekeeping base attacked by Georgian forces was directly participating in the hostilities and they no longer enjoyed the protection normally accorded to them under international law. It must once again be noted that *only* those peacekeeping regiments and infrastructure have been attacked by the Georgian forces, which directly participated in hostilities, whereas other Russian Peacekeeping posts continued to function throughout the hostilities and have never been subject to attack. It needs to be noted that the first casualties in the peace

keeping contingents were incurred from the side of Georgian peacekeepers. Two Georgian peacekeepers Shalva Trapaidze and Vitali Takadze were killed and five wounded on August 7 at around 14:00 as a Georgian peacekeepers checkpoint was shelled with 100 and 120mm artillery from the proxy regime-controlled village Khetagurovo. A proxy militant reported to superiors the fact of killing Georgian peacekeepers in a telephone conversation also intercepted by the Georgian Ministry of Internal Affairs on 07.08.2008. The transcript of this conversation can be found in annex 75 of the answer to question 1 of the military set of questions.

Finally, the Georgian response to the Russian armed attack was confined entirely to its own sovereign territory, was reluctantly undertaken, and was a proportionate, necessary and wholly justified exercise of its customary and Charter right to use force in self-defence.

Use of Force Issues Arising Out of The Russian Federation Invasion of Georgia, August, 2008

17th June, 2009

I. INTRODUCTION

In August 2008, the international community witnessed an unprecedented attack on the foundations of the international legal order. After many months of provocations and threats from the Russian Federation, Russian Federation military forces crossed the Georgian–Russian border and used military force against Georgia on Georgian territory.[1] This use of force was illegal and unjustified under contemporary international law. It constituted an egregious breach of Georgia's political sovereignty and territorial integrity contrary to Article 2(4) of the UN Charter and customary international law.[2] It violated also the key principle of non-intervention in international law and relations, and its magnitude and scale made it an act of aggression.[3]

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1 For background historical and legal detail see Rein Mullerson, 'Precedents in the Mountains: On the Parallels and Uniqueness of the Cases of Kosovo, South Ossetia and Abkhazia' (2009) 8 *Chinese Journal of International Law* 2–25; Michael Emerson, 'PostMortem on Europe's First War of the 21st Century' (2008) 167 *CEPS Policy Briefs* 1 <(http://www.ceps.eu> at 17 June 2009; Nicholas Lemay-Herbert, 'Zone of Conflict; Clash of Paradigms in South Ossetia' (2009) 2 *USAK Yearbook of International Politics and Law* 251-264; Derek Averre, "From Pristina to Tskhinvali: the Legacy of Operation Allied Force in Russia's Relations with the West' (2009) 85 *International Affairs* 575–591; Marc Weller, 'Settling Self-determination Conflicts: Recent Developments' (2009) 20 *European Journal of International Law* 111, 133; Noelle M. Shanahan Cutts, "Enemies through the Gates: Russian Violations of International Law in the Georgia/Abkhazia Conflict" (2008) 40 *Case Western Reserve Journal of International Law* 281; Robert J. Delahunty and Antonio F. Perez, "The Kosovo Crisis: a Dostoievskian Dialogue on International Law, Statecraft, and Soulcraft" (2009) 42 *Vanderbilt Journal of Transnational Law* 15, 21-22. Note that reference to these background readings does not, in any way, imply endorsement of the position taken therein.

2 Article 2(4) states that '[a]ll Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State'. On customary international law see See, eg, *Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty*, GA Res 2131, UN GAOR, 1st Comm, 20th sess, 1408th plen mtg, UN Doc A/RES/2131 (21 December 1965); *Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations*, GA Res 2625, UN GAOR, 6th Comm, 25th sess, 1883rd plen mtg, UN Doc A/RES/2625 (24 October 1970); *Resolution on the Definition of*

The Russian use of force cannot be justified as an exercise of self-defence under Article 51 of the UN Charter or as a collective security action authorized by the UNSC under Chapter VII of the Charter or as a use of force by invitation on the territory of a consenting state. Non-defensive or uninvited armed force always depends on the prior authorization from the UNSC without exception.[4] Other possible justifications, relying on doctrines such as protection of its nationals abroad or humanitarian intervention or implied authorization arising from peace-keeping operations have no foundation in international law and, in any event, would not apply in this case even if they were found to possess validity under international law.[5] For example, even if there was a right to humanitarian intervention, as a minority of scholars has argued, the Russian intervention was not an exercise of this so-called right.[6] Indeed, the whole thrust of the *UN Charter* is in favour of resolving disputes using peaceful means and in promoting cooperation.[7] This paper will show that Georgia's use of force against the Russian forces penetrating into

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Aggression, GA Res 3314, UN GAOR, 6th Comm, 29th sess, 2319th plen mtg, UN Doc A/RES/3314 (14 December 1974); International Law Commission, *Draft Code of Crimes against the Peace and Security of Mankind*, as contained in Report of the International Law Commission on the Work of its 48th Session, 6 May – 26 July 1996, UN Doc A/51/10 (1996).

[3] *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v US)* (Merits) [1986] ICJ Rep 14 (intervention); *International Military Tribunal, Trial of the Major War Criminals before the International Military Tribunal*, Nuremberg, 14 November 1945 – 1 October 1946 (1947) vol 1, 186 (the crime of aggression).

[4] T Gazzini, "The Rules on the Use of Force at the Beginning of the XXI Century, *Journal of Conflict and Security* Law" 11 (319) (2006).

[5] Brownlie & Apperley, 'Kosovo Crisis Inquiry: Memorandum on the International Law Aspects' (2000) 49 *ICLQ*, 878.

[6] Even where scholars approve of some form of humanitarian intervention they require a degree of community endorsement or pre-approval entirely lacking in this case; see e.g. Antonio Cassese, 'Ex Iniuria Ius Oritur: Are We Moving towards International Legitimation of Forcible Humanitarian Countermeasures in the World Community?' (1999) 10 *European Journal of International Law* 23. For recent views on humanitarian intervention, see especially Nicholas Wheeler, *Saving Strangers: Humanitarian Intervention in International Society* (2000); Anne Orford, 'Muscular Humanitarianism: Reading the Narratives of the New Interventionism' (1999) 10 *European Journal of International Law* 679. The most important period, prior to this, followed the Israeli raid on Entebbe (not a humanitarian intervention in the strict sense) and the Tanzanian invasion of Uganda: Ian Brownlie, 'Humanitarian Intervention' in John Norton Moore (ed), *Law and Civil War in the Modern World* (1974) 217; Wil Verwey, 'Humanitarian Intervention under International Law' (1985) 32 *Netherlands International Law Review* 357; Jean-Pierre Fonteyne, 'The Customary International Law Doctrine of Humanitarian Intervention: Its Current Validity under the UN Charter' (1974) 4 *California Western International Law Journal* 203.

[7] See, eg, UN Charter arts 2(3), 33.

Georgian territory was justified both under Article 51 of the UN Charter as an act of self-defense in response to the Russian aggression, and as an aspect of Georgia's sovereign prerogative to use force within its own sovereign territory. Russia's use of force against Georgia, on the other hand, is a non-authorized use of force – an act of aggression - prohibited by UN Charter and customary international law as well as being breach of the customary and Charter-based duty to resolve disputes peacefully.[8]

II. INTERNATIONAL LAW ON USE OF FORCE

The UN Charter limits the right of states to use force internationally to cases of individual or collective self defense[9], to assistance in UN authorized or controlled military operations and to invitation.[10] Therefore, any state seeking to justify the use of force has to locate its use of force within one of these three exceptions.

Sovereignty, the use of force and non-intervention.

As a general matter, this overarching prohibition goes back to the principle of sovereignty and sovereign equality found in international law from the time of the Peace of Westphalia through to the UN Charter.[11] A sovereign state's borders are inviolable and a state has the right to decide the form and substance of its political institutions or, as the *Declaration on Friendly Relations* (1970) states:

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[8] See, eg, UN Charter arts 2(3), 33.
[9] Article 51 of the UN Charter.
[10] Article 53 of the UN Charter.
[11] Article 2(1), UN Charter.

"...armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements are a violation of international law".[12]

Respect for territorial sovereignty, then, is an essential foundation of international relations.[13] Russia repeatedly recognized Georgia's territorial integrity in Resolutions before the war.[14] No state or group of states has the right to intervene, directly or indirectly, for any reason, in the internal or external affairs of any other state.[15] The principle of non-intervention is part of customary international law and is closely allied to the prohibition on the use of force.[16]

The unauthorized, non-defensive and uninvited use of military force by one state in another state's territory is the most obvious breach of this bundle of norms that lie at the heart of the international legal and political order. In the absence of strict adherence to these norms, the international order would become violent, chaotic and war-torn.

The blanket condemnation of intervention is embodied in article 2(4) of UN Charter:

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[12] GA Res. 2625 (1970).

[13] *Corfu Channel Case (United Kingdom v. Albania)*, ICJ Reports 1949, p. 35 (Corfu Channel Case).

[14] Roy Allison, "Russia resurgent?: Moscow's Campaign to 'Coerce Georgia to Peace'' (2008) 84 *International Affairs* 1145–1171; P. Worsnip, "U.N. Council Still Divided on Georgia Resolution", Reuters, August 21st, 2008.

[15] Declaration on the inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty, Annexed to General Assembly Res. 2131 (XX) of 21 December 1965, 20 Sess., Suppl. No. 14 at 12, U.N. Doc. A/6220; Declaration on Principles in International Law, G.A. Res. 2625(XXV).

[16] Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States), ICJ Reports, 1986, p.14, 106 (Nicaragua Case); 1 *Oppenheim's International Law* 334, Jennings & Watts eds., 1999, p. 385; M. Shaw, *International Law*, Cambridge University Press, 6th ed., p. 1039 (Shaw); A. Cassese, *International Law*, 2nd ed., p. 54, 111.

"All members shall refrain in their international relations from threat or use of force against territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations."

The prohibition of use of force in Article 2(4) of UN Charter is a rule of universal validity.[17] It exists in customary international law and has been qualified by the International Court of Justice as norm of *jus cogens*.[18] This means that it is a norm of exceptionally high standing concerning which there is universal agreement in the international community. The relevant General Assembly resolutions reaffirmed the Charter dictum and restated that the "use of force to violate the existing international boundaries [...] or as a means of solving international disputes"[19] is contrary to the international legal order and that "[n]o consideration of whatever nature may be invoked to warrant resorting to the threat or use of force".[20] The prohibition was designed to be absolute, and was concluded to give guarantees to smaller states and to have an unrestricted effect[21].

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[17] P. Malanchuk, Akehurst's *Modern Introduction to International Law*, 7th ed., 1997, p.309.

[18] *Nicaragua Case* at para. 190.

[19] Declaration on the Principles of International Law Concerning Friendly Relations and Co-Operation Among States In Accordance With the Charter of the United Nations, G.A. Resolution 2625(XXV), Supp. No.28, U.N. Doc. A/8028 (1970) [Friendly Relations Declaration].

[20] Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations, G.A. Resolution 42/22, Supp. No.41, U.N. Doc. A/42/766 (1987), art.3.

[21] In the travaux préparatoires of the Charter, it seems that the phrase "against the territorial integrity or political independence of any state" was inserted in response to the desire of smaller States to emphasise their protection (see Amendments to the Dumbarton Oaks Proposals submitted on behalf of Australia, 3 U.N.C.I.O. 543 (5 May 1945)). There was a concern to ensure that there were no potential loopholes (see e.g. Summary Report of the 11th Meeting of Committee I/1, 6 U.N.C.I.O. 335 (4 June 1945)); BROWNLIE, INTERNATIONAL LAW AND THE USE OF FORCE BY STATES 267-8 (1963); Brownlie and Apperley, 'Kosovo Crisis Inquiry: Memorandum on the International Law Aspects', 49 I.C.L.Q. 878 (2000), p.885; AKEHURST, A MODERN INTRODUCTION TO INTERNATIONAL LAW 309-11 (7th edn., by Malanczuk, 1997); CHESTERMAN, JUST WAR OR JUST PEACE? HUMANITARIAN INTERVENTION AND INTERNATIONAL LAW 48-52 (2001)..

The UN has expressly stated that such policies of intervention endanger the political independence of states and freedom of peoples thereby adversely affecting the maintenance of international peace and security.[22]

Allied to this norm is a general norm of non-intervention.

The 1965 Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States emphasized this latter principle:

> [n]o state has the right to intervene, directly or indirectly, for any reason whatsoever, in the internal or external affairs of any other state. Consequently armed intervention and all other forms of interference or attempted threats against the personality of the state or against its political, economic and cultural elements are condemned.

The ICJ explicitly held it as a violation that "cannot ... find a place in international law"[23].

Importantly, it is generally acknowledged that an incursion into the territory of another state constitutes an infringement of Article 2(4), even if it is not intended to deprive that state of part of its territory and if the invading troops are meant to withdraw immediately after completing a temporary and limited operation ("in-and-out operations").[24]

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[22] UNGA 2131 (XX) (21 December 1965).
[23] Corfu Channel Case, ICJ Reports, 1949, pp. 4, 35
[24] B. Simma ed., *The Charter of the United Nations: A Commentary*, Oxford University Press 2002, p. 123 (Simma, Commentary).

Acts of aggression

The threat or use of force against the territorial integrity or political independence of any state is prohibited under the UN Charter and customary international law.[25] In addition, any coercive incursion of armed troops into a foreign State without its consent or without the authorisation of the UNSC impairs that State's territorial integrity and can amount to an act of aggression.[26] The crime of aggression is one of the most serious crimes in international law. Its existence dates back to the International Military Tribunal Charter of 1945 ("the Nuremberg Charter") where Article 6 gave the Tribunal jurisdiction over crimes against peace including the following:

> "planning, preparation, initiation and waging of a war of aggression or a war in violation of international treaties, agreements, or assurances..."

The Nuremberg Principles became part of general international law in 1946 with their universal endorsement by the UN General Assembly in Resolution 95(1) and have subsequently been reaffirmed at least three times by the Assembly in Resolution 2131 (1965), Resolution 2625 (1970) and, most importantly, in the authoritative Definition of Aggression Resolution 3314 (1974) where the General Assembly enumerated the acts that constituted acts of aggression.

These included:

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[25] UN Charter art 2(4).
[26] SCHACHTER, INTERNATIONAL LAW IN THEORY AND PRACTICE 113 (1991).

"The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack…"

The Russian invasion of Georgia in August 2008 falls squarely within this definition and therefore meets the requirements of the crime of aggression for which there is individual criminal responsibility.[27]

The right of self-defence

Article 51 of the UN Charter reserves the 'inherent right' of self-defence as an exception to the prohibition of the use of force.[28] In relation to the scope of the self-defense all states agree that the existence of an armed attack against a state triggers the right to self-defence of that state[29]. What, though, constitutes an armed attack?

As the International Court of Justice observed in the *Nicaragua Case*: "action by regular armed forces across international border" is a form of an armed attack when the scale is greater than a mere frontier incident[30].

The target state of the armed attack in such cases has the inalienable and "inherent" (Article 51, UNC) right to use force in self-defence. However, under international law the exercise of self-defence must be necessary and proportionate to the armed attack. The

[27] See e.g. *R v Jones* [2006] UKHL 16.
[28] UN Charter, Art.51.
[29] Gray, P. 108
[30] Ibid; see, too, The 1974 Resolution on the Definition of Aggression, Article 3(a) (ibid).

requirements of necessity and proportionality, though not mentioned in the UN Charter, represent part of customary international law[31]. In the *Nuclear Weapons Case*, the International Court of Justice considered necessity and proportionality to be applicable to all use of forces including that under Article 51 of the Charter[32].

Necessity and proportionality are to be evaluated in relation to a particular case. Having said this, there are some fundamental underpinnings. In general the following applies:

- defensive force ought not to be retaliatory or punitive;
- The aim of such defensive force should be to halt or repel the attack (so that the actions taken in self-defence do not amount in fact to reprisals).[33]
- The need for action in self –defence must be "overwhelming" (*Caroline Incident*).[34]
- There ought to be no practical alternative that would render a use of force unnecessary.

In its decision in the *Case Concerning Oil Platforms (Islamic Republic of Iran v. United States of America)* [35], the ICJ held that "the requirement of international law that measures taken avowedly in self-defence must have been necessary for that purpose is strict and objective, leaving no room for any "measure of discretion"".[36]

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[31] *Oil Platforms Case*, para. 43, 73 and 74; Gray, p. 121; The Caroline Case: "[i]t will be for … [Her Majesty's] Government to show a necessity of self-defence, instant, overwhelming, leaving no choice of means, and no moment of deliberation" and the action must not be "unreasonable or excessive, since the act, justified by the necessity of self-defense, must be limited by that necessity, and kept clearly within it."

[32] *Legality of the Threat or use of force of nuclear weapons, advisory opinion* 1997, para. 41; The ICJ held in the Nicaragua case too that "the specific rule whereby self-defence would warrant only measures which are proportional to the armed attack and necessary to respond to it" was "a rule well established under customary international law".

[33] Gray

[34] 29 B.F.S.P. 1137-1138; 30 B.F.S.P. 195-196

[35] *Case Concerning Oil Platforms* (Islamic Republic of Iran v. United States of America), (2003) ICJ.

[36] Ibid. at para. 73.

Necessity and proportionality will not redeem an otherwise illegal use of force. There is no need to examine the necessity and proportionality of force when that force is clearly illegal on other grounds.[37]

Other justifications for the use of force

UNSC authorization

The use of force is permissible when that force has been authorized or mandated by the Security Council acting under Chapter VII of the UN Charter. There has been no such authorization in this case.

Protection of nationals abroad

Before the UN Charter era, the use of force for the protection of nationals and property abroad had been regarded as lawful[38]. With the adoption of the UN Charter the position has changed. It seems clear now that protective action would directly infringe the "territorial integrity and political independence" of the state in question[39]. The two most famous examples of a use of force in purported exercise of the right to protect nationals abroad occurred at Entebbe Airport, Uganda, in 1976 and in Grenada in 1983. In these cases, the

[37] See mutatis mutandis Nicaragua case; Similarly, in Oil Platforms Case, the Court did not engage in detailed discussion of the issue, with the exception of one aspect – nature of targets selected by the US for attacks while claiming the right to self-defense.
[38] Brownlie, *Use of Force*, p. 289
[39] This context excludes discussion when the state targeted has given explicit consent for the present of thirds state on its soil. Shaw, p. 1143

use of force by the intervening states (Israel and the United States respectively) was not widely endorsed in the international community. In the latter case, the use of force was condemned by the General Assembly and only a U.S. veto prevented a similar resolution from being passed in the Security Council.[40] Christine Gray has engaged in a comprehensive analysis of state practice in relation to the so-called protection of nationals doctrine. She concludes that very few states support such a right.[41] This position was endorsed by Ian Brownlie in his *Principles of Public International Law* (6th ed).[42] It is clear that the *Asylum Case* requirements for the formation of custom have not been met:

"The party which relies on custom...must prove that this custom is established...in accordance with a constant and uniform usage practiced by the States in question...."[43]

In the case of the protection of nationals abroad doctrine, usage or, better, acquiescence, has been neither uniform or constant. Indeed, the opposite is the case.

Another argument sometimes advanced in favour of the right to protect nationals abroad would seem to be based on the right to self-defence (Ronzitti, (1985)). According to this view, an attack on a state's citizens is equivalent or analogous to an attack on that state's territory and is therefore an attack on the state itself. There is some support for this position among scholars (though the scholarship is divided on the question) but there is an absence

[40] C. Gray, "The Use of Force and the International Legal Order" in M. Evans, *International Law* (2003), 602-603; see, too, on Grenada: *United Nations Yearbook* 1983, 211 and on Entebbe, *United Nations Yearbook* 1976, 315. See, too, M.B. Akehurst, "Use of Force to Protection National abroad", 5 *international relations*, 1977, p. 3; discussion of The Entebbe Incident, the USA interventions in the Dominican Republic (1965), Grenada (1983) and Panama (1989) and the UK in Suez (1956) is found, also, in Harris, pp. 909-912.
[41] C. Gray, *Use of Force*, 2000, 108.
[42] I. Brownlie, *Principles* at 705.
[43] *Asylum Case*, ICJ Reports (1950) at 276-7.

of state practice and *opinio juris* supporting the right and the textual material is equivocal.[44] It is clear that "armed attack" primarily has been understood to mean an attack on a state's territory.

However, even if such a right were to come into existence, it would have to be exercised in conformity with the background principles of self-defence (e.g. proportionality and necessity).

Ultimately, there are very good policy reasons for treating this so-called doctrine with great caution. As Christine Gray has noted:

> "All too often the protection of nationals is a mere pretext to mask the real intent of overthrowing the government".[45]

Use of force on humanitarian grounds (humanitarian intervention)

As has been stated, the UN Charter acknowledges a limited number of exceptions to the prohibition on the use of force. Some scholars and, to a much lesser extent, states have suggested supplementing the exceptions based on Security Council authorization and self-defence with a justification grounded in the right to protect vulnerable or abuse populations abroad. This doctrine, often termed humanitarian intervention, has many adherents but suffers from three very signal flaws. First, it has *never* been incorporated into any universal international treaty. Second,

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[44] Gillian Triggs, International Law (2006) at 588. See, too, I. Brownlie, *International Law and the Use of Force*, 301; Derek Bowett, *Self-defence in International Law*, 87.
[45] Ibid.

there is only negligible support for the doctrine in state practice. Third, it clashes with an existing *jus cogens* norm prohibiting the use of force, and given the *jus cogens* character of the prohibition of use of force, it would take a new norm of that quality to override it.[46] Hence a norm "accepted and recognised by the international community of States as a whole"[47] would be required. Such recognition has not been forthcoming.

On the second point, although some States have invoked the doctrine of 'humanitarian intervention' as a justification for the use of force;[48] these interventions have gained very little support from the wider community with the majority of interventions receiving condemnation rather than approval.[49] In any event, most so-called "humanitarian interventions" were not justified on humanitarian grounds in the first place. The Tanzanian invasion of Uganda, the Vietnamese intervention in Cambodia and the Indian action in East Pakistan were all either exclusively or primarily justified as acts of self-defence.

Furthermore, even where there have been interventions inconsistent with a given rule, these acts, according to the ICJ, should be treated as breaches of that rule, not as indications of the recognition of a new rule.[50] As Professor Brownlie states: " [T]he partisans of humanitarian intervention either ignore the conditions for the formation of new principles of customary law or, on occasion, propose that the requirement of *opinio juris* be relaxed."[51]

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[46] Charney, 'NATO's Kosovo Intervention: Anticipatory Humanitarian Intervention in Kosovo', 93 *A.J.I.L.* 834 (1999), p.837.
[47] V.C.L.T., art.53
[48] Christine Gray, *International Law and the Use of Force*, 2nd ed. (Oxford University Press, 2004) at 35.
[49] Ministerial Declaration of the 23rd Annual Meeting of the Ministers for Foreign Affairs of the Group of 77 (24 September 1999), ¶69, at http://www.g77.org/doc/Decl1999.html.
[50] *Nicaragua*, p.98, ¶186.
[51] Brownlie, *Principles*, supra note 2 at 712.

In recent years, there have been efforts to re-establish a principle or doctrine of humanitarian intervention. These efforts have taken three forms. In the first case, scholars have appealed to the UN Charter or international human rights law to assert a right to intervene for humanitarian purposes. They argue that because human rights obligations lie at the heart of the UN system and the international Bill of Rights, intervention in support of these obligations must be lawful. While the first part of this argument may be accurate, it is not at all clear that it leads to the conclusion sought by its proponents. The human rights system is designed to encourage and persuade states to improve their treatment of nationals and non-nationals but nowhere in this body of law is there even an implied right to unilaterally use force to enforce such obligations. Meanwhile, though it is true that respect for human rights constitutes one of the main goals of the UN, the maintenance of peace and security and the prohibition of unilateral, unauthorised force is as great, if not greater, a value.[52]

In the second case, some commentators have argued that the NATO intervention in Kosovo represents the establishment of a new norm of humanitarian intervention. This example, though, must be approached with caution. Most NATO states did *not* argue that the intervention was justified on humanitarian grounds. Instead, they relied on the existence of several Security Council Resolutions characterising the situation as a "threat to the peace" to argue for an implied right to use force. Scholars, meanwhile, were equivocal in their approach to the intervention. Professor (now Judge) Simma's position in the *European Journal of International Law* was representative. For him, the intervention was unlawful (even if morally or politically desirable).[53] Its legitimacy (outside law), in any case, was grounded in its multilateral nature and (qualified)

[52] CHESTERMAN, supra note 26, p.45; DINSTEIN, WAR, AGGRESSION AND SELF-DEFENCE 89 (1988); CASSESE, INTERNATIONAL LAW 373 (2nd edn., 2005).
[53] Bruno Simma, 'NATO, the UN and the Use of Force: Legal Aspects', 10 *EJIL* (1999) 1.

institutional authority and not on any freestanding right of humanitarian intervention.[54] This distinguishes it from the Russian invasion of Georgia.

The third process that might be said to support some sort of developing right to humanitarian intervention is often described as R2P (the "Responsibility to Protect" doctrine) In 2000, the International Commission on State Sovereignty, a Canadian-sponsored group of elite policy-makers and lawyers, published a document outlining a "Responsibility to Protect" (ICISS, 2000). This idea received further elaboration and status at the Secretary-General's *High-Level Panel on Threats, Challenges and Change* in 2004 and was endorsed by Kofi Annan himself in his major reform statement, *In Larger Freedom* (2005). The doctrine is grounded in two propositions. Advocates of a responsibility to protect argue that sovereign states have a duty to protect the human rights of their own citizens on their own territory (this seems self-evident given the slew of human rights conventions to which states have signed up) and that the Security Council has a right to authorise humanitarian interventions to protect acutely vulnerable people (this, too, is unremarkable given the language of Chapter VII and, in particular, Article 39). These two norms, of course, offer no justification for unilateral interventions. Indeed, the idea of unilateral humanitarian intervention is not endorsed by the High-Level Panel or in the Secretary-General's reform proposal. In any case as Roy Allison puts it in *International Affairs*:

> "Despite Russian claims of and considerable loss of life, there is no good evidence of mass atrocity crimes in the region or a realistic risk of them (a precautionary criterion for R2P)".[55]

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[54] Gerry Simpson, *Great Powers and Outlaw States* (2004), Chapter Seven.
[55] Roy Allison, "Russia resurgent?: Moscow's Campaign to 'Coerce Georgia to Peace'' (2008) 84 *International Affairs* 1145--1171 at 1153.

It must be noted, too, that the Russian Federation constantly manipulated figures during the conflict as well as in its immediate aftermath.[56] The Russian authorities ,as early as August 9 and 10, 2008, were making inflated allegations of an egregious number of casualties, qualifying actions of the Georgian government as Genocide. It is clear that the numbers of deaths and injuries were grossly exaggerated in an effort to create a moral and legal justification for the intervention. Unfortunately and deplorably, according to some international human rights organizations (i.e. Human Rights Watch), these exaggerated claims may have had a direct and pernicious result in promoting revenge killings. Subsequently, even the special Investigative Committee (Sledstvennyi Komitet Prokuratury, or SKP) documented deaths of 162 individuals instead of inflated figures claimed earlier.[57]

To conclude, there is little support for a doctrine of humanitarian intervention in international law. The weight of scholarly opinion, state practice and institutional development strongly suggests that the norm has no existing basis. There are very good policy and juridical reasons for this. "Humanitarian intervention" clearly is open to abuse and so far has only been invoked against weaker states[58] and although the doctrine may have received support from dominant States in pre-Charter law,[59] it is incompatible with the core principles of sovereign equality of States and non-intervention.[60]

Protection of peacekeepers

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[56] For more information see Human Rights Watch Report, "Up in Flames", pp. 70-73;
[57] For more information see Human Rights Watch Report, "Up in Flames", p. 75
[58] Brownlie, Use of Force, supra note 14 at 340; Shaw, supra note 3 at 1046; Oppenheim, supra note 10 at 442-3.
[59] Shaw, supra note 3 at 1045.
[60] Brownlie, *Use of Force*, supra note 14 at 341.

The discussion thus far has concentrated on the more familiar justifications for using force under international law (self-defence, collective security, humanitarian interventions). It has concluded that these exceptions to the *jus cogens* prohibition found in Article 2(4) of the UN Charter and in customary international law either have no application in the present circumstances (collective security, self-defence) or do not exist as exceptions in the first place (humanitarian intervention). There are two final, perhaps less orthodox, arguments that must be considered before moving onto the factual matrix. The first is the argument that a state has a right to use force in a foreign state's territory in cases where legitimate peacekeeping forces consisting of its own nationals are attacked by forces belonging to the host state.

This argument might be structured in three different (though intersecting) ways. First, it might be argued that action on behalf of national contingents is a genus of self-defence. Second, the sending state might argue that its action on behalf of threatened peacekeepers is justified by the consent of the host state to the initial peace-keeping operation. Third, a state might want to argue that the explicit institutional authorisation for the initial peace-keeping operation represents an implicit authorisation to use force in support of these peace-keeping units.

This part of the memorandum will consider each of these in turn.

Self-Defence and Peacekeeping

This question arising here is whether the peacekeepers deployed in the territory of a state based on bilateral agreement are considered as forces of the sending state in case of attack upon them and whether an attack on peacekeepers is considered as an attack on the sending state.

Are peacekeepers "forces of the sending state"? Much depends on the individual agreement or treaty or memorandum of understanding. In the case of the Sochi Agreement, there is a great deal of ambiguity. What is clear from the agreement is that the nature of the Russian Forces in Georgia underwent a transformation in 1992. The Agreement speaks of the "withdrawal of armed formations" from the relevant region and their replacement by forces attached to the Joint Control Commission. This might suggest that the Russian Forces can no longer be considered as "forces of the sending state".

But even if the remaining Russian forces are to be regarded as "forces of the sending state" there remain two further questions: is an attack on military personnel an attack on the sending state? And is an attack on such peace-keepers an attack on the sending state? There are many views. What is clear, though, is that Article 2(4) of the UN Charter makes illegal uses of force against the "territorial integrity and political independence" of a member state. This suggests that the UN system is concerned with breaches of territorial inviolability or political self-determination rather than attacks on a state's interests generally. This would explain why the "protection of nationals abroad" doctrine has such an insecure basis under international law and it suggests a reading of Article 51 that excludes attacks on military forces abroad. If this is the case with attacks on military personnel abroad, it applies with even greater force to attacks in peacekeepers whose attachment to the sending state is qualified or conditioned by their status under the terms of peacekeeping agreements.

Any exercise of self-defence, of course, must be necessary and proportionate. Even *if* it is accepted that Russian contingents in the peacekeeping force are "forces of the sending state" and even *if* an attack on these forces can be regarded as an attack on The Russian Federation and

even *if* such an attack can give rise to a right to use force on behalf of those forces in a foreign territory, it remains the case that such force must not be disproportionate or unnecessary in order to meet requirements of Article 51 of the UN Charter. The Russian response to alleged attacks on peace-keepers was unnecessary (e.g. there was no effort to resolve the dispute by other means) and disproportionate (the large scale military invasion of a foreign state is not a proportionate response to an alleged attack on peacekeeping contingents of an unverified scale).[61]

In addition to legal analysis the facts of 7th and 8th of August provided below, clearly show that at the time when the Russian military invasion started *no* military encounter with Russian peacekeeping forces had taken place. The argument based on the protection of peacekeepers on the ground was a spurious pretext for the Russian invasion

Consent or Authorisation

The Sochi Agreement on Principles of the Resolution of the Georgian-Ossetian Conflict signed on June 4th, 1992 permitted the deployment of Russian peace-keeping contingents on Georgian territory in South Ossetia. This Agreement was designed to prevent further conflict in South Ossetia but its ancillary purpose was to explicitly prohibit the deployment of Russian forces outside the conflict zone. Article 2 of the Agreement also provided for the withdrawal of all Russian troops *not* part of the peacekeeping force from the conflict zone itself. In other words, the Agreement did not provide for any use of force by regular Russian units in support of

[61] See Roy Allison, "Russia resurgent?: Moscow's Campaign to 'Coerce Georgia to Peace'' (2008) 84 *International Affairs* 1145–1171 at 1151 "...[protection] offers grounds for Russian emergency assistance or evacuation of its peacekeepers from foreign soil, *but not the scale of the Russian response, let alone the open-ended use of force*".

peacekeeping activities. Nor did the Sochi Agreement authorise a unilateral use of force by Russia on Georgian territory. Indeed, the Sochi Agreement, read in its proper context, places dispute resolution in relation to peace-keeping in the hands of the Joint Control Commission and not the individual states (Article 5). All of this makes the Russian argument rather hard to sustain.[62]

Equally, nothing in general international law suggests that contributing nations have a right to use force in self-defence when peace-keepers are attacked. The essence of peacekeeping lies in its consensual character; the deployment of peacekeeping forces on a host state is dependent on that state's consent. As Kirgis puts it:

> "It is a key principle that the operation must not interfere in the internal affairs of the host countries and must not in any way favour one party over another"[63]

The specific agreement in this case does not envisage a use of force by the Russian military in such circumstances. Indeed, the whole thrust of the Sochi Agreement points in the other direction; the Agreement was specifically designed to prevent such escalations. There is nothing in the Agreement that would imply Georgian consent to such activities. In the absence of such agreement, there are general norms applying to peacekeeping, which make it clear that such force is not permitted. Yoram Dinstein makes the point succinctly:

> "The two special attributes of a peacekeeping force are that (i) it is established and maintained with the consent of all the states concerned; and (ii) it is *not authorized* to take military action against the state." (*inserted italics*)[64]

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[62] See, too, Roy Allison, "Russia resurgent?: Moscow's Campaign to 'Coerce Georgia to Peace'' (2008) 84 *International Affairs* 1145–1171 at 1152.
[63] F. Kirgis, *International Organizations* 1993, 717

The limits on peacekeeping are further elaborated in the *Certain Expenses* Case, the first ICJ judgment to consider the nature of peacekeeping. Here, the ICJ, in a judgement concerning the first peacekeeping mission in Egypt, clarified the role of peacekeepers:

> "...nor, moreover, should the Force have military functions exceeding those necessary to secure peaceful conditions...".[65]

Of course, this was an opinion concerning a specific operation at a particular time. Nevertheless, it sets the terms for peacekeeping as a general concept. Such terms and the whole *raison d'être* of peacekeeping operations, as well as the individual terms of the Sochi Agreement and the fundamental norms of the international order, strongly suggest that Russia's unilateral use of force finds support neither in an expanded doctrine of self-defence nor a discrete right to use force to defend national contingents in peacekeeping contexts.

III. FACTUAL CIRCUMSTANCES

Russian actions before the military aggression in August 2008

Russia's actions with regard to Abkhazia, Georgia and the Tskhinvali Region/South Ossetia took a qualitatively more aggressive turn at the beginning of 2008, following the recognition of Kosovo. Immediately prior to the declaration of Kosovo's independence and in reaction to this recognition, then-Russian President Vladimir Putin declared that Russia had "pre-

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[64] Y. Dinstein, *War, Aggression and Self-Defence* (3rd edition), 2001, 266
[65] *Certain Expenses Case* (1962) para 10.

designed plans".[66] Russian actions became more focused and intense, and consisted of a series of escalating but inter-linked interventions. These included: hostile political steps (*inter alia*, the establishment of official links with proxy regimes) accompanied by direct military actions and interventions (i.e. the shooting down of an unmanned, unarmed Georgian drone by a Russian fighter jet), illegal deployment of new Russian troops in Abkhazia, (i.e. paratroopers and railway troops) as well as construction of fortifications in eastern part of the province. Until June 2008, Russian actions were mostly focused on Abkhazia, Georgia.

The situation in the Tskhinvali Region/ South Ossetia escalated significantly in the beginning of July 2008 – in parallel with the completion of offensive military infrastructure projects in Abkhazia – when a terrorist attack took place, aimed at the elimination of the Head of the Provisional Administration of South Ossetia, Mr. Dimitry Sanakoev. This act was accompanied by substantial increases in the scale and intensity of attacks by proxy militants on Georgian government controlled villages,[67] Georgian police, and peacekeepers. These acts resulted in casualties and fatalities (mortars of 120 mm caliber, prohibited under then-existing agreements were used in the shelling for the first time since early 1990s). At the same time, the flow of mercenaries into the Tskhinvali Region/South Ossetia increased, as did violations of Georgian airspace by Russian military aircraft. In a symptomatic move, on July 9, four Russian military aircraft violated Georgian airspace on the eve of the visit of US Secretary of State

[66] See the record of Putin's speech: http://www.kremlin.ru/appears/2008/02/14/1327_type63380type82634_160108.shtml

[67] Georgian Government was aware that those were targeted attacks on the Georgian-controlled villages aiming at maximum destruction. For example, the proxy Interior Minister Mikhail Mindzaev instructed his subordinate to wipe out a Georgian-government controlled village. The intercept and transcript of this phone conversation can be found in annex 34 of the answer to question 1 of the military set of questions.

Condoleezza Rice to Georgia. This violation was confirmed by the Russian Ministry of Foreign Affairs.

Finally, there was a marked increase in the deployment of military hardware and units of the regular Russian army. Specifically a large number of Russian military personnel were mobilized close to the Russia-Georgia border for military exercises titled, "Caucasus 2008". During those exercises more 8,000 troops (including 58th Army, North Caucasus Military District, units of Airborne Troops, 4th Russian Air Army and air defence) and at least 700 of heavy equipment and 30 aircraft simulated an invasion of " a neighboring state". Although the exercises were completed on August 2, those forces did not re-deploy.

Pre-war deployment of Russian troops in the territory of Georgia

According to Georgian intelligence information, units of the separate reconnaissance battalion of the 19th Motor Rifle Division of the 58th Russian Army were reported to be deployed in Java district through the Roki Tunnel on August 3, 2008. On the night of August 4, 10 units of armor (BTR/BMP vehicles) were brought into Tskhinvali Region/South Ossetia from the Russian Federation and distributed among the *de facto* regime's irregular forces. Two vehicles were handed over to the *de facto* regime irregular forces unit located in village Dmenisi, Tskhinvali district. On the same day, the head of South Ossetian proxy authorities, Eduard Kokoity, told the Russian media outlet "Caucasian Knot" that 300 "volunteers" (i.e. mercenaries) from North Ossetia, Russian Federation, had already arrived in South Ossetia and their number

would eventually increase to two thousand.[68] Later in the evening, a member of the Russian State Duma, Viktor Vodolatsky, officially promised support to the Tskhinvali proxy regime while the Commander of the second Don Cossack Forces, Nikolai Kozitsin, announced that he could send from 10 to 15 thousand "volunteers" (i.e. mercenaries) to South Ossetia.[69]

In the afternoon of August 5, 2008, approximately 150 additional mercenaries from the North Caucasus arrived in Tskhinvali as reported by the Russian media.[70] The flow of mercenaries from North Ossetia was confirmed by the Deputy Commander of Don Cossack Forces, Vladimir Voronin, in his interview with the Russian radio station "Echo Moskvi".[71]

On the same day of August 5, 40 units of self-propelled artillery and a reconnaissance battalion of the 33rd Motor Rifle Mountain Brigade from Botlikh, Dagestan were deployed in Tskhinvali region/South Ossetia through the Roki Tunnel, in addition to that 30 artillery guns were brought into Java district of the region. Some units of the 58th Army were reported to be mobilized near the Roki Tunnel in North Ossetia, Russia, including the 135th Separate Motor Rifle Regiment from Prokhladniy, Kabardino-Balkaria and the 693rd Motor Rifle Regiment from Zaramag, North Ossetia. The deployment of armor continued on the following day.

Large scale incursion of the Russian troops into Georgian territory

[68] Military, Annex 31.
[69] Military, Annex 32.
[70] Military, Annex 37
[71] Military Annex 38 ?????

In the early morning of August 7, 2008, the MIA of Georgia obtained the first communication intercept indicating that a Russian military unit that included tanks and military trucks loaded with soldiers had entered the Roki Tunnel.[72] At 03:41 of the same morning, a large number of armored vehicles, tanks and military trucks of the Russian regular army streamed into the Roki Tunnel and deployed in Java district as confirmed by three mobile telephone conversations intercepted by the MIA of Georgia.[73] Numerous articles in the Russian press also confirm that Russian army units, namely parts of the 693rd and 135th motor rifle regiments of the 58th Army, had entered South Ossetia prior to August 8.[74]

In the evening of August 7, the Government of Georgia faced a qualitatively changed situation: despite numerous attempts to decrease tension and a unilateral ceasefire implemented by the Government of Georgia, Georgian-controlled villages, police, and peacekeeping posts were under continuous fire. In this context, civilians in the already cut-off enclave were defenseless and, for the first time, two Georgian peacekeepers were killed[75] as a result of targeted military attacks that afternoon. Commenting on the alarming and unprecedented rise in violence, proxy leader, Eduard Kokoity, threatened to "wipe out" the Georgian enclaves unless Georgian law enforcement personnel left the region. In addition to publicized reports on the inflow of mercenaries into the region and initial human intelligence reports of a Russian army intrusion, the Government of Georgia obtained solid evidence that a large-scale Russian invasion

[72] Military, Annex 39, 40
[73] Military Annexes 41-46.
[74] Annex 47-67
[75] Two Georgian peacekeepers Shalva Trapaidze and Vitali Takadze were killed and five wounded (see annex 33 of the answer to question 1 of the military set of questions) on August 7 at around 14:00 as a Georgian peacekeepers checkpoint was shelled with 100 and 120mm artillery o from the proxy regime-controlled village Khetagurovo. A proxy militant reported to superiors the fact of killing Georgian peacekeepers in a telephone conversation also intercepted by the Georgian Ministry of Internal Affairs on 07.08.2008. The transcript of this conversation can be found in annex 75 of the answer to question 1 of the military set of questions.

was in progress. On August 7, late in the evening, the Georgian government received multiple human intelligence reports that about 150 armored vehicles and trucks with Russian soldiers were approaching the Roki Tunnel from Russia and moving towards the Tskhinvali Region/South Ossetia. Later, multiple signal intercepts of phone conversations among the *de facto* security and military officials that took place between 02:20 and 04:30 on August 8 confirm that Russian military columns were stretched from the Roki Tunnel to the village of Java.[76]

In response to these escalations, and consistent with his constitutional duty (Article 71 of the Georgian Constitution) to protect the sovereignty and territorial integrity of Georgia as well as the security of Georgia's citizens, at 23:35 on August 7, the President of Georgia issued an order to start a defensive operation.

Russian troop movement after the incursion

On August 8, at 05:20, incoming Russian troops passed the village of Java crossed the Gupta Bridge and advanced on the Dzari bypass road, which is confirmed by a telephone conversation intercepted by the Ministry of Interior of Georgia.[77] Soon after that, two more columns of Russian troops entered the Roki Tunnel and advanced south by the Geri-Dmenisi road. At 18:45, one column of Russian tanks, armored vehicles and trucks approached Tskhinvali by the Dzara road. Two more columns were stopped near the village of Dmenisi. Russian forces opened intensive fire on Georgian armed forces located in Dmenisi, in Tskhinvali and on the

[76] Military Annex 81, 86
[77] Military Annex 89

neighboring heights. By 22:00, Russian troops approached the Big Liakhvi valley from the north, but failed to enter it, suffering heavy losses caused by Georgian artillery fire, and also stopped moving on the Dzara road towards Tskhinvali.

On August 9, at 11:40, Russian forces, including airborne troops started to enter Tskhinvali from the north-west and from village Tbeti. At 17:00, additional Russian troops entered Tskhinvali.

On the same day, in between 13:40 and 14:40, Russian military aircraft bombed the central government controlled villages in Upper Abkhazia/Kodori Gorge, including the district's administrative center, Chkhalta. At 22:20, Russian aviation again bombed Upper Abkhazia/Kodori Gorge.

On August 10, early in the morning, more than 300 Russian tanks and armored vehicles, together with more than 10 000 Russian troops, passed through the Roki Tunnel. On the same day, in between 06:00 and 11:30, Russian aircraft bombed Upper Abkhazia/Kodori Gorge. The aerial attack on Kodori Gorge continued through the next day too. In the afternoon of August 11, 2008, the Russians obtained full control over Kodori Gorge/Upper Abkhazia.

On August 11, 2008 Georgian troops began a withdrawal and retreated towards Tbilisi to protect the capital from the ongoing movement of the Russian military.

On August 12, 2008, a French brokered seize-fire was agreed; however, Russian occupation of Georgian territories continued.

To date, Russia occupies Tskhinvali region/South Ossetia, including the territories under the control of the central Government of Georgia before the August war, as well as Abkhazia including Kodori Gorge, which had not been under the Abkhaz/Russian control before the August 2008.

During the August war, all Georgian troop movements occurred on the territory of Georgia as established and recognized by international treaties and UN SC resolutions 1808, 1781, 1752, 1716, 1666, 1656, 1615, 1582, 1554, 1524, 1494, 1462, 1427, 1393, 1364, 1339, 1311, 1287, 1255, 1225, 1187, 1150, 1124, 1096, 993, 971, 937, 934, 906, 901, 896, 892, 881, 876, 858, 854, 849. These movements were conducted within constitutional limits, as an aspect of Georgia's sovereign rights over its own territory and in exercise of the right of self-defence as defined by Article 51 of UN Charter and in customary international law.

IV. RUSSIA'S USE OF FORCE AGAINST GEORGIA IS AN ILLEGAL ACT OF AGGRESSION

Russia invaded and occupied Georgia in the absence of an international legal justification of the action. Russia's use of force was not authorized by the United Nations Security Council and cannot be qualified as a lawful exercise of the right of self-defence. It is clear that Russian

Federation forces crossed Georgian-Russian border and invaded and occupied Georgian territory in violation of numerous international legal norms (*supra*). Nor is the Russian invasion justified under the terms of the so-called right to use force abroad to protect nationals; this right has no basis under international law, interventions in purported exercise of this norm have been roundly condemned by the international community and the use of this alleged justification is, most often as it is in this case, a pretext for an illegal intervention (*supra*). The Russian invasion cannot be justified as a "humanitarian intervention". The doctrine continues to enjoy very little support among states and commentators and, in any case, the Russian invasion does not meet the conditions necessary for the exercise of such a right. Finally, Russia cannot invoke protection of peacekeepers deployed in Tskhinvali region/South Ossetia for the reasons already stated above and because Georgian uses of force against peacekeepers was employed only after they lost the protection due to their direct participation in hostilities begun by the Russian Federation and the abrogation of the peacekeeping agreement by Russia.

The first two possible grounds of justification, i.e. UNSC authorization and the self-defense has not been contested by the Russian Federation and are clearly irrelevant; therefore, we refrain from the in-depth elaboration on those points.

Protection of its national

As mentioned *supra* international law and the post UN Charter legal order does not recognize the tight of a state to use force in the territory of another state on the ground of the protection of its nationals. Moreover, Russia fails to meet the international legal test of

nationality with respect to the civilian population resident in Tskhinvali region/South Ossetia and Abkhazia as developed by the International Court of Justice in the *Nottebom* case. *En masse* distribution of Russian passports to the remaining civilian population of the two Georgian regions represented a deliberate and well-constructed policy aimed at establishing a pretext of the military intervention of the Russian federation on the territory of Georgia under the pretext of non-existing right of protection of nationals abroad.

There are several elements of the process of passportization of the remaining population in Tskhinvali region/South Ossetia and Abkhazia, which are relevant for the demonstration of the lack of genuine link between the Russian Federation and the population in Tskhinvali region/South Ossetia and Abkhazia:

- the process was not driven by individuals willing to accept Russian citizenship on ad hoc basis, it was designed and implemented an masse as part of specific policy of the Russian Federation;
- the process was neither sporadic, nor disorganized, it was well prepared and coordinated among various agencies of the Russian Federation;
- implementation of this policy had been conducted with complete disregard of the national legislation of Georgia, citizens of which were *en masse* granted Russian citizenship, thus clearly violating the sovereign rights of Georgia and principles of friendly relations;

Having pursued illegal passportization of Georgian nationals, Russia amended the relevant legislation in order to facilitate this process. Specifically, the Russian State Duma passed

amendments to the Law on Citizenship, which evoked a strong protest from Georgian President Eduard Shevardnadze.[78] This practice of the Russian authorities has been condemned by the international community. The European Union emphasized in its document that this action was a challenge to the territorial integrity and sovereignty of Georgia, construable as a *de facto* annexation of those regions."[79]

Accordingly, any attempt to justify use of force for the protection of the nationals is groundless.

Humanitarian intervention

The principle of humanitarian intervention is not supported by state practice and *opinio juris* and there is no factual ground capable of justifying such force (*supra*).

Despite the significant escalation of the situation in Tskhinvali region/South Ossetia, the constant attacks on Georgian villages, and the casualties among Georgian peacekeepers, police and civilian described *supra,* Georgia employed the utmost restraint and resorted to all available diplomatic measures to avoid use of force (See *infra*).

Although Russian aggression had triggered a use of force in self-defence by Georgia, the Russian government's propaganda continued to assert that Georgia had committed genocide

[78] "Georgia Protests about Russian Citizenship Law Amendments," Rustavi-2 Television 1600 GMT, 10 June 2002, in BBC Monitoring,
[79] Declarations and Recommendations adopted by EU Parliamentary Cooperation Committee at its 3rd meeting on 18-19 June 2001, IRE/PCC/GH/KM/es, 27 June 2001, para. 27.

against the ethnic Ossetians.[80] Russian propaganda served two goals, first, to justify Russia's illegal activities and second to encourage Ossetian proxy militants and other armed formations to commit brutalities against ethnic Georgians in revenge for the "genocide and mass killings." Human Rights Watch, in its report "Up in Flames", confirms that Russian claims of genocide committed by Georgians are not supported by any evidence.[81] Neither did the Council of Europe Parliamentary Assembly Committee on the Honoring of Obligations and Commitments by Member States, who visited Georgia and Russia in late September, support the allegation.[82] Subsequently, even the special Investigative Committee (Sledstvennyi Komitet Prokuratury, or SKP) documented deaths of 162 individuals instead of inflated figures claimed earlier

Russian claim of humanitarian intervention is an attempt to disguise its real intention and is not supported by facts and cannot be justified under contemporary international law.

Protection of peacekeepers

As the earlier argument made clear, there is no general right to use force in support of or for the protection of national peacekeeping contingents. Indeed, the status and (other forms of) protection accorded to peacekeepers under international law are valid under international law as long the peacekeepers remain neutral; this status is removed and protection is lifted automatically when they participate in the hostilities.

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[80] Dmitry Medvedev statement of August 10, 2008, see SKP RF Opened a Criminal Investigation into the Killings of Russian citizens in South Ossetia, Kommersant Online, August 14, 2008, http://www.kommersant.ru/doc.aspx?DocsID=1011523&ThemesID=301.

[81] Up in Flames, p. 71-72.

[82] PACE, Committee on Legal Affairs and Human Rights, "The consequences of the war between Georgia and Russia" opinion by Rapporteur Christos Pourgourides, Doc. 11732, rev. October 1, 2008

The argument in support of the use of force for the protection of peacekeepers is weakened by the fact that Georgia's defence operation started hours after the Russian invasion and no military clash between Georgian forces and peacekeepers had occurred before this. On the contrary, before the large scale Russian invasion, Georgian peacekeepers deployed in Tskhinvali region/South Ossetia and their checkpoints had been attacked during a week before August 7 (see *supra*).

As regards the participation of peacekeepers in the hostilities[83], as early as 00:23 on August 8, the Commander of the Joint Peacekeeping Forces, Marat Kulakhmetov, in a phone conversation with the Commander of Georgian peacekeepers Mamuka Kurashvili, admitted that Russian peacekeepers were providing coordinates of the positions Georgian armed forces to the South Ossetian proxy regime militants' artillery.[84] On August 8, at around 06:00, Georgian Ministry of Internal Affairs special forces equipped with "Cobra" type armored vehicles and reinforced by several tanks from the Ministry of Defence of Georgia, moved from the village of Zemo Nikozi towards the outskirts of Tskhinvali. The Ministry of Internal Affairs Special Forces encountered sniper and massive armored vehicle cannon fire from the Russian peacekeeping headquarters "Verkhniy Gorodok" located on the southwestern edge of the town and were compelled to return fire and ask for tank support. In addition to the attack from the base, the roof of the main building of "Verkhniy Gorodok" was used for correcting their artillery fire against Georgian armed forces, which is confirmed by an article in the South Ossetian and Russian press.[85] It must

[83] See answers to Q3 on Humanitarian Issues, Q3 on Legal issues and Q3 on Military issues.
[84] Annexes 87 A and B for the telephone conversation and its transcript.
[85] Military Annex 90. See also http://osradio.ru/genocid/10778-oleg-galavanov-pogib-projaviv-muzhestvo-i-geroizm.html

once again be noted that *only* those peacekeeping regiments and infrastructure have been attacked by the Georgian forces, which directly participated in hostilities, whereas other Russian Peacekeeping posts continued to function throughout the hostilities and have never been subject to attack.

Thus, the Russian attempt to justify its use of force as a means of protection of peacekeepers is ungrounded: First there is no general right to use force in support of or for the protection of national peacekeeping contingents. Second the military clash between Russian peacekeepers and Georgian forces occurred at about 6 a.m. on August 8, while the large scale military deployment of the Russian troops started in the early morning of August 7. Moreover, the Russian peacekeeping base attacked by Georgian forces was directly participating in the hostilities and they no longer enjoyed the protection normally accorded to them under international law.

V. GEORGIA ACTED IN SELF-DEFENSE

Georgia's military operation started at 23:50 of August 7, 2008 was an act of self defence *on its own territory* authorized by customary international law and Article 51 of the UN Charter:

- Georgia acted on its own territory against the invaded Russian troops;
- The Russian invasion had already materialized when the order on the use of force was issued by the Commander in Chief;
- An "armed attack" as required under international law was present;

- Georgia's actions were directed at the protection of its sovereignty, territorial integrity as well as the civilian population on its own territory.

The resort to force was necessary to halt the ongoing Russian aggression and was inevitable. Georgia has resorted to all available political and diplomatic means to avoid armed confrontation; however, all these efforts turned to be in futile.

Despite the diplomatic and preventative measures taken, including announcement of unilateral cease fire by the Georgian Government, shelling of Georgian villages as well as movement of Russian troops into the Georgian territories continued and the use of force in self defence became inevitable.

Georgian forces acted in defense of their homeland. Their actions were a legitimate and wholly lawful response to an egregious breach of the UN Charter and customary international law norms of non-intervention and non-interference. Georgia's use of force against the invading Russian army was necessary and proportionate.

To conclude, the Russian invasion of Georgia represents an unlawful use of force contrary to the UN Charter and fundamental norms of international law. None of the exceptions to this general prohibition, actual (self-defence, collective authorization) or purported (humanitarian intervention, protection of nationals, and protection of peacekeepers) can justify the Russian invasion. The Georgian response to the Russian armed attack was a

proportionate, necessary and wholly justified exercise of its customary and Charter right to use force in self-defence.

First set of questions to the Governments of the Russian Federation and Georgia, related to humanitarian issues

1. Concerning allegations of genocide, please explain who, in your view, committed genocide, and if so, when. If so, please mention the facts permitting to conclude that the elements of the crime of genocide, in particular, the existence of a protected group and of the intent to destroy that group in whole or in part, were present.

2. Why did persons leave their places of residence between 1990 and 2008, in particular in August, September and October 2008, and what hinders them to return? How are the property rights of such persons protected? May they dispose of such property freely?

3. What targets were attacked on what day by forces not controlling the place where those targets were situated between 7 and 12 August 2008? When those targets were situated in towns and villages, what was the evaluation of expected incidental deaths of civilians, injury to civilians or damage to civilian objects? Did the actual effects correspond to the expected effects? If not, why? What precautionary measures were taken in such attacks by the attacker and by the defender to avoid or minimize incidental deaths of civilians, injury to civilians or damage to civilian objects? Did those precautionary measures succeed? If not, why?

4. What is your legal position regarding the International Humanitarian Law as to the use of Grad multiple rocket launchers and cluster munitions in armed conflict? Why were Grad Multiple rocket launchers and/or cluster munitions used and against which targets (in particular in densely populated areas)? What measures were taken to mark and clear explosive remnants of war?

5. In areas that your forces or adverse forces gained control over during the 2008 hostilities, what kind of groups or persons were summarily executed, raped, or ill-treated civilians and pillaged, burned or destroyed buildings? What measures were taken by the forces of the party controlling the area to stop and repress such violations?

6. During or following hostilities in 2008, when were persons who fell into the power of your party or into the power of the adverse party arrested? On what legal basis were they arrested? How were those persons treated? Were they tried? When were they released?

7. Were persons perceived as being associated with the adverse party after the end of hostilities in 2008 discriminated against and/or deprived of the enjoyment of some human rights? What measures were taken against such practices?

8. What steps did your party and the adverse party take to clarify the fate of persons reported missing since 1990 by the ICRC, their families, or by the party to which they belong? In which cases were those steps successful? If they were not, why?

9. What investigations and prosecutions have been launched since 1990 by your judicial authorities against members of your forces, members of adverse forces, members of local forces and against civilians in relation with crimes committed in relation to the conflict? In which cases did such prosecutions lead to convictions or acquittals? Please provide copies of the relevant decisions. If prosecutions did neither lead to convictions nor to acquittals, why did they not succeed?

10. If forces or persons under your control, committed any violation(s) of International Humanitarian Law or Human Rights, did the victims of those violations obtain reparation? Were other measures of restorative justice adopted? If not why? How could the victims obtain such reparations?

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Question #1: Concerning allegations of genocide, please explain who, in your view, committed genocide, and if so, when. If so please mention the facts permitting to conclude that the elements of the crime of genocide in particular the existence of a protected group and of the intent to destroy that group in whole or in part.

Georgia does not concede that the crime of the genocide have been committed by either party to the conflict during and/or aftermath 2008 hostilities.

At the same time, Georgia notes that the Russian Federation has on several occasions declared that the crime of genocide was committed by the Georgian side as the legal justification for their intervention into the territory of Georgia. For this matter, we address the question posed in two parts:

- First, Georgia submits that no crime of Genocide has been committed by the Georgian side, as neither acts meeting the gravity of the said crime nor the facts commonly known support this allegation took place or were substantiated.

- Second, we submit that ethnic Georgians were subjected to ethnically motivated crimes committed either directly by Russian armed forces or through their tacit consent by South Ossetian militias (on the territories falling under Russian control). Detailed information on the issue is provided in the materials submitted to the Commission in March; namely, the Application of Georgia against the Russian Federation under the CERD, the Request of Georgia for the application of provisional measures of August 13, 2008, the Amended Request of Georgia for the application of provisional measures of August 25, 2008, the Annexes thereto as well as the oral pleading of Georgia at the International Court of Justice.

The Russian Federation from the very beginning of the conflict exercised significant efforts (mainly through large scale propaganda) to qualify the acts of Georgian grounds troops as act of genocide[1]. The numbers of deaths cited by the Russian and South Ossetia proxy regime at the beginning of the conflict varied from 1,500 to 2,000 persons[2].

Russian President Dmitry Medvedev instructed the Investigative Committee of the Prosecution Service of Russian Federation SKP to investigate the act of genocide in South Ossetia[3]. Leaving aside the question of whether the Russian Prosecution service was authorized to exercise jurisdiction in this matter, already on August 12, 2008, the SKP announced deployment of more than 200 investigators and 29 experts to conduct an investigation in South Ossetia[4]. Notably, unlike the SKP, even international humanitarian organizations were not given access to the territory up to August

[1] Dmitry Medvedev statement of August 10, 2008, see SKP RF Opened a Criminal Investigation into the Killings of Russian citizens in South Ossetia, Kommersant Online, August 14, 2008, http://www.kommersant.ru/doc.aspx?DocsID=1011523&ThemesID=301

[2] Statement of Russian Ambassador to Georgia Vyacheslav Kovalenko of August 9, 2008; Statement of Russian Deputy Minister of Foreign Affairs Grigory Karasin of August 10, 2008; Statement of the Russian Foreign Ministry Official Boris Malakhov of August 11, 2008;

[3] http://www.sledcomproc.ru/news/666/

[4] Ibid;

19-20, 2008[5]. As such, during the first stages of evidentiary gathering, the SKP was the sole fact-finding institution present on the ground.

In this context, the SKP announced on August 21, 2008 the deaths of 133 individuals, on October 12, 2008 – 159 individuals and on December 23, 2008 – 162 individuals[6]. Interestingly enough, the high level Russian authorities prior to the deployment of the SKP as early as August 9 and 10, 2008 were making bold statements regarding an egregious number of casualties, which further increases question marks as to the reliability of such information. Thus, the numbers were seriously exaggerated to create a moral justification for the intervention. Indeed, according to some international human rights organizations (i.e. Human Rights Watch), these exaggerated claims may have had a direct and pernicious result in promoting revenge killings. (See Annex)

As for Russia's claim regarding the crime of genocide, by September 25, 2008, the SKP reported that the evidence-gathering phase was completed and they came to unequivocal conclusion that Georgia's goal was to annihilate the national group of Ossetians residing in the Tskhinvali Region/South Ossetia. Here, what is of primary importance is the fact that the SKP has not given any legal explanation as to how the acts allegedly committed by Georgian soldiers amounted to genocide by Georgia. In addition, the SKP has not corroborated much of its findings with relevant evidence, nor has it substantiated its allegations of genocide with objectively determined facts. Specifically:

- The SKP investigative files are not publicly available[7];
- The SKP findings are not supported by any international/independent monitoring/fact-finding body[8];
- The SKP employed inaccurate hearsay which when encountered by Human Rights Watch on spot (in villages allegedly subjected to extermination) none of the cases proved to be true[9]; The request of the HRW to provide the names of the witnesses who could confirm the stories of egregious acts was not fulfilled by Russian side.
- The SKP report contained statements regarding death or injuries, without giving further details, whether the persons named as victims (dead or injures) were civilian or combatant/legitimate military target, as well as lacked any situation description how the suggested deaths/injuries took place (during hostilities, on spot, etc)[10];
- Interestingly, even the number of dead persons (civilian) officially declared by the Russian authorities poses question marks as to whether the list includes only civilians or also representatives of South Ossetia militias, who during the combat operation represented legitimate military targets.

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[5] See http://www.icrc.org/Web/Eng/siteeng0.nsf/html/georgia-interview-150808
[6] Up in Flames, p. 75;
[7] Human Rights Watch Report, Up in Flames, p. 70;
[8] Parliamentary Assembly of the Council of Europe (PACE), Committee on Legal Affairs and Human Rights, "The Consequences of the War between Georgia and Russia", Opinion by Rapporteur Ch. Pourgourides, Doc. 11732 rev, October 1, 2008;
[9] Up in Flames, pp. 71-72;
[10] Ibid;

The last provision is particularly important as the witnesses in South Ossetia quite often referred to the South Osssetian proxy militant men as "civilian", while being combatants and thus, legitimate target for an attack if such took place.

According to publicly available evidence (witness statements), not only genocidal intent but even discriminatory intent was missing among Georgian soldiers during the ground operations.

In particular, the Georgian troops entering the villages did not deliberately cause physical harm to the civilian population. Several Ossetians interviewed by the HRW said, that Georgian soldiers told them they were under *order to look for and pursue Ossetian Militia and spare women, children and elderly*[11].

Russian propaganda on the alleged genocide committed by Georgians started immediately after their illegal invasion of Georgia. This propaganda served two goals, first, to justify Russia's illegal activities and second to encourage Ossetian proxy militants and other armed formations to commit brutalities against ethnic Georgians in revenge of the "genocide and mass killings." HRW in its report "Up in Flames" confirms that Russian claims of genocide committed by Georgians is not supported by any evidence.[12] Neither the Council of Europe Parliamentary Assembly Committee on the Honoring of Obligations and Commitments by Member States who visited Georgia and Russia at the end of September support the allegation.[13]

With regard to crimes committed against ethnic Georgians, Georgia submits that we differentiate the act of genocide from the act of ethnic cleansing, as the latter act aims to render "an area ethnically homogeneous by using force or intimidation to remove persons of given groups from the area"[14]. Neither the intent, as a matter of policy, to render an area "ethnically homogeneous", nor the operations that may be carried out to implement such policy, can *as such* be designated as genocide: the intent that characterizes genocide is "to destroy, in whole or in part" a particular group, and deportation or displacement of the members of a group, even if effected by force, is not necessarily equivalent to destruction of that group, nor is such destruction an automatic consequence of the displacement[15].

It does not mean that ethnic cleansing can not constitute genocide, if it reaches the specific intent of the crime – *destruction of the group* in comparison with the intent of the *removal of the group from region.*

Georgia argues that the expulsion of ethnic Georgians from certain regions of Georgia, through the acts committed and steps taken by the Russian Federation along with South Ossetian proxy militants is equal to the act of ethnic cleansing. Georgia considers "ethnic cleansing" as an extreme form of racial discrimination under article 1 of the Convention on Elimination of All Forms of Racial Discrimination.

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[11] Up in Flames, p. 61;
[12] Ibid at p. 71-72
[13] PACE, Committee on Legal Affairs and Human Rights, "The consequences of the war between Georgia and Russia" opinion by rapporteur Christos Pourgourides, Doc. 11732rev. October 1, 2008.
[14] Interim Report by the Commission of Experts, S/35374 (1993), para. 55;
[15] Genocide Case, para. 190;

Ethnic discrimination has been one of the key aspects of the conflicts in Abkhazia and South Ossetia in 1990's as expressly recognized by the Committee on the Elimination of the Racial Discrimination (CERD)[16]. The situation has escalated since August 2008, when up to 140,000 thousand Georgians were forcibly displaced from their homes due to the Russian invasion. Although Georgia considers that this dispute had its genesis prior to August 2008, the issue of the forcible expulsion of several hundred thousand Georgians in 1990's shall not be subject of the discussion to this question and can be viewed for consideration in *Background Document* presented by Georgian side (submission to the International Court of Justice) to the Fact Finding Commission in March.

[16] CERD/C/304/Add.120, 27/04/2001, Concluding Observations on the Committee on the Elimination of Racial Discrimination, para. 4; CERD/C/GEO/CO/3, 01/11/2005, Concluding observations on the Committee on the Elimination of Racial Discrimination, para. 5; CERD/C/GEO/CO/3, 27/03/2007, Concluding Observations on the Committee on the Elimination of Racial Discrimination, para. 5.

Question #2 :Why did persons leave their place of residence between 1990 and 2008, in particular in August, September and October 2008, and what hinders them to return? How are the property rights of these persons protected?

Ethnic Georgians and other ethnic minorities have been ethnically cleansed from Abkhazia and the Tskhinvali region/South Ossetia as a result of the war in 1992-1993 in Abkhazia and in 1991-1992 in the Tskhinvali region /South Ossetia when the Russian Federation took direct part in hostilities, in addition to providing military and other support to its proxies.

As a result of the ethnic cleansing, Georgians and other ethnic minorities (i.e. Greeks, Estonians, Ukrainians, Jews, etc.) left Abkhazia (only in the Gali region has the Georgian population managed to return, however, they have been subjected to oppression and violence since then) In the Tskhinvali region/South Ossetia primarily Georgians were ethnically cleansed. After the expulsion of ethnic Georgians, the Russian Federation took on the formal role as neutral mediator and peacekeeper; however, in reality, the Russian Federation established and supported its proxy regimes in both regions.

In August 2008, the Russian Federation invaded and occupied Abkhazia and the Tskhinvali region/South Ossetia including parts that had been under the central government control before the August invasion. During and after the actual hostilities, Russian forces in harmony with irregular proxy armed groups raided Georgian villages in the territories under their control and expelled ethnic Georgians threatening their lives. As a result of this campaign more than 130,000 civilians have fled. About 32,000 civilians from the Tskhinvali region/South Ossetia and the Kodori Gorge/Upper Abkhazia are still unable to return.

Despite the peace initiates of the Government of Georgia, the ethnic Georgian populations were denied the right of return (*about the peace initiative see answer to legal Question 5 re: recognition*). Russia is directly responsible for the denial of the right of return of the IDPs and refugees on the territories under proxy control.[1]

- *Property rights of IDPs*

The persons expelled from Abkhazia and the Tskhinvali Region/South Ossetia are denied the right to enjoy their property. Some of them have filed cases in the European Court of Human Rights to vindicate their rights.[2]

Moreover, in March we have provided information in the answers to the "First set of questions on legal issues to the Governments of Georgia and the Russian Federation" concerning the illegal disposal of the property of IDPs and their purchase by Russian citizens and companies.

As regards the situation caused by the conflict in August 2008, please see below:

[1] See negotiation chart

[2] In 2006 a group of ethnic Georgian IDPs filed application against Russia and Georgia at the European Court of Human Rights. The applicants argue that due to the direct Russian involvement in the conflict they have been expelled from their houses in Abkhazia and have been denied the right to return. Regarding Georgia, the applicants claim that Georgia should be responsible since the territory where the alleged violations took place is *de jure* part of Georgia and thus falls within the Georgian jurisdiction as understood by Article 1 of the Convention.

Independent international organizations like Human Rights Watch (HRW), Amnesty International, the OSCE etc., as well as eyewitness testimonies and satellite imagery obtained has confirmed the extensive destruction in various settlements invaded and occupied by the Russian Federation.[3]

International humanitarian agencies estimate that some 300 to 500 houses in the Russian proclaimed "buffer zone"[4] were deliberately burned and that about 2,000 houses were otherwise damaged in the course of the conflict.[5]

- ***Impediments to displaced persons to return to their 'Homes':***

As noted above, Russian aggression in August 2008 led to the displacement of tens of thousands of people resident in the Tskhinvali region/South Ossetia. The HRAM interviewed a number of displaced persons who reported being forced from their homes as a result of the aerial bombardment of their villages by Russian planes or because they feared harm from advancing forces. In Eredvi, Ksuisi Kekhvi and Nuli, for example, the population began to flee as the bombs began to fall. Other villagers fled as Russian and armed proxy militant forces under Russian control began to arrive in their villages, for example in Vanati and Akhalgori.[6]

In Eredvi, according to villagers, groups of armed proxy militants under Russian control in military uniforms told the inhabitants they had to leave; in at least one instance these proxy militants told the villagers that "if you don't leave, you will be killed." Another villager from Eredvi reported to the HRAM that one old couple was threatened by "Russians and Ossetians" and forced to leave.[7]

On the other hand, many of the ethnic Georgians who fled their villages in the Tskhinvali region/South Ossetia during the conflict and its immediate aftermath have not been able to return. Mr. Kokoity (the leader of separatist forces) reportedly made a statement in mid-September that Georgian "refugees" holding South Ossetian citizenship can freely return to their former places of residence. Displaced Georgians will be allowed to come back if they are ready to renounce Georgian citizenship and acquire South Ossetian citizenship.[8]

Other *de facto* South Ossetian officials have expressed similar views. The *de facto* Minister of Interior, for example, told the HRAM that he has found records of 4,000 ethnic Georgians living in South Ossetia who had been issued weapons since 2006 and that if these people tried to return they would be prosecuted. Others, he said, would only be allowed to return if they renounce their Georgian citizenship. The Deputy Chairperson of the *de facto* Council of Ministers (the *de facto* Deputy Prime Minister) told the HRAM: "If a Georgian who decides to remain in South Ossetia does not meet our expectations, they will be expelled.... I don't want Georgians to return to the northern villages of Tamarasheni and others, and they won't be able to."[9] The Commandant of the

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[3] Amnesty International 'Civilians in the Line of Fire', p. 40

[4] Annex: Map of the Russian proclaimed Buffer Zone. The following villages are situated within the Buffer Zone: Variani, Nikozi, Khviti, Ergneti, Shindisi, Fkhvenisi, Karaleti, Tkviavi, Tirdznisi, Koshka, Mereti, Mdzevera.

[5] Report by the Office for Democratic Institutions and Human Rights (ODIHR), Human Rights in the War-affected Areas Following the Conflict in Georgia, Warsaw, 27 November 2008, pp. 22-24. Available at: http://www.osce.org/documents/odihr/2008/12/35656_en.pdf

[6] ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 24

[7] ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 47

[8] ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 48

[9] ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 48

Russian Armed Forces in South Ossetia told the HRAM that it is too early to speak about the return of displaced persons. [10]

Many displaced ethnic Georgians told the HRAM that they were unable to return to their former places of residence. A displaced person from the village of Disevi, for example, told the HRAM that she tried to return to Disevi but was prevented from doing so by Russian soldiers. Another concurred in a separate interview that "it is impossible to get through the Russian-Ossetian check points" and that it was not safe to return to tend the fields.[11]

A displaced couple from Vanati told the HRAM they have not been able to return to their house because police stop people from entering that area. A villager who tried to return to Ksuisi village said he was turned back at a checkpoint after being told he should apply for a Russian passport and citizenship if he wanted to return to the village. Other villagers reported they were afraid to go back to their villages after their experiences there. A villager from Okona said she would not return to her village as long as the Russians are there. A displaced person from Tamarasheni said she had no means to return to her village even if she wanted to, but in any event she had been told that all the houses in the village were destroyed, making return impossible.[12]

Since the proxy regime of the Tskhinvali region/South Ossetia, with the assistance of the Russian troops deployed in the region, has taken over in the Akhalgori area, many people have left the region. More than 5,100 individuals had left Akhalgori by the end of October. As another indication, a teacher told the HRAM that there were just 40 students in her school this year, compared to 170 last year and there were only half as many teachers as previously. The HRAM was told that some people are selling their homes and others are considering doing so; others have stated they return frequently to ascertain the situation prior to making a decision whether to sell their homes and move permanently to another region of Georgia. Georgians are leaving Akhalgori because of the strong presence of Russian and armedproxy militant forces under Russian control and believe that fighting may break out. [13] To date, remaining ethnic Georgians in Akhalgori live in constant fair; their right and freedoms are limited; they are forced to accept Russian or so-called Ossetian passports and to cut links with the rest of Georgia.

Human Rights Watch researchers spoke with several members of the armed proxy militants under Russian control who openly admitted that the houses were being burned by their associates, explaining that the objective was to ensure that ethnic Georgians would not have the houses to return to.[14]

- ***The right of IDPs to dispose their property freely***

The Constitution of Georgia recognizes the right to property. The right of property of IDPs over their property left behind in Abkhazia is regulated correspondingly to the extraordinary situation. The Parliamentary Decree (2002) restricted the right to property of IDPs until the "elimination of the conditions that caused the displacement of those individuals." The restriction is not about the

[10] ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 48
[11] ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 48
[12] ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 49
[13] ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 50
[14] Human Rights Watch (HRW), Georgia: Satellite Images Show Destruction, Ethnic Attacks, available at: http://www.hrw.org/en/news/2008/08/27/georgia-satellite-images-show-destruction-ethnic-attacks

general recognition of the property right but about the special regime for the registration of the property located in the parts of Abkhazia that remain beyond the control of the central government.

According to the general legislation on the registration of property, valid identification documentation and cadastral information shall be presented to the Public Registry. Identification documents as well as cadastral data[15] of the property located in Abkhazia have been remained there or were destroyed during the conflict. In the light of the above-mentioned, in order to conduct the valid registration of the property in the territory of Abkhazia, it is inevitable to conduct on spot verifications. Without on-spot verification, especially behind the background that privatization of property as such has never been conducted in Abkhazia, using regular procedures for registration may cause violation of the rights of third persons. Conversely, the risk that a person who claims ownership over the property may not be the real owner is tremendous. Through neglectful registration, the rights of potential buyers of the property are also under the risk. Therefore, the Government of Georgia takes very seriously the issue of property registration in the parts of Abkhazia beyond the control of the central government.

However, in order to strike the fair balance between the interests of different individuals the Public Registry conducts a preliminary registration. The preliminary registration means that the Public Registry can register property rights on the basis of satellite photos taken by the Government and the valid identification documents submitted by applicants.

This procedure is regulated within the frameworks of the Presidential Program "My House".[16] It is aimed at recording the real estate and registering the rights on it in the *de facto* territories notcontrolled by the Georgian Government. The program sets the foundation and exercises the preliminary registration of the property rights of the persons that had their real estate on the territory of Abkhazia prior to armed conflict and who as a result of it was forced to leave their property and change their place of residence. Preliminary registration of property rights in Abkhazia constitutes grounds for regular registration after the restoration of the jurisdiction of Georgia. It is important to mention that the preliminary registration is a manifestation of ownership over the property in question, however, the owner is temporarily restricted in his/her right to sell or otherwise dispose the property.

Pursuant to Decree No 124, in order to have preliminary registered property rights on the real property in Abkhazia, natural and legal persons must fill out a special declaration form indicating the information concerning the real estate that was in their possession on the territory of Abkhazia. Afterwards the data indicated will be compiled into declarations together with the satellite shoots to be used for creation of a geo-informational system of the Autonomous Republic of Abkhazia. All this provides the necessary requirements and gives the possibility to exercise preliminary registration of property rights of physical and legal persons in the territory of Abkhazia. For the implementation of these tasks a special department of land and other property-related issues of IDPs has been created in the Ministry of Refugees and Accommodation of Georgia.

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[15] Cadastral data provides information on location, boundaries, area and rights of a specific immovable property.

[16] The program is established by the Presidential Decree No. 124 of February 14, 2006, on Measures to be Taken with Respect to Recording of Rights to Immovable Property existing in the Autonomous Republic of Abkhazia and the Tskhinvali Region, and by the Presidential Decree No. 255, dated April 8, 2006, on Approval of the Procedure for Preliminary Registration of Immovable Property Existing in the Autonomous Republic of Abkhazia and the Tskhinvali Region.

Among others, the program "My House" aims at ensuring the identification of "persons" who are entitled to claim the right to ownership over real estate (persons who possessed the real estate) in the *de facto* territories and protection of their civil rights and interests. Upon restoration of the *de jure* jurisdiction of Georgia over Abkhazia, Georgian citizens will have legally valid and technically approved documents in Georgian and Abkhazian languages on real estate confirming the right to their property (the real estate's "recording certificate" and attached their farmstead plan) on the basis of which property related issues will be regulated and resettlement of IDPs in their habitual residences will be carried out.

The Public Registry will be able to conduct full scale and normal registration of the property in the parts of Abkhazia beyond the control of the central Government only after verification of the archival documents locally and accurate verification of location, boundaries, area and purpose of the property.

In order to show Georgia's commitment to restore the IDPs their right to property they have been expelled from, the measures taken in Upper Abkhazia, Kodori Gorge, is worth mentioning. As soon as the central government obtained necessary control over Upper Abkhazia in 2006, the Gulripshi Public Registry Office has been opened that registered the property over that territory and accordingly the inhabitants were effectively restored their property rights.

- ***Property Rights in Tskhinvali region/South Ossetia***

The Law on Restitution was adopted on December 29, 2006. The aim of the law is to provide property restitution, adequate immovable property in place or compensation of the material (property) damage to the victims who suffered damage as a result of a conflict in the Former Autonomous District of South Ossetia. Currently, the steps are taken for the implementation of the Law on Restitution.

Question: #3: What targets were attacked on what day by forces not controlling the place where these targets were situated between 7 and 12 August 2008? When those targets were situated in towns and villages what was the evaluation of expected incidental death of civilians, injury to civilians or damage to civilian objects? Did the actual effects correspond to the expected effects? If not why? What precautionary measures were taken in such attacks by the attacker and by the defender to avoid and minimize incidental death of civilians, injury to civilians or damage to civilian objects? Did those precautionary measures succeed? If not why?

Georgian forces attacked a) predetermined military targets, including Russian military convoy moving south b) legitimate military targets identified in the course of the hostilities.

Georgian forces (artillery) opened fire in response to Russian invasion and bombing of central government controlled villages at 23:50 of August 7, 2008 aiming at predetermined military targets. Ground operation launched at 00:15 of August 8, 2008 on left and right flanks.

Predetermined military targets, including Russian military convoy moving south

1. Armour/tank convoys on bypassing roads of Dzara and Geri;
2. Gupta bridge;
3. So called "rehabilitation centre" in Tskhinvali (Barracks on 2,500 servicemen);
4. So called Ministry of Defense, Ministry of Interior, Ministry of Security (KGB), SpecialForces HQ (OMON and Presidents security guards) in Tskhinvali;
5. HQ of proxy militants in so called "Shankhai" settlement in Tskhinvali;
6. Platoon fortified position reinforced with three tanks in the vicinity of the former asphalt factory in Tskhinvali;
7. Company fortified position reinforced with armor units (Tliakana height).
8. Platoon fortified position reinforced with 3-5 armored vehicles in the vicinity of the former Tractor factory in Tskhinvali;
9. Platoon fortified position reinforced with 3-5 armored vehicles in the vicinity of the former cement factory in Tskhinvali;
10. One battalion of the enemy artillery located in the vicinity of villages Dampaleti and Monasteri
11. One armored unit in the vicinity of village Kusireti;
12. Artillery positions in the vicinity of village Khetagurovo;
13. Platoon fortified position reinforced with armor and 120mm mortars in the vicinity of Ubiati;
14. Military base in Uradanta.

It must be noted, that the Georgian military command limited list of targets for artillery and for the ground troops in the city of Tskhinvali and vicinity of populated villages to minimum. The list of predetermined targets included only places of heavy concentration of the enemy's manpower and military assets. Georgian military command did not use any MRLS systems inside populated areas. Finally, the command was informed both by open sources and by intelligence on massive evacuation of civilians from proxy-controlled territories, including from the city of Tskhinvali.

Specifically, the evacuation civilians from Tskhinvali region to the Russian Federation began on 2nd of August 2008.[1] At 12:23, the proxy regime announced the evacuation of civilian population from Tskhinvali and from the separatist controlled villages of the region. The evacuation continued through 6 August 2008.

This fact is further confirmed by the statement of Anatoly Barankevich, than National Security Council Secretary of the proxy regime:

> *"Since August 1 conditions on border have started to become heated, at the beginning there were simple bombardments, then there appeared the first victims. Then Prime Minister Iury Ionovich Morozov has decided to evacuate people, thanks to him hundreds of lives have been rescued: both children, and women, and old men. Approximately 35 thousand persons were taken out from there ... On August 8 we have completely cleared the city".*[2]

On 7 August, after more than week-long attacks on Georgian-controlled villages in the vicinities of Tskhinvali, President Saakashvili stated in a live televised address made at 19:10, that he had ordered the Georgian forces to cease fire and called the Kokoity's proxy regime for negotiations.[3] The offer was left not responded. Despite Georgia's decision not to return fire, the Georgian village of Avnevi again came under fire at about 19:30. As a result the village was totally destroyed. At 22:30, the armed formations of the proxy regime guided by Russian peacekeepers fired at the Georgian controlled villages of Prisi and Tamarsheni, from Tskhinvali and the mountain of Tliakana. The South Ossetian irregular armed groupings fired at the Georgian village of Prisi at about 22:30. The attack left several people wounded on the Georgian side. At 23:30, they intensified artillery fire on all positions of Georgian police and peacekeepers in Big Liakhvi, Little Liakhvi and Frone valleys, especially the villages of Avnevi, Nuli, Tamarasheni and Kurta. The police station in Kurta was destroyed.

Moreover, at 15:00 on 8 August, GoG announced that Georgian authorities declared a three-hour unilateral ceasefire to allow remaining civilians to leave the conflict area in the southern direction from Tskhinvali towards Ergneti.

b) Legitimate military targets identified in the course of the hostilities

Georgian armed forces distinguished military objectives from civilian objects at all times and directed the attacks accordingly. Along with the predetermined military targets, force was used against the objects identified as military targets during the military operations. It is well documented that proxy irregular armed formations as well as Russian military forces extensively used civilian objects for clear military purposes as means of combat, by that violating principle of distinction as well as depriving these objects of their protection and transforming them into the legitimate military targets. Georgian armed forces attacks were directed specifically against firing positions of the adversary. Statement of even Ossetian OMON fighter Giorgi is quite illustrative:

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[1] South Ossetia Informs About The Beginning Of War With Georgia, Russian version available at: www.kavkaz-uzel.ru/newstext/news/id/1226808.html

[2] *South Ossetia is not the Place for this President*, December 4, 2008, Russian version available at: http://www.kommersant.ru/doc.aspx?DocsID=1089120

[3] The special address of the President of Georgia Mikheil Saakashvili, 7 August, 2008, available at: http://www.president.gov.ge/?l=E&m=0&sm=3&sr=20&id=2686

[...] "The Georgian tanks shot at those houses, from where the reciprocal fire was conducted" [...][4]

Neutralization of these targets, from which shelling of Georgian civilian villages as well as subsequent bombardment of and firing against Georgian armed forces was carried out was required by military necessity and aimed at obtaining concrete military advantage.

In cases when there was a doubt about the nature of the object, it was treated as a civilian object. *"Such objects are presumed to be civilian objects and as such are protected from targeting under international law; **but as described below, at least some of these buildings were used as defense positions or other posts by South Ossetian forces** (including volunteer militias), which rendered them legitimate military targets".*[5] Georgian soldiers received to heavy fire from numerous civilian buildings, including schools, kindergartens, and apartment blocks, and were forced to return fire, especially in Tskhinvali. This has also been verified by the HRW:

*Numerous witnesses interviewed by Human Rights Watch, including members of South Ossetian militias, indicated that South Ossetian forces were not only present in Tskhinvali and neighboring villages, but also actively participating in the fighting, including by launching artillery attacks against Georgian forces. **The witnesses also made it clear that South Ossetian forces set up defensive positions or headquarters in civilian infrastructure, thus turning them into legitimate military targets.***[6]

***These locations included some administrative buildings hit by the Georgian artillery, such as the Ossetian parliament building, as well as several schools and nursery schools.** For example, witnesses told Human Rights Watch that militias had taken up positions in **School No. 12** in the southern part of Tskhinvali, which was seriously damaged by the Georgian fire. Another witness said South Ossetian fighters were co-mingled with civilians in the basement of Tskhinvali **School No 6,** which drew Georgian tank fire. No civilian casualties resulted.*[7]

*Several members of the Ossetian militia interviewed by Human Rights Watch confirmed that **many of the school and nursery school buildings were used as gathering points and defense positions by the militias.***[8]

The Lieutenant Senior Sergey Shevelev, together with his subordinates, has occupied and fixed by a platoon on a favorable gun position the five-floor house at a crossroads of streets of Lenin and Khetagurovo in Tskhinvali.[9]

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[4] Elena Milashina, Ossetian Military Roads, № 68, September 15, 2008, Russian version available at http://www.novayagazeta.ru/data/2008/68/17.html

[5] Human Rights Watch, *Up In Flames: Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia*, 2009. p. 41

[6] Human Rights Watch, *Up In Flames: Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia*, 2009. p. 50

[7] Human Rights Watch, *Up In Flames: Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia*, 2009. p. 50

[8] Human Rights Watch, *Up In Flames: Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia*, 2009. p. 51

[9] Krasnaya Zvezda, *Their Feat is Immortal*, Oleg Gorupay, Russian version available at: http://www.redstar.ru/2008/08/16_08/1_01.html

As stated by the Lieutenant of the 58th army Mikhail Melnichuk, they have led the heavy armor into the yards of the private citizen and use concrete blocks, fences, walls of houses for organizing the defense.[10]

Furthermore, a document[11] ceased by Georgian Intelligence shows testimony of Russian mercenaries confirming that Secondary School #6 in Tskhinvali was used as a military base.

The interview with the former Secretary of the Security Council of the self-proclaimed Republic of South Ossetia, Anatoly Barankevich makes it clear that the houses located near the Russian battalion of peacekeeping corps as well as other houses were used as military objectives:

> [...] We have gone to the northern part of the city. We have decided to move to the headquarters of the peacekeepers. We came there and I told Kulakhmetov: let's occupy circle defense together and stand there until the Russian army comes [...]
>
> [...] Well, I have decided, it is necessary to cover approaches to peace-keeping town (the so called "Gorodok"). We have started to occupy houses near the headquarter and to block the nearest crossroads. Youngsters rushed about, did not know what to do. There was not a panic, there was disorganization. Supreme Commander has left, hasn't left anybody, the Chief of KGB remained with peacekeepers.[12]

It is clear from the statement of the then *de facto* NSC Secretary Barankevich that the houses nearby the Russian peacekeeping bases were occupied by the fighters for the military purposes, therefore, Georgian forces had the right under the relevant international humanitarian law to use force against such targets.

Collateral damage to civilians and civilian objects

It is legally established that, in the harsh reality of war, civilian persons and objects may be incidentally affected by an attack directed at a legitimate military objective, referred to as "collateral casualties" or "collateral damage"[13], civilians may be victims of unintended but inevitable side effects of an attack on a legitimate target in their vicinity. According to the principle of proportionality, these collateral casualties and damages are lawful under treaty and customary law only if they are not excessive in relation to the military advantage anticipated.

Again, the fact, that military objectives were often located by Russian military and their proxy irregular formation in close proximity to civilians has been verified by the HRW.

> *In some of the villages, such as Khetagurovo, Human Rights Watch was able to establish that the positions of Ossetian militias were in close proximity to the civilian homes hit by*

[10] Krasnaya Zvezda, Dimitry Simionov, *The Commander of a Defeated Platoon,* Russian version available at: http://www.redstar.ru/2008/09/09_09/2_01.html

[11] See Annex 37 A p.14, to the Chronology, Answer to Question 1 of the First set of Questions on Military Issues.

[12] *See supra note 2*

[13] "Collateral casualties" and "collateral damage" are defined in Rule 13(c) of the San Remo Manual on International Law Applicable to Armed Conflicts at Sea as "the loss of life of, or injury to, civilians or other protected persons, and damage to or the destruction of the natural environment or objects that are not in themselves military objectives".

the Georgian artillery. Georgian forces said they came under heavy fire from Khetagurovo.[14]

The Government of Georgia submits that it has satisfied the requirements for the collateral damage to be justified, i.e. it has acted in accordance with the principle or proportionality and applied precautionary measures whenever circumstances allowed.

It must be also highlighted, that Georgian military have strictly followed the order by the President to protect civilians.

> *The majority of witnesses interviewed by Human Rights Watch did not complain about [other types of] violations against them by the Georgian forces. Judging by their statements, **in most cases the troops entering the villages did not deliberately cause physical harm to civilians**. Several Ossetian interviewees said that Georgian soldiers told them they were under orders to look for and pursue Ossetian militias, **but to spare women, children and elderly during the ground offensive.***[15]

> *Zareta Z., from the village of Sarabuki, said that when Georgian soldiers entered the basement where she was hiding with her husband, they told them, "Now you'll live with us, with Georgians, and we'll live in peace. **Misha [Saakashvili] told us not to touch women and children**. We're instructed to kill the young guys [fighters] only. And that's what we'll do. You are not to worry." Another woman from the same village, "Svetlana S.," also said that the Georgian soldiers were telling the residents, "**We have not killed any residents and we are not going to! Everyone is safe!**"*[16]

> *Madina M. from Khetagurovo said that she was terrified when Georgian troops entered the village, but to her surprise they were "polite" and did not harm her. She said,*
> *"They were going from yard to yard and looking for young guys. They did not know our guys weren't around anymore. I was so frightened ... I thought they'd be doing cruel things to women and to the elderly, like during the first war, back in 1992. But they were ... polite, really. **They kept saying that they had an order not to touch women, children, and old people, and we had nothing to fear from them.**"*[17]

During a hearing before a Georgian parliamentary commission studying the causes of the August war, several high-ranking officials (including Chief of General Staff, Minister of Defence, Minister of Internal Affairs, Secretary of the National Security Council) stated that President Saakashvili gave three orders at 11:35 p.m. on August 7: 1. Stop all military movement from Russia to Georgia; 2. Suppress firing positions from which Georgian peacekeeping forces and villages were being attacked; 3. Protect the civilian population in implementing these orders. Georgian officials further insist that Tskhinvali was not a target per se, but that it was necessary to suppress firing positions in

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[14] Human Rights Watch, *Up In Flames: Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia*, 2009. p. 51

[15] Human Rights Watch, *Up In Flames: Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia*, 2009. p. 61

[16] Human Rights Watch, *Up In Flames: Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia*, 2009. p. 61

[17] Human Rights Watch, *Up In Flames: Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia*, 2009. p. 61

Tskhinvali and that Georgian forces needed to take control of Tskhinvali to evacuate civilians located in villages to the north of Tskhinvali.[18]

Despite the precautions taken by the Georgian government and the armed forces, civilian infrastructure damage was unavoidable. However, it is difficult to have accurate assessment of the damage caused exclusively by the Georgian forces, **as Russian forces represented dominant military power and used heavy air and artillery bombardment on the same area in the same period of time.**

The Grad multiple rocket launching system in Tskhinvali and other villages was used by the armed forces of the Russian Federation. It becomes known by the statement of the operator of installation "Grad", the senior sergeant of the 292nd contract service of the self-propelled artillery regiment of the 19th Infantry division – Denis:

> *"...Yesterday (on 8 August) we were attacking Tskhinvali by Grads to take the city. It was necessary to occupy the city..."*[19]

The fact of Russian Grad bombardment of Tskhinvali is also verifiable if angle of the shot would be identified on spot. While assessing the damage to the city, it must also be borne in mind that Tskhinvali has suffered damage as a result of hostilities in 90s as well, and has not been repaired thereafter. As Georgian authorities have not been able to undertake proper investigative measures, we provide annexed video as an illustrative example based on the analysis of the open source video[20]. Georgia submits that the trajectory of fire and position of shell proves Russian military bombing the Peacekeepers HQ in Nijni Gorodok.

Issue of Peacekeepers needs to be highlighted on its own. Russian Federation has extensively used the argument of "protecting" its peacekeepers, as a yet another justification for the intervention to Georgia. However, numerous facts confirm the political, rather than humanitarian rationale of the Russian intrusion. *(For factual evidences please refer to the Answer to Military Question#3 on roles and activities of peacekeepers prior and during the war.)*

Georgia confirms its commitment to the standard that directing an attack against personnel and objects involved in a peacekeeping mission in accordance with the established principles, as long as they are entitled to the protection given to civilians and civilian objects under international humanitarian law is prohibited.[21]However, as stated above, any civilian object can lose its protection in case it is used in such a way that it loses its civilian character and qualifies as a military objective, and hence, it is liable to attack. The Government of Georgia herewith submits that peacekeeping forces and their buildings that were used for military purposes were rendered a legitimate target, therefore, lost the protection. It must once again be noted that *only* those peacekeeping regiments and infrastructure have been attacked by the Georgian forces, which directly participated in

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[18] Human Rights Watch, *Up In Flames: Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia*, 2009. p. 23, see FN 39 text.

[19] October 19, 2008, Russian version available at: http://www.iterasi.net/openviewer.aspx?sqrlitid=sfwpycje3uowwit-kfvhpa

[20] See visual material in Reference 20;

[21] Jean-Marie Henckaerts & Louise Doswald-Beck, *Customary International Law Volume I: Rules*, International Committee of the Red Cross, Cambridge University Press, 2005, at 112, Rule 33..

hostilities, whereas other Russian Peacekeeping posts continued to function throughout the hostilities and have never been subject to attack.

The peacekeepers forces were involved in the war and assisted the irregular Ossetian forces through different means. The Georgian Minister of Internal Affairs corroborated the information stating that the base of the Russian peacekeeping forces was used by the separatists for both the artillery shelling of the Georgian positions, and adjustment of fire:

> *"On August 7 the lieutenant O. Galavanov was carrying out a battle-order on revealing the purposes and corrections of fire of the artillery", - it was told to us by his direct commander, though Oleg, of course, understood without the order has told that nobody could deal with this mission and such a difficult situation better. His observant post was situated on a roof of the building of the Russian peacekeeping battalion on southern suburb of the city – at that moment, at night from August7 to 8 it was the most dangerous place in the city since the Georgian army, first of all, aspired to destroy the peacekeepers. Oleg has not left a fighting post and corrected fire of our gunners, despite the intensive fire on that roof. However, eventually, the opponent has calculated its site and has started to shoot at its observant post precisely. Oleg has got the hardest wounds. The Russian peacekeepers drag him into the medical unit, however heavy fire continued there as well. Everything was burning around, there were many wounded and killed among peacekeepers. The medical unit was located in a tent that also lighted up. Critically wounded patient Oleg could not be dragged from there – there was no place, and there was nobody for that. Oleg Galavanov was lost, having shown courage and heroism on a fighting post. Galavanov Oleg is posthumously presented for the title of "the Hero of Russia".*[22]

The very first encounter with the Russian peacekeepers took place on August 8, at around 06:00, Georgian Ministry of Internal Affairs special forces equipped with "Cobra" type armored vehicles and reinforced by several tanks from the Ministry of Defence of Georgia, moved from the village of Zemo Nikozi towards the outskirts of Tskhinvali in order to suppress the fire opened at that village by the de facto regime irregular forces located in the southwestern part of the town, the so called "Shanghai" district. The Ministry of Internal Affairs Special Forces encountered sniper and massive armoured vehicle cannon fire from the Russian peacekeeping headquarters "Verkhniy Gorodok" located on the southwestern edge of the town and were compelled to return fire and ask for tank support.

According to the all abovementioned it is clear that the Russian battalion of peacekeeping corps turned into a military objective and therefore a legitimate military target, since it was directly involved in the military endeavor of the enemy. Not only did it make an effective contribution to the military operations due to its inclusion in the military dispositions of the adversary, but, directly attacked Georgian militaries. It should be noted, that at 00:23 of 8th, the Commander of the JPKF, General Marat Kulakhmetov a in telephone conversation with the Head of the Georgian peacekeeping contingent Gen Kurashvili admitted that the Russian peacekeepers had been providing coordinates for artillery shelling to the proxy militants.[23] Importantly, the above took place well before any Russian claims of alleged Georgian

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[22] Newspaper "Suadon", Igor Tuaev, *"Oleg Galavanov Was Lost, Having Shown Courage And Heroism On A Fighting Post"*, November 22, 2008, available at: http://www.osradio.ru/news/genocid/eid/14326.html

[23] See annex 87 A and B of the answer to the Question 1 of the Military Set of Questions for the telephone intercept and its transcript.

attacks on peacekeepers. Furthermore, at 02:37 in the morning of the August 8, Russian Deputy Foreign Minister, Gregory Karasin telephoned his Georgian Minister of Foreign Affairs Gregory Vashadze and informed him that Russia will respond militarily to the death of its peacekeepers in Tskhinvali. About hour and half later, the Russian ambassador to Georgia, Viacheslav Kovalenko visited Georgia's Ministry of Foreign Affairs to officially convey the same message. Although, the first encounter between Georgian forces and Russian peacekeepers took place at 06:00, at least three hours later than Karasin's phone call.

In spite of the overwhelming evidence of the direct involvement of the peacekeepers in the hostilities, Georgian armed forces treated them with more than due precaution, and never launched an offensive unless the hostile activities were initiated by peacekeepers or persons or vehicles wearing peacekeepers identifications. For instance, on the morning of August 9, at 12:00-13:00, the 41st Battalion of the 4th Infantry Brigade of the Georgian armed forces was moving into the town of Tskhinvali in order to reinforce the MIA special forces. Immediately before they entered the town a chain of armored vehicles and tanks full of armed persons appeared. The chief of the Battalion ordered the troops to allow the chain of vehicles and tanks to come unhindered until they reached visible distance in order to confirm their identification. Soon it became known that the tanks and armored vehicles had easily identifiable sign of Russian Peacekeeping Forces (yellow "MC" on the blue background). The Commander of the Battalion ordered to withhold fire and allow the peacekeepers to pass. The column penetrated deep into the 41st Battalion and suddenly attacked the Georgian unit with automatic rifle fire and hand-grenades. The Commander of the Battalion, Major Shalva Dolidze, as well as several other members of the Battalion died and dozens of Georgian soldiers were wounded.

Note: all of the evidence referred to above are provided in the Answers to Military Question #1 (chronology) and #3 (roles of peacekeepers).

Question 4: What is your legal position regarding the international humanitarian law as to the issue of Grad multiple rocket launchers and/or cluster munitions used and against which targets (in particular in densely populated areas)? What measures were taken to mark and clear explosive remnants of the war?

At the time of the international armed conflict between Russia and Georgia in August 2008, Georgia was not party to any of the international legal instruments expressly prohibiting the use of Grad Multiple Rocket Launching systems or cluster munitions in international armed conflict; neither was there any rule of customary international law applicable to Georgia, prohibiting the above. Furthermore, the types of weapons used, including Grad Multiple Rocket Launching systems or cluster munitions, had been used in full compliance with applicable rules of international humanitarian law, in particular the principles of distinction and proportionality.

Cluster munitions, specifically the GRADLAR160 missile system and the MK4 LAR160 type missiles with M-85 cluster bombs, have been used exclusively against heavily armored vehicles and equipment moving into the territory of Georgia. The use of the mentioned munitions has been based on a thorough analysis of the military necessity and the military advantage it could give to the Georgian army in the given situation. The pressing military necessity was to halt the advancement of Russian military personnel and equipment into Georgian territory. The attack was directed specifically at military personnel and objects and the use of the GRADLAR160 missile system and the MK4 LAR160 type missiles with M-85 cluster bombs impeded the advancement of the Russian Army into Georgian territory for several hours, thus giving the Georgian Army, which in numbers was several times less than the advancing Russian troops, a military advantage which created the opportunity to facilitate the safe evacuation of civilians from the war theatre.

The Armed Forces of Georgia used GRAD rockets only against clear military objectives and non in populated areas.

In conclusion, the Government of Georgia would like to underline once again that the means used (in this case Grad Multiple Rocket Launching systems and cluster munitions) as well as the modalities of their use were in full compliance with the applicable rules of IHL. The military advantage achieved by the use of the mentioned type of weapons clearly limited the anticipated, as well as actual damage to civilian objects or loss of civilian life or injury to civilians, and was fully justified by the military necessity.

- ***Measures Taken to Mark and Clear Explosive Remnants of War***

The August 2008 conflict caused a critical humanitarian situation in the country. The Explosive Remnants of War (ERW) were dispersed in many cities and regions of Georgia. Rapid mine clearance and mine risk education activities have been undertaken, although these activities are not carried out in the occupied areas of the Tskhinvali region/South Ossetia and in Abkhazia, Georgia because the leadership of Russian occupation forces continues toblock access of de-miners to those territories.

The bombed and mined areas of Georgia include:

- *Tskhinvali and Tskhinvali region/South Ossetia* (bombs, missiles, rockets, cluster bombs, antipersonnel and tank mines).
- *Gori and Gori region* (air bombs, cluster bombs, pellet bombs, land-mines, tactical rockets, missiles, high explosive bombs, time mechanism bombs).
- *Sachkhere and Oni regions* (air bombs, pellet bombs).
- *Marneuli Region* (airbombs).
- *Dedoflistskharo (*airbombs).
- *Tbilisi* (airbombs).
- *Kaspi region* (trotyl with explosives).
- *Upper Abkhazia* (bombs, missiles, rockets).
- *Poti* (air bombs, tactical rockets).
- *Senaki and Senaki region* (air bombs, tank mines).
- *Kutaisi* (air bombs).
- *Khelvachauri* (air bombs).
- *Kazbegi region* (highway) -- mines.

In order to urgently improve the situation, Memorandums of Understanding on "Humanitarian Mine Action Assistance" were signed with two organizations: (1) "Halo Trust" (Great Britain-USA) and (2) "Norwegian People's Aid" (Norway), correspondingly on the5th and 17th of September.

These Memorandums comprise the following activities: (1) assessment/survey, marking, mine risk reduction; (2) Explosive Remnants of War clearance activities. The Memorandums extend to the whole territory of Georgia, although they are not carried out in the Tskhinvali region/South Ossetia and in the Autonomous Republic of Abkhazia, Georgia as far as the leadership of Russian occupation forcesdoes not agree to allow de-miners access to those territories. Thus international efforts are needed.

In addition, Estonia has sent a 5-person group from the Explosive Ordnance Destruction Centre of the Estonian Ministry of Interior. Jointly with Georgian Engineering Brigade de-miners, the group has successfully carried out Explosive Remnants of War activities during a three 3 week period (7-28 September) in several specific areas.

In J-3 Department of the Joint Staff of Georgian Armed Forces, a Division has been created and authorized to coordinate Explosive Remnants of War activities. For this purpose, on October 9, 2008, the Ministry of Defense of Georgia signed a Memorandum of Understanding on "Mine Action Assistance" with IMMAP (USA). The Memorandum provides technical, programmatic, informational management and advisory support for the development of mentioned Service. The Service has already accomplished the information gathering and coordination functions.

The entire engineering supplies were demolished during the Russian aggression (Osiauri), which has led to the prioritization of the re-equipment of the Georgian Armed Forces Engineering Brigade, infrastructure rehabilitation and personnel re-training. Representatives of "DynCorp" (USA) are in Georgia to evaluate the type and amount of damage caused.

Marking of the Explosive Remnants of War (ERW) was performed by the "Halo Trust".

With regards to demining activities, a Memorandum of Understanding on "Humanitarian Mine Action Assistance" has been also signed with ITF (Slovenia). This memorandum encompasses the development of national capacities in view of victim assistance and training of non-military personnel related to mine activities.

The same issue was brought to the attention of the NATO Maintenance and Supply Agency (NAMSA), though the assistance is planned to be strictly humanitarian.

Question 5: In areas that your forces or adverse forces gained control over during 2008 hostilities, what kind of groups or persons were summarily executed, raped, or ill-treated civilians and pillaged, burned or destroyed buildings? What measures were taken by the forces of the party controlling the area to stop and repress such violations?

1. **No such acts have been committed by Georgian forces, as also verified by international organizations.**

2. ***As to the acts by the adverse party, please see bellow:***

Right to life

The attacks against civilians that were committed from late July 2008 to 12 August 2008 and thereafter, were in violation of the right to life due to the following reasons: a) these attacks were indiscriminate and disproportionate in nature b) were perpetrated either directly by the forces of the Russian Federation, and/or indirectly, by proxy militants under Russian control c) were intentionally targeted against the ethnic Georgian population. Hundreds of civilians lost their lives or had their lives seriously threatened as a result of the attacks.

Breach of substantive duty during the armed conflict: The Russian Federation was the dominant military force during the war in August 2008 and it directly subordinated Ossetian armed groups who acted as proxy militants under Russian control. Therefore, the Russian Federation is responsible for the orders it gave to its armed forces and the manner in which they and the proxy militants under their control conducted their operations. The Russian Federation was therefore obliged to conduct its military operations, including those of the proxy forces, in a planned and controlled manner so as to minimize the risk to life. The Russian Federation has failed to meet this duty by indiscriminately bombing and shelling areas which were not legitimate military targets,[1] and by utilising means of warfare, such as landmines and cluster bombs,[2] in a manner which failed to distinguish between civilians and combatants. Its use of force was not 'no more than absolutely necessary', nor was it lawfully undertaken.

There is no evidence that there were legitimate military targets nearby in the numerous areas which were the subject of indiscriminate shootings, tank attacks, artillery attacks and aerial bombings by the forces of the Russian Federation and/or the proxy militants acting under their control.[3] Such attacks included but were not limited to the following acts:

> The aerial bombing of two civilian convoys on the road near the village of Eredvi, killing two civilians, Tina and Marika Kakhniashvili, on 8 August 2008;[4]

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[1] ANNEX 1 : Human Rights Watch, *Russia/Georgia: Investigate Civilian Deaths, High Toll from Attacks on Populated Areas*, 12 August 2008, Available at: http://www.hrw.org/en/news/2008/08/12/russiageorgia-investigate-civilian-deaths.

[2] *Pasa and Erkan Erol v. Turkey*, App. No. 51358/99, judgment of 12 December 2006, § 38.

[3] See ANNEX 1 : Human Rights Watch, *Russia/Georgia: Investigate Civilian Deaths, High Toll from Attacks on Populated Areas*, 12 August 2008, Available at: http://www.hrw.org/en/news/2008/08/12/russiageorgia-investigate-civilian-deaths; See for example See ANNEX 28 : witness statement of Pasha Pakeliani; and See ANNEX 4 : Amnesty International, *Civilians in the line of fire: the Georgia-Russia conflict*, EUR 04/005/2008, November 2008, at pp. 29-31.

[4] See ANNEX 2 : See witness statement of Zaira Khetagashvili.

The aerial bombing and shelling of the village of Kekhvi from 7 to 9 August 2008, resulting in the destruction of the village school and killing three villagers;[5]

An aerial bomb attack on the village of Ereti on 8 August 2008;[6]

Aerial bomb attacks on the village of Kvemo Achabeti on 8 August 2008;[7]

An aerial bomb attack on the village of Kheiti killing one civilian, Nugzar Bugianishvili, on 9 August 2008;[8]

An aerial bomb attack on the village of Karbi, killing a civilian, Mrs Tsiala Bidzinashvili, and wounding several others, on 9 August 2008;[9]

A tank attack on civilian homes in Tamarasheni on 9 August 2008;[10]

An aerial bomb attack on the village of Tkviavi on 11 August 2008;[11]

The killing of 9 civilians, Mikheil and Shakro Melitauri, Gela Chikhladze, Nodar Batauri, Koba Jashiashvili, Shamil Orkopiridze, Lasha Basharauli, Soso Otiashvili and Jaba Jabaladze, during a looting operation in the village of Tkviavi on 12 August 2008;[12]

An aerial bomb attack on the main square of Gori, killing 8 and injuring 23 civilians, on 12 August 2008;[13]

A helicopter attack with rockets on Gori military hospital killing an emergency room physician, Giorgi Abramishvili, on 12 August 2008;[14]

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[5] See ANNEX 3 : Human Rights Watch, "Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict Zone over South Ossetia", 22 January 2009, pages 91-92, available at: http://www.hrw.org/en/reports/2009/01/22/flames-0

[6] ANNEX 4 : Amnesty International, *Civilians in the line of fire: the Georgia-Russia conflict*, EUR 04/005/2008, November 2008, at pp. 29-31.

[7] ANNEX 3 : Human Rights Watch, "Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict Zone over South Ossetia", 22 January 2009, page 92, available at: http://www.hrw.org/en/reports/2009/01/22/flames-0

[8] *Ibid.*

[9] ANNEX 4 : Amnesty International, *Civilians in the line of fire: the Georgia-Russia conflict*, EUR 04/005/2008, November 2008, at pp. 29-31; ANNEX 3 : Human Rights Watch, "Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict Zone over South Ossetia", 22 January 2009, pages 96-97, available at: http://www.hrw.org/en/reports/2009/01/22/flames-0

[10] ANNEX 3 : Human Rights Watch, "Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict Zone over South Ossetia", 22 January 2009, pages 114, available at: http://www.hrw.org/en/reports/2009/01/22/flames-0

[11] *Ibid.*, p. 101.

[12] See ANNEX 6 : witness statement of Tamaz Demetrashvili and ANNEX 66: Teimuraz Jashashvili. See also ANNEX 3 : Human Rights Watch, "Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict Zone over South Ossetia", 22 January 2009, pages 154-156, available at: http://www.hrw.org/en/reports/2009/01/22/flames-0.

[13] The incident becomes even more striking when considered in light of the fact that Georgian troops had withdrawn from Gori the previous night. Moreover, the bombing took place in front of the Gori Municipality Administration building, where several dozen civilians had gathered to collect food distributed by local officials. The multi-story municipality building is clearly visible from the air. See ANNEX 4 : Amnesty International, *Civilians in the line of fire: the Georgia-Russia conflict*, EUR 04/005/2008, November 2008, at pp. 29-31.

[14] ANNEX 3 : Human Rights Watch, "Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict Zone over South Ossetia", 22 January 2009, page 95, available at: http://www.hrw.org/en/reports/2009/01/22/flames-0

A rocket attack on the village of Tortiza, killing three civilians and injuring dozens of others on 12 August 2008;[15]

An aerial bomb attack on the village of Variani, killing 1 civilian, on 12 August 2008;[16]

The shooting of civilians in their car at close range in the area around Akhaldaba, killing one civilian, Moris Papuashvili, on 12 August 2008;[17]

A rocket attack on the village of Akhaldaba on 12 August 2008;[18]

A tank attack on a taxi in Tedotsminda, killing its two civilian passengers, Dodo Garsevanishvili and Nino Arabashvili, on 12 August 2008;[19]

The drive-by shooting of Vasiko Zaalishvili, in the village of Karaleti on 12 August 2008;[20]

The killing of a civilian during a looting operation in the village of Disevi, to the east of Tskhinvali;[21]

The shooting to death of Mr and Mrs Vakhtang Gurgenashvili;[22]

The shooting of a civilian minibus moving along the Tbilisi-Senaki-Leselidze road in the direction of Zugdidi, killing 9 civilians including a child, on 12 August 2008.[23]

These attacks failed to properly distinguish between combatants and civilians as the injured parties in these incidents were civilians who were not taking direct part in hostilities. It is incumbent upon the Russian Federation to produce evidence justifying these attacks, showing that at the time of the attacks the areas in question were legitimate military targets.[24]

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15 *Ibid*, p. 97-98.

16 There was only one civilian car moving along the road when the bombardment started. Given the high visibility from the air of a civilian car on an empty road, the attack was either a direct attack against civilians or was an indiscriminately targeted bombing of the area, ANNEX 4 : Amnesty International, *Civilians in the line of fire: the Georgia-Russia conflict*, EUR 04/005/2008, November 2008, at pp. 29-31.

17 In this incident, the Russian ground forces shot at several civilians at a close range when the latter were trying to hide away from the aerial bombardment of the area around Akhaldaba, in the Gori district. The civilians had left the television mast in a civilian vehicle and passed a column of tanks approaching from the direction of Tskhinvali. The soldiers opened fire on the car. As a result, one out of the four civilians in the mentioned vehicle was killed, see ANNEX3 : Human Rights Watch, "Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict Zone over South Ossetia", 22 January 2009, pages 118-119, available at: http://www.hrw.org/en/reports/2009/01/22/flames-0

18 ANNEX 3 : Human Rights Watch, "Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict Zone over South Ossetia", 22 January 2009, pages 102-102, available at: http://www.hrw.org/en/reports/2009/01/22/flames-0

19 *Ibid*, p. 117-118.

20 *Ibid*, p. 58.

21 "Ani" from the village of Disevi, a village in South Ossetia to the east of Tskhinvali, told Amnesty International: "All the Georgian villages were burned. Only those houses which had Ossetian wives in their households survived. This was done by the Ossetian separatists and Russian and Cossack groups dressed in black military uniforms with masks on the faces. One of them even spoke to us in Georgian from the tank. One of my neighbours who tried to resist them was killed." see ANNEX 4 : Amnesty International, *Civilians in the line of fire: the Georgia-Russia conflict* cited above, p. 39.

22 See ANNEX 7 : Witness Statement of Mrs. Liana Gurgenashvili.

23 See ANNEX 8 : Witness Statement of Mr. Khvicha Chania.

24 Information as to the categorisation of targets was sought by Amnesty International but the Russian Federation's reply did not address their concerns. ANNEX 4 : Amnesty International, *Civilians in the line of fire: the Georgia-Russia conflict*, EUR 04/005/2008, November 2008, p. 31. See also page 29: "Amnesty International has not received a response from the Russian authorities to a request for further information regarding the conduct of hostilities

Even if there was a legitimate military target inside the civilian villages which were shelled and bombed, the Russian Federation and/or the proxy militants under their control failed to employ methods and means of attack designed to limit collateral damage to civilians and civilian objects. The Russian Federation knew or should have known that the ordinances were likely to hit civilians or civilian objects.

Throughout the armed conflict, the Russian Federation, in conjunction with proxy militants under their control, conducted indiscriminate and disproportionate attacks. This was documented by several objective non-governmental organisations, including Human Rights Watch[25] and Amnesty International.[26]

The manner in which landmines and cluster bombs were used is a further example of the Russian Federation's failure to take sufficient precautions to protect the lives of the civilian population.[27] Although the Russian Federation has denied the use of cluster bombs, objective accounts have documented the aerial dropping of cluster munitions and bomblets by its forces on the civilian villages of Variani,[28] Kvemo Kviti, Trdznisi, Tqviavi, Pkhvenisi, Kekhvi, Ruisi[29] and Akhaldaba, as well on Gori City[30] and several villages just north of Gori.[31]

Breach of substantive duty during occupation:

The violation and disregard of the right to life did not stop after the cessation of hostilities. On the contrary, the most rampant ethnically motivated violence took place after the ceasefire. As an occupying power, the Russian Federation had a duty to prevent arbitrary executions carried out by its own, or by proxy militants under their control, in order to ensure the well-being of the civilians in the areas under its control. Some examples of such incidents include:

- The shooting to death of Mr Ivane Lalashvili in the village of Karaleti on 14 August 2008;[32]

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and the measures taken to minimize risk to civilians by Russian forces". *Available at:* http://www.amnesty.org/en/library/asset/EUR04/005/2008/en/d9908665-ab55-11dd-a4cd-bfa0fdca9647/eur040052008eng.pdf

[25] "Human Rights Watch has documented the Russian military's use of indiscriminate force and its seemingly targeted attacks on civilians, including on civilian convoys." See ANNEX 9 : Human Rights Watch, *Georgia: International Groups Should Send Missions; Investigate Violations and Protect Civilians*, 16 August 2008. *Available at:* http://www.hrw.org/en/news/2008/08/16/georgia-international-groups-should-send-missions

[26] ANNEX 4 : Amnesty International, *Civilians in the line of fire: the Georgia-Russia conflict*, EUR 04/005/2008, November 2008

[27] *Ergi v. Turkey*, App. No. 23818/94, judgment of 28 July 1998, § 81

[28] ANNEX 3 : Human Rights Watch, "Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict Zone over South Ossetia", 22 January 2009, pages 105-108, available at: http://www.hrw.org/en/reports/2009/01/22/flames-0

[29] *Ibid.*, p. 108-110.

[30] ANNEX 3 : Human Rights Watch, "Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict Zone over South Ossetia", 22 January 2009, pages 111-113, available at: http://www.hrw.org/en/reports/2009/01/22/flames-0

[31] ANNEX 4 : Amnesty International, *Civilians in the line of fire: the Georgia-Russia conflict* cited above, pp. 32-34.

[32] See ANNEX 10 : witness statement of Mr. Giorgi Lalashvili.

The killing of Victor Gagoshvili in the village of Ergneti in mid August 2008;[33]

The torture and killing of 70 year old Mrs Olia Khaladze, during the burning of the village of Meghvrekisi, on 28 August 2008;[34]

The killing and burning of Mrs Nadya Gabaryev-Midodashvili, a handicapped elderly woman on 29 August 2008;[35]

The shooting to death of a 75 year old woman, Nora Kvinikadze, in the village of Abanoskoda on the border of South Ossetia on 6 September 2008;[36] and

The severe beating (and resultant death) of a 76 year old man, Givi Tetunashvili, in the village of Kanchaveti on 5 November 2008.[37]

Georgia can provide examples of at least 67 other killings by means of arbitrary execution by Russian Forces and/or séparatist forces acting under their control.[38] Indeed, Human Rights Watch has also documented numerous lethal attacks against civilians by proxy militants under Russian controal and armed criminals in areas under Russian control during the period of occupation.[39]

The manner in which landmines and cluster bombs were used during the armed conflict by the Russia and/or proxy militants under their control has resulted in civilian deaths during the occupation period. For example, mine blasts killed a woman in Gori and seriously injured a man in Tirdznisi on 24 August 2008.[40] Furthermore, Veliko Bedianashvili, a civilian aged 70, died in the village of Pkhvenisi, when a sub-munition emanating from an unexploded cluster-munition exploded.[41] On 24 August 2008, a train carrying crude oil exploded upon hitting a landmine five kilometres west of Gori. Large areas of the conflict zone, including villages, graveyards and

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33 See ANNEX 3: Human Rights Watch, "Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict Zone over South Ossetia", 22 January 2009, pages 157-158, available at: http://www.hrw.org/en/reports/2009/01/22/flames-0

34 See ANNEX 11 : witness statement of Mr. Temur Inauri.

35 See ANNEX 12 : witness statement of Mrs. Manana Mchedlidze.

36 See ANNEX 13 : Human Rights Watch, *Georgia: EU Mission Needs to Protect Civilians, In Security Vacuum, Frequent Attacks and Pervasive Fear.* ANNEX 3 : Human Rights Watch, "Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict Zone over South Ossetia", 22 January 2009, pages 158-159, available at: http://www.hrw.org/en/reports/2009/01/22/flames-0

37 *Ibid.*, p. 149.

38 The number of dead are based exclusively on bodies received by Georgian morgues and does not include those kept, buried, burned or otherwise disposed of within the areas which remain occupied by Russian and separatist forces. See also, among other reports reflecting the policy of killings perpetrated against Georgian civilians, See ANNEX 14 : the Report by the Office for Democratic Institutions and Human Rights (ODIHR), *Human Rights in the War-affected Areas Following the Conflict in Georgia,* Warsaw, 27 November 2008, pp. 22-24. Available at: http://www.osce.org/documents/odihr/2008/12/35656_en.pdf

39 ANNEX 13 : Human Rights Watch, *Georgia: EU Mission Needs to Protect Civilians, In Security Vacuum, Frequent Attacks and Pervasive Fear. Available at:* http://www.hrw.org/en/news/2008/09/15/georgia-eu-mission-needs-protect-civilians; ANNEX 14 : Report by the Office for Democratic Institutions and Human Rights (ODIHR), *Human Rights in the War-affected Areas Following the Conflict in Georgia,* Warsaw, 27 November 2008, pp. 22-24. Available at: http://www.osce.org/documents/odihr/2008/12/35656_en.pdf

40 ANNEX 4 : Amnesty International, *Civilians in the line of fire: the Georgia-Russia conflict* cited above, p. 34.

41 See ANNEX 5 : Human Rights Watch, *Georgia: Civilians Killed by Russian Cluster Bomb 'Duds', More Attacks Confirmed; Unexploded Ordnance Threatens Many*, 19 August 2008. *Available at:* http://www.hrw.org/fr/news/2008/08/19/georgia-civilians-killed-russian-cluster-bomb-duds

harvesting areas remain littered with unexploded ordinance including rockets, landmines and bomblets.

Torture, inhuman and degrading treatment:

The mistreatment of Georgian civilians (including torture and beatings, rape, forcing people to watch their homes burn down and poor treatment in detention) at the hands of the authorities of the Russian Federation, and the *de facto* authorities of the separatists acting under their control, can properly be categorised as torture and/or inhuman and degrading treatment.

Ill-treatment of civilians

Beatings and torture: The beatings of civilians by proxy militants acting under the control of the armed forces of the Russian Federation was a common feature of the 2008 armed conflict. Objective evidence from institutions such as the Office for Democratic Institutions and Human Rights ("ODIHR"), which received reports from many displaced civilians, documented some examples of ill-treatment and torture, including:

> The beating of a man to death by "Ossetians" in the village of Tirdzinisi;[42]
>
> The beating of two civilians in Gori by "Ossetians";[43]
>
> The beating of three villagers who attempted to return to Ksuisi after having fled the village;[44]
>
> The beating of a woman from Tamarsheni by seven Ossetian women while soldiers stood by and watched;[45]
>
> The cutting of a man's face when he refused to leave his home village of Ksuisi face;[46]
>
> The cutting off of a villager's ear and the breaking of his jaw with a blow from a gun;[47]
>
> The beating of a 79 year old man, Tskhaloba Khutsinashvili, during a looting operation in Kurta;[48]
>
> The beating of an 84 year old man (causing him to lose consciousness) in the village of Kvemo Achabeti on 11 August 2008;[49]
>
> The beating of a 78 year old man in the village of Karaleti on 15 August 2008;[50] and

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42 ANNEX 14: Office for Democratic Institutions and Human Rights (ODIHR), *Human Rights in the War-affected Areas Following the Conflict in Georgia*, Warsaw, 27 November 2008, p. 24. Available at: http://www.osce.org/documents/odihr/2008/12/35656_en.pdf

43 As reported by the Chief Doctor of the Gori hospital who treated the two patients.

44 ANNEX 14 : Office for Democratic Institutions and Human Rights (ODIHR), *Human Rights in the War-affected Areas Following the Conflict in Georgia*, Warsaw, 27 November 2008, p. 37. Available at: http://www.osce.org/documents/odihr/2008/12/35656_en.pdf

45 *Ibid*, p. 24.

46 *Ibid*, p. 37.

47 *Ibid.*

48 See ANNEX 16 : witness statement of Tskhaloba Khutsinashvili

49 ANNEX 3 : Human Rights Watch, "Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict Zone over South Ossetia", 22 January 2009, pages 120, available at: http://www.hrw.org/en/reports/2009/01/22/flames-0

The beating of an 83 year old man in the village of Korinta on 16 November 2008.[51]

Human Rights Watch also documented numerous attacks and threats against civilians by Ossetian militias and armed criminals both during the armed conflict and the subsequent period of occupation.[52] Furthermore, a Tbilisi-based NGO specializing in assistance to victims of torture reported identifying at least 50 incidents of torture arising out of the conflict.[53]

Rape: The Office of the Prosecutor General of Georgia has confirmed that while there is no evidence of systematic rape during the conflict, there were several rapes by members of the armed forces of the Russian Federation, and/or proxy militants under their control, against civilians. Such incidents included:

The gang rape of a girl in her 20s, Mariam C, who was abducted from a minibus near Gori city on 13 August 2008;[54]

The rape of an 18 year old girl, Eliso E, in her family home during a looting operation;[55]

The rape of a woman detained alone in a house by four people;[56]

The gang rape of a woman who was hiding in a church in Gori;[57]

The repeated rape of a woman who was held in custody in Tskhinvali by her guards;[58]

The rape of a girl kidnapped in Gori;[59] and

The rape of a male soldier.[60]

Forcing people to watch their homes burn down: This was a widespread and systematic practice of the Russian and proxy militants under Russian control to force civilians to watch their homes being burnt down while preventing them from putting the fire out. Reports of this practice include:

Documented cases by ODIHR that "Ossetians were preventing people from extinguishing fires under threat of being killed;[61]

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50 *Ibid*, p. 121.

51 *Ibid*, p. 150.

52 Human Rights Watch, *Georgia: EU Mission Needs to Protect Civilians, In Security Vacuum, Frequent Attacks and Pervasive Fear. Available at:* http://www.hrw.org/en/news/2008/09/15/georgia-eu-mission-needs-protect-civilians

53 ANNEX 14 : Office for Democratic Institutions and Human Rights (ODIHR), *Human Rights in the War-affected Areas Following the Conflict in Georgia*, Warsaw, 27 November 2008, p. 24. Available at: http://www.osce.org/documents/odihr/2008/12/35656_en.pdf

54 ANNEX 3 : Human Rights Watch, "Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict Zone over South Ossetia", 22 January 2009, pages 159-160, available at: http://www.hrw.org/en/reports/2009/01/22/flames-0

55 *Ibid*, p. 161-162.

56 *Ibid*, p. 25.

57 *Ibid.*

58 *Ibid.*

59 *Ibid.*

60 ANNEX 14 : ODIHR, *Human Rights in the War-affected Areas Following the Conflict in Georgia* cited above, p. 25

61 *Ibid.*

The shooting of a man from Disevi when he tried and extinguish flames after armed men set his house on fire;[62]

Documented cases by HRW of civilians being forced to watch their homes burn to the ground.[63]

It is notable that when a delegate from Amnesty International asked a Russian army officer during the conflict why they were not taking action to extinguish fires set by proxy militants under Russian control, his answer was "that's the policy." This exchange illustrates that the Russian Federation failed to prevent ongoing acts of mistreatment which were carried out by the proxy militants under their control.[64]

Poor treatment in detention: Approximately 160 civilians were held in detention by the *de facto* South Ossetian authorities before being transferred to the Georgian authorities between 19 and 27 August 2008.[65] Amnesty International delegates spoke to a number of the first group of detainees to be released on 21 August 2008. From the accounts of detainees, it appears that the majority were elderly civilians who had been taken captive after the end of active hostilities on 13 August 2008. They reported frequent verbal abuse and were kept without bedding or blankets as well as without basic essential nutrition.[66] The relatively younger detainees were taken from the police station during the day, beaten and made to work on the removal of debris from the streets of Tskhinvali without any sort of compensation.

Human Rights Watch confirmed that many civilians were held in the basement of the *de facto* Ministry of Interior building in Tskhinvali for approximately two weeks in conditions that amounted to degrading treatment.[67] Such conditions included overcrowding, little food or water, no electricity, verbal abuse, forced labour without compensation, beatings and insufficient toilet facilities.[68]

Four civilian males were also held in detention from 8 to 12 August 2008 at two different military bases where they were severely beaten by Russian and proxy militants under Russian control forces prior to being transferred to the Ministry of Interior building in Tskhinvali.[69]

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62 *Ibid*, p. 24.

63 See ANNEX 25: Human Rights Watch, *Georgia: Satellite Images Show Destruction, Ethnic Attacks, Russia Should Investigate, Prosecute Crimes*, 27 August 2008. Available at: http://www.hrw.org/en/news/2008/08/27/georgia-satellite-images-show-destruction-ethnic-attacks

64 Among others, see, ANNEX 4 : Amnesty International, *Civilians in the line of fire: the Georgia-Russia conflict* cited above.

65 See ANNEX 17 : Human Rights Watch, *Summary of Recommendations. Available at:* http://www.hrw.org/en/news/2008/10/20/summary-recommendations

66 See ANNEX 18 : for example witness statement of Tina Nebieridze

67 See ANNEX 19 ; *Russia/Georgia: Investigate Abuse of Detainees*, 21 September 2008, *Available at* http://www.hrw.org/legacy/english/docs/2008/09/19/georgi19858.htm; ANNEX 3 : Human Rights Watch, "Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict Zone over South Ossetia", 22 January 2009, pages 173-184, available at: http://www.hrw.org/en/reports/2009/01/22/flames-0

68 ANNEX 3 : Human Rights Watch, "Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict Zone over South Ossetia", 22 January 2009, pages 173-184, available at: http://www.hrw.org/en/reports/2009/01/22/flames-0

69 *Ibid*, p. 182-184.

Unlawful detention of civilians

Approximately 160 civilians, including 40 women,[70] were captured by the armed forces of the Russian Federation and/or proxy militants acting under their control and detained for up to a fortnight. During this time they were subjected to the unlawful deprivation of their liberty. The detained individuals, who were primarily elderly residents that had not fled during the conflict, were captured by Russian occupying forces, together with their Tskhinvali region/South Ossetia counterparts. A small number were detained on 10 August 2008, shortly after the Georgian forces' retreat, but the majority of detainees were captured on 13 August 2008 or thereafter during the looting of their villages. Most of these civilians were held in the basement of the Ossetian Ministry of Interior building in Tskhinvali in conditions that amounted to degrading treatment before being transferred to the Georgian authorities between 19 and 27 August 2008. These instances have been documented by independent human rights organizations, such as Human Rights Watch,[71] Amnesty International,[72] and the OSCE ODIHR.[73]

The statements of former detainees clarify the circumstances in which they were taken captive. **Ana Datashvili** recalls:

> *They [Russian and Ossetian soldiers that entered the village Tamarasheni] drove us to Tskhinvali and 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 which was about 30 square-meters. There were 30 old women together with me in the cell. 15 young men were amongst 200 Georgians in jail. They were taken every morning and forced to work on cleaning the city. Most of the Georgian men in jail had recognizable bodily injuries.*[74]

Enver Babutsidze described the police building in Tskhinvali where they were kept:

> *I estimate that there were more than 200 hostages at the prison, including a significant number of women. When the number of hostages had grown so large that there were too many to be kept in the cells, they kept prisoners in the corridor as well. They also put some of us outside in cages. ... The Ossetians who were guarding us said that we were hostages and would be held until there was an exchange.*[75]

Another former detainee, **Gulnara Jakhveladze** recounts:

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[70] See ANNEX 20 : List of the detained civilians indicating their dates of birth, places of residence and detention. See also ANNEX 15 : witness statements of Liza Gogashvili and ANNEX 2 : witness statement of Zaira Khetagashvili.

[71] See ANNEX 19 : *Russia/Georgia: Investigate Abuse of Detainees*, September 21, 2008, available at http://www.hrw.org/legacy/english/docs/2008/09/19/georgi19858.htm; See ANNEX 3 : Human Rights Watch, "Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict Zone over South Ossetia", 22 January 2009, pages 173-184, available at: http://www.hrw.org/en/reports/2009/01/22/flames-0

[72] ANNEX 4 : *Civilians in the Line of Fire: the Georgia-Russia conflict*" of November 18, 2008, available at : http://www.amnesty.org/en/library/asset/EUR04/005/2008/en/d9908665-ab55-11dd-a4cd-bfa0fdea9647/eur040052008eng.pdf

[73] See ANNEX 14 : *Human Rights in the War Affected Areas Following the Conflict in Georgia*, 27 November 2008, available at :http://www.osce.org/documents/odihr/2008/12/35656_en.pdf

[74] See ANNEX 21 : witness statement of Ana Datashvili.

[75] See ANNEX 22 : witness statement of Enver Babutsidze.

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 us go. As soon as we came to the police office, they took our documents, cell phones, money and other belongings. The police officers were Ossetians. Then they took us downstairs to the detention isolator.[76]

The direct involvement of Russian troops in the detentions is attested to by **at least** one former detainee. **Enver Babutsidze recalls** how he and his neighbour were beaten by Russian soldiers that entered their village and were subsequently taken to Tskhinvali:

Vazha and I started out for Tskhinvali on foot in the custody of a group of Russian and Ossetian soldiers. The number of soldiers varied between 5 and 20, since soldiers came and went. The leader was a lieutenant in the Russian army. While walking to Tskhinvali, the soldiers saw some of my neighbors standing near their houses. The soldiers detained these people and put them into a car of "Zhiguli" model. After we walked for a while, my captors stopped a "Velisi" model car, and the Russian lieutenant ordered Vazha and me to get into the car. Two Ossetian soldiers were in the car. One said "we are going to kill these Georgians." I prepared myself to be killed. However, the other Ossetian soldier said they should not kill us. Instead, they drove us to Tskhinvali.[77]

He testifies to the extensive presence of Russian soldiers inside and outside the detention centre, and indicates that the majority of interrogations of detainees were conducted by Russian officers. Furthermore, he recalls that the *de facto* South Ossetian proxy regime Minister of Interior, Mikhail Mindzaev (who remains a Colonel in the Russian police), giving orders to people, including ordering hostages to be taken to different places. He further describes seeing Mr Mindzaev speaking with the commander of the Russian peacekeeping force, General Kulakhmetov, in plain view of the detainees.[78]

Non-governmental organisations, such as Human Rights Watch, also note the direct involvement of Russian soldiers in detentions:

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 *de facto* Ossetian Ministry of Internal Affairs.[79]

Additionally, the OSCE ODIHR has documented the direct involvement of Russian Federation officials in the interrogation and supervision of detainees at the Tskhinvali detention centre.[80]

Looting

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[76] See ANNEX 23 : witness statement of Gulnara Jakhveladze.

[77] See ANNEX 22 : witness statement of Enver Babutsidze.

[78] *Ibid.*

[79] See ANNEX 19 : *Russia/Georgia: Investigate Abuse of Detainees*, September 21, 2008, available at http://www.hrw.org/legacy/english/docs/2008/09/19/georgi19858.htm

[80] ANNEX 14 : *Human Rights in the War Affected Areas Following the Conflict in Georgia*, 27 November 2008, available at: http://www.osce.org/documents/odihr/2008/12/35656_en.pdf

Human Rights Watch has documented the systematic looting and burning of civilian homes by proxy militants under Russian control in the villages of Tamarasheni, Zemo Achabeti, Kvemo Achabeti, Kurta, Tkviavi, Tirdznisi, Dvani, Koshka, Megrekisi, Nikozi, Karaleti, Knolevi, Avlevi, Tseronisi, and Kekhvi.[81] By way of example, in Kekhvi a woman saw her house being looted by a group of "Ossetians" wearing military uniforms with white arm bands. The men also stole her car and loaded it with furniture from a neighbour's house before driving away. As she fled the village, she saw "Ossetian" soldiers who were being protected by Russian forces and were pillaging shops and other houses.[82]

Amnesty International has also noted Russian forces looking on while proxy militants under Russian control and armed individuals looted and destroyed civilian villages and threatened and abused the residents remaining there.[83] This practice continued on a large scale for several weeks after the formal cessation of hostilities with the Russian authorities failing in their duty to prevent human rights abuses being carried out by proxy militants under Russian control.[84] One prominent example of this took place in the village of Eredvi on 26 August 2008,[85] where Amnesty International representatives witnessed ongoing looting by armed men while Russian military equipment continued to pass through the village and Russian checkpoints controlled entry to and exit from the village. A person who appeared to be a Russian army officer from North Ossetia asked the representatives not to report having met them there, and when asked why they were not taking action to extinguish fires in the village, he answered "that's the policy" ("politika takaya").[86]

The OSCE's ODIHR also reported prolific looting and burning of civilian villages, such as Kurta, Vanati, Charebi, Satskheneti, Kekhvi, Ikoti, Nuli, Tkviavi and Zemo Nikozi. Residents described the looting in these areas to the OSCE Human Rights Assistance Mission ("HRAM") as occurring on some occasions just after the bombing ceased, and on other occasions after the ceasefire of 12 August 2008. The pattern of looting would typically involve Russian tanks arriving in the village and proxy militants under Russian control, together with Ossetian civilians, entering houses and shops, threatening the villagers in the event of protest, stealing furniture and livestock, then returning to set the homes ablaze.[87] Witnesses recalled that the Russian forces either "just let them"; or looted together with the proxy militants under Russian control,[88] sharing the plunder from houses

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81 See ANNEX 25 : Human Rights Watch (HRW), Georgia: Satellite Images Show Destruction, Ethnic Attacks, available at: http://www.hrw.org/en/news/2008/08/27/georgia-satellite-images-show-destruction-ethnic-attacks. See also ANNEX 3: Human Rights Watch, "Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict Zone over South Ossetia", 22 January 2009, pages 130-142, and 164-169 available at: http://www.hrw.org/en/reports/2009/01/22/flames-0

82 See ANNEX 14 : ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 44

83 See ANNEX 4 : Amnesty International 'Civilians in the Line of Fire', p.32.

84 *Ibid.*

85 Individuals from Eredvi have recounted how houses were pillaged before they were burnt. One man lamented that not only were his furniture and appliances taken, but the looters also took his tractor, crops. He and his wife saw tanks and cars loaded with furniture and other booty leaving the village: ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 44.

86 See ANNEX 4 : Amnesty International 'Civilians in the Line of Fire', p.43

87 See ANNEX 14 : ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 28, 44-45.

88 For example, an NGO reported that in the village of Tkviavi, a Russian tank destroyed the wall of a shop; the soldiers then helped themselves to the inventory and told villagers to feel free to take what remained. See also reports of

and burning what could not be taken.[89] Members of the OSCE's HRAM witnessed looting in the villages of Avnevi and Nuli, as well as in villages north of Tskhinvali, where Russian police officers and occupants of Russian military vehicles made no attempt to intervene to stop the looting that was underway.[90]

Destruction of property

Independent international organizations, eyewitness testimony and satellite imagery confirm the extensive destruction inflicted on the various settlements invaded and occupied by the Russian Federation.[91] This destruction resulted from the intentional burning of property and the indiscriminate bombing and shelling of property.

Satellite images from 19 August 2008, which were analysed by experts at UNOSAT,[92] identify visible structures which were likely to have been destroyed or severely damaged.[93] By way of example, in Tamarasheni, UNOSAT's experts counted a total of 177 buildings destroyed or severely damaged, accounting for almost all of the buildings in the village. In Kvemo Achabeti, there are 87 destroyed and 28 severely damaged buildings; in Zemo Achabeti, 56 destroyed and 21 severely damaged buildings; in Kurta, 123 destroyed and 21 severely damaged buildings; in Kekhvi, 109 destroyed and 44 severely damaged buildings; in Kemerti, 58 destroyed and 20 severely damaged buildings; and in Dzartsemi, 29 destroyed and 10 severely damaged buildings.[94]

The satellite evidence indicates clear patterns of widespread intentional torching of civilian villages inside the Tskhinvali region/South Ossetia, rather than damage caused by armed hostilities.[95] As such, the images corroborate the evidence gathered by human rights non-governmental organisations working in the region.[96] Among the images publicly available from the UNOSAT website is a map marking satellite-detected active fire locations in the civilian villages around Tskhinvali on 10, 12, 13, 17, 19 and 22 August 2008.[97] The map shows active fires in these villages on August 10, 12, 13, 17, 19 and 22, after active hostilities ended in the area on August 10.[98] Moreover, the images strongly indicate that the majority of the destruction in five of the villages – Tamarasheni, Kekhvi, Kvemo Achabeti, Zemo Achabeti, and Kurta – was caused by intentional burning.[99]

Russian and Ossetian forces working together in pillaging, destroying homes, threatening and beating civilians in the villages of Kvemo Achabeti, Karaleti and Koshka: ANNEX 3 : Human Rights Watch, "Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict Zone over South Ossetia", 22 January 2009, pages 120-123, available at: http://www.hrw.org/en/reports/2009/01/22/flames-0

89 See ANNEX 14 : ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 45

90 *Ibid.*

91 See ANNEX 4 : Amnesty International 'Civilians in the Line of Fire', p. 40.

92 http://unosat.web.cern.ch/unosat/

93 See ANNEX 26 : UNOSAT Images.

94 See ANNEX 25: Human Rights Watch (HRW), Georgia: Satellite Images Show Destruction, Ethnic Attacks, available at: http://www.hrw.org/en/news/2008/08/27/georgia-satellite-images-show-destruction-ethnic-attacks

95 *Ibid.*

96 *Ibid.*

97 See ANNEX 26 .

98 *Ibid.*

99 *Ibid.*

International humanitarian agencies estimate that some 300 to 500 houses in the Russian proclaimed "buffer zone" alone were deliberately burned[100] and that about 2,000 houses were otherwise damaged in the course of the conflict.[101] Indeed, members of the OSCE HRAM counted approximately 140 recently burnt homes during their travels in the "buffer zone", none of which showed traces of combat activity. In all of the cases observed both within and outside of the buffer, the homes appear to have been looted of valuable items prior to their having been set on fire.[102] Schools were also reported to have been deliberately burned in Charebi, Beloti and Nuli.[103]

Human Rights Watch reported that the villages of Tamarasheni, Zemo Achabeti, Kvemo Achabeti, Kurta, Kekhvi, Eredvi, Vanati, Avnevi, Nuli, Beloti, Satskheneti, Atsiriskhevi and Disevi had been almost fully destroyed by burning.[104]

The Commandant of the Russian armed forces in the Tskinvali region/South Ossetia admitted that the armed forces were aware of cases of burning and looting but said that the army could not stop the looters.[105] However, eyewitnesses told a different story. In Nuli village one witness reported that Russian troops were accompanying proxy militants under Russian control to loot and helping them to set fires. Likewise, in Vanati, according to a villager, Russian troops and tanks stood by while "Ossetians" set fire to most of the houses in the village.[106] Finally, a displaced person from Ksuisi also reported that Russians participated in the arson which resulted in all but five houses being set on fire.[107]

Displaced persons witnessed the deliberate burning of their houses in the villages of Megvrekisi,[108] Tirdznisi,[109] Ergneti,[110] Disevi,[111] Zemo Khviti,[112] Karaleti,[113] Satskheneti, Atriskheni and Prisi.[114]

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100 ANNEX 27 : Map of the Russian proclaimed Buffer Zone. The following villages are situated within the Buffer Zone: Variani, Nikozi, Khviti, Ergneti, Shindisi, Fkhvenisi, Karaleti, Tkviavi, Tirdznisi, Koshka, Mereti, Mdzevera. This statistic is supported by a survey conducted in the "buffer zone" by the Government of Georgia on 10 and 13 October 2008 revealed 463 houses burnt in the Gori district and 115 in the Kareli district.

101 ANNEX 14: Report by the Office for Democratic Institutions and Human Rights (ODIHR), Human Rights in the War-affected Areas Following the Conflict in Georgia, Warsaw, 27 November 2008, pp. 22-24. Available at: http://www.osce.org/documents/odihr/2008/12/35656_en.pdf

102 ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 27. Amnesty International researchers made similar observations travelling along the road from Java to Tskhinvali on 27 August 2008: Amnesty International 'Civilians in the Line of Fire', p.42.

103 ANNEX 14: ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 43

104 ANNEX 3: Human Rights Watch, "Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict Zone over South Ossetia", 22 January 2009, pages 130-142, available at: http://www.hrw.org/en/reports/2009/01/22/flames-0

105 ANNEX 14 : ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 46

106 ANNEX 14: ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 43.

107 *Ibid.*

108 *Ibid,* p. 28. Where 15 houses were burned. ODIHR,

109 *Ibid.* Where 20 houses were burned.

110 *Ibid.* Where 100 houses were completely destroyed by fire and another 30 were fire damaged.

111 *Ibid.* Which was almost totally destroyed by arson.

112 *Ibid.* Where most houses were burnt.

113 *Ibid.* Where some houses were burnt and others spared.

They recalled that the fires were often started by the proxy militants under Russian control who put a flammable red substance on the beds and then setting it ablaze.[115] The civilian villages north and east of Tskhinvali, such as Kekhvi,[116] Kurta, Kvemo Achabeti, Zemo Achabeti, Tamarasheni,[117] Ergneti, Kemerti, Berula and Eredvi suffered heavy damage in this way.[118]

According to the HRAM, some houses were also destroyed as a result of aerial bombardment or small arms fire.[119] Members of the HRAM observed that the villages of Dvani, Kvemo Nikozi, Zemo Nikozi, Zemo Khviti, Megvrekisi, and Ergneti were among those where members of the HRAM saw damage to houses from bombs or small arms.[120]

A survey conducted in the "buffer zone" by the Government of Georgia on 10 and 13 October 2008 revealed 463 houses burnt in the Gori district and 115 in the Kareli district.

Many displaced persons witnessed the deliberate burning of their houses as well. In Megvrekisi village, for example, witnesses reported that 15 houses were burned. In Tirdznisi village about 20 houses were burned. Among the worst affected villages was Ergneti, where displaced persons reported that about 100 houses were completely destroyed by fire and another 30 were damaged. One displaced person described seeing proxy militants under Russian control and Russians looting his house in Ergneti and then setting it afire.[121] Zemo Khviti is another village where majority of houses are reported to have been deliberately burnt. Several houses and apartment buildings in the village of Karaleti were burnt, others were spared.[122]

In Tamarasheni, UNOSAT's experts counted a total of 177 buildings destroyed or severely damaged, accounting for almost all of the buildings in the village. In Kvemo Achabeti, there are 87 destroyed and 28 severely damaged buildings (115 total); in Zemo Achabeti, 56 destroyed and 21 severely damaged buildings (77 total); in Kurta, 123 destroyed and 21 severely damaged buildings (144 total); in Kekhvi, 109 destroyed and 44 severely damaged buildings (153 total); in Kemerti, 58 destroyed and 20 severely damaged buildings (78 total); and in Dzartsemi, 29 destroyed and 10 severely damaged buildings (39 total).[123]

The HRAM visited Eredvi and confirmed extensive damage to the village. Many witnesses described how the fires were often started by putting a flammable red substance on the beds and then setting it ablaze. The damage to the village from deliberate arson was so complete that one

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114 *Ibid*, p. 43.

115 *Ibid*, p. 42.

116 *Ibid*, p. 43. Kekhvi village, according to a former resident, was "a mass of burnt ruins" by the time she left.

117 Tamarasheni village, according to one individual, had so many burning houses that it was impossible to count them.

118 For satellite imagery of the damage to these villages see UNOSAT, 'Village damage summary: Kekhvi to Tskhinvali, South Ossetia, Georgia, http://unosat.web.cern.ch/unosat/freeproducts/Georgia/Russia_ConflictAug08/UNOSAT_GEO_Village_Damage_Summary_Tskhinvali_19aug08_Lowres.pdf

119 ANNEX 14: ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 28

120 ANNEX 14: ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 28.

121 ANNEX 14: ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 28.

122 ANNEX 14: ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 28.

123 ANNEX 25: Human Rights Watch (HRW), Georgia: Satellite Images Show Destruction, Ethnic Attacks, available at: http://www.hrw.org/en/news/2008/08/27/georgia-satellite-images-show-destruction-ethnic-attacks

displaced person commented that "now, there is no village called Eredvi." Displaced persons from village after village recounted similar experiences of deliberate destruction of their villages by proxy militants under Russian control who followed the arrival of Russian armed forces.[124] Looting and arson attacks appear to have been concentrated in the Georgian-majority villages north and east of Tskhinvali. In particular, the villages of Kekhvi, Kurta, Kvemo Achabeti, Zemo Achabeti, Tamarasheni, Ergneti, Kemerti, Berula and Eredvi sustained heavy damage.[125]

Displaced persons interviewed by the HRAM told of intensive and destructive bombing raids on their villages by the Russian Air Force during the conflict. Among the building destroyed by bombs in Kekhvi was the kindergarten; in Kurta, the home village of Dimitri Sanakoev, the former Head of the Temporary Administrative Unit of Tskhinvali Region[126], was also heavily bombed, particularly in the neighborhood of Mr. Sanakoev's home. Bombs also fell on civilian targets in Tamarasheni, Charebi and Nuli. Other villages reported to be heavily damaged by aerial bombing included Zemo Achabeti, Kvemo Achabeti, Dzartsevni, Kheiti, Avnevi and Okona. The South Ossetian *de facto* authorities confirm the destruction of some villages during the conflict by Ossetian and Russian forces.[127]

After the bombing, South Ossetians in uniform as well as Ossetian civilians that followed the Russian forces' advance undertook what appears to have been a systematic campaign of arson against homes and other civilian buildings in villages populated predominantly by ethnic Georgians. A man from Eredvi described to the HRAM how "Ossetians" forced his wife's elderly parents out of their house and then burned it down before their eyes. Several other displaced persons from the same village provided nearly identical accounts of their own experiences and of the near total destruction of the village. [128]

The village of Disevi was among those almost totally destroyed by arson, according to several individuals who gave nearly identical accounts. In the village of Kurta, which had suffered heavy bomb damage, the destruction was reportedly completed by proxy militants under Russian control. In Vanati, according to a villager, Russian troops and tanks stood by while "Ossetians" set fire to most houses in the village. Tamarasheni village, according to one individual, had so many burning houses that it was impossible to count them. In Ksuisi, a witness told the HRAM, all but about five houses were deliberately set afire.

Kekhvi village, according to a former resident, was "a mass of burnt ruins" by the time she left.[129] In Satskheneti, a former resident said, only three houses were left standing. Nuli village was also systematically burned; one witness reported that Russians troops were accompanying proxy

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[124] ANNEX 14: ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 42.
[125] For satellite imagery of the damage to these villages see UNOSAT, 'Village damage summary: Kekhvi to Tskhinvali, South Ossetia, Georgia,
http://unosat.web.cern.ch/unosat/freeproducts/Georgia/Russia_ConflictAug08/UNOSAT_GEO_Village_Damage_Summary_Tskhinvali_19aug08_Lowres.pdf
[126] Temporary Administration is created under the law on 'the Creation of Relevant Conditions for Peaceful Regulation of Conflict within the former Autonomous District of South Ossetia'. It functions consists of, *inter alia*, elaboration of measures and plans in order to contribute the peaceful regulation of the conflict
[127] ANNEX 14: ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 41.
[128] ANNEX 14: ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 42
[129] ANNEX 14: ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 43

militants under Russian control and helping to set the fires. The HRAM visited all these villages and confirmed the destruction.[130]

A villager from Vanati described extensive damage from fire in Beloti, Satskheneti, and Atriskhevi. A villager from Kurta reported that as he drove along the main road through Achabeti and Tamarasheni to Tskhinvali, every house along the road had been burned. The HRAM found that Prisi was heavily damaged and the others were largely destroyed.[131]

Importantly, the HRAM observed that in villages some houses had apparently been razed by bulldozers or other heavy tracked equipment. The *de facto* leadership of South Ossetia has reportedly acknowledged deliberate destruction of civilian homes in order to impede the return of the ethnic Georgian population.[132]

Many other villages also suffered house burnings and other wanton destruction, including Kvemo Achabeti and Zemo Achabeti. Schools were reported to have been deliberately burned in Charebi, Beloti and Nuli.[133]

The Commandant of the Russian armed forces in South Ossetia mentioned that the armed forces were aware of cases of burning and looting but said that the army could not effectively stop the looters.[134]

[130] ANNEX 14: ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 43
[131] ANNEX 14: ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 43
[132] ANNEX 14: ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 43
[133] ANNEX 14: ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 43
[134] ANNEX 14: ODIHR, Human Rights in the War-affected Areas Following the Conflict in Georgia cited above, p. 46

First set of questions to the Governments of Georgia and the Russian Federation related to humanitarian issues

Question 6: During or following the hostilities in 2008, when were the persons who fell into the power of your party or into the power of adverse party arrested? On what legal basis where they arrested? How were those persons treated? Were they tried? When they were released?

Regarding the mistreatment of Georgia hors de combat soldiers at the hands of the Russian Federation:

The practice of mistreatment against Georgian soldiers who were no longer taking an active part in hostilities has been widely documented. As many as 30 soldiers who were detained during and after the conflict experienced torture and ill-treatment, including being beaten with rifles, burned with cigarettes and cigarette lighters, and subjected to electric shocks.[1]

Amnesty International and Human Rights Watch documented the cases of at least 13 soldiers who suffered injuries from severe beatings and torture during their detentions by proxy regime military and police forces between 8 and 19 August 2008.[2] The index fingers on four of the soldiers' right hands had been burnt to the bone. These former captives also reported summary executions of at least three other soldiers who had been detained with them. Many of the former detained soldiers continue to suffer severe trauma as a result of their experiences. The Russian and proxy regime in Tskhinvali region/South Ossetia did not reply to questions addressed to them by Amnesty International regarding the number and treatment of POWs.[3]

It is clear that the Russian Federation did not act consistently with the principles of IHL during the armed conflict and subsequent occupation of Abkhazia, Georgia and the Tskhinvali region/South Ossetia. The armed forces of the Russian Federation and the proxy militants under their control did not ensure that their attacks were limited to legitimate military targets and were discriminate and proportionate in nature. They did not tailor the means and methods of attack to limit collateral damage (both physical and psychological) to civilians and failed to pay due regard to the principle of humanity in their dealings with civilians and Georgian soldiers who were no longer taking active part in hostilities.

As a result of the mistreatment described above by the forces of the Russian Federation and proxy militants under separatist control, the injured parties have suffered serious psychological distress and experience severe anguish to the present day. The Russian Federation has been put on notice of these complaints by the reports of international institutions and non-governmental organisations. Despite this, no, or no reasonable, investigation appears to have been carried out into these complaints.[4]

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1 See for example, ANNEX 1 : witness statement of Khvicha Melkuashvili.

2 Human Rights Watch, "Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict Zone over South Ossetia", 22 January 2009, pages 185-194, available at: http://www.hrw.org/en/reports/2009/01/22/flames-0; Human Rights Watch, *Summary of Recommendations. Available at:* http://www.hrw.org/en/news/2008/10/20/summary-recommendations

3 Amnesty International, *Civilians in the line of fire: the Georgia-Russia conflict* cited above, p. 46. *Available at:* http://www.amnesty.org/en/library/info/EUR04/005/2008/en

4 ANNEX 2 : Council of Europe Parliamentary Assembly, Monitoring Committee Report, 'The implementation of Resolution 1633 (2008) on the consequences of the war between Georgia and Russia', 17 December 2008, AS/Mon(2008)33rev, at paras 32-52. See particularly para 46: "The Investigative Committee of the General Prosecutor's Office of Russia launched an investigation into genocide committed by Georgian troops against Russian

Persons detained by Georgia

- Russian military personnel held as POWs: five.
- Members of separatist illegal armed formations: thirty-two (Note that these are all able-bodied Georgian citizens of military age detained during the course of hostilities.).
- Apparent mercenary: 1 (Russian citizen).
- All Georgian held prisoners were exchanged for the 159 Georgian civilians and 39 POWs held under Russian authority:
  - 5 POWs
  - 32 members of separatist illegal armed formations
  - 1 apparent mercenary
  - 9 convicted criminals requested by Russian authorities (Note that these people were serving sentences in Georgian prisons for criminal convictions before, and unrelated to the war.)

ICRC visits

The ICRC was afforded unimpeded access to our detention facilities. The ICRC visited 3 of the 5 POWs—the other two were taken prisoner late in the war. The ICRC visited facilities maintained by the Ministries of Defense and Justice on a number of occasions, inspecting the conditions in which not only the POWs were detained, but also those of the detained members of separatist illegal armed formations.

It should be noted that the Russian Embassy was invited to visit the Russian POWs, however, they failed to respond.

Detaining authorities, facilities and conditions

Persons detained by Georgia during the conflict were held in facilities administered by the Ministries of Defense, Justice and Internal Affairs:

- Tbilisi Temporary Detention Isolator.
- Gori Temporary Detention Isolator.
- Adigeni Temporary Detention Isolator.
- Borjomi Temporary Detention Isolator.
- Vaziani GAF base.
- Prison #8, Gldani District, Tbilisi.
- Central Prison Hospital.

The ICRC visited Vaziani and Prison #8 and expressed satisfaction with the conditions in which detainees were held.

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citizens (ethnic Ossetians) in South Ossetia. In addition, it opened an investigation into crimes committed by Georgia against the Russian military. It would seem that there is no intention to investigate possible violations of human rights and humanitarian law committed by Russian forces and forces under the control of the de facto South Ossetian authorities. Indeed, the Special Investigation Committee reportedly closed its investigations on the ground in South Ossetia in mid-September, at a time when credible reports indicated that looting, pillaging, as well as acts of ethnic cleansing were taking place on a daily basis in the areas under Russian control, including in the so-called 'buffer zone'."

All of the facilities used to hold detainees meet or exceed international standards. Gldani Prison #8 is a newly built penitentiary establishment that meets international standards and is the best facility in Georgia. Those detained in the context of the conflict were placed separately from other prisoners. They had three meals a day and unlimited access to medical service when needed or requested.

4 of the 6 detention facilities are either newly constructed or newly renovated. In general, these facilities have cells for 2, 4 or 6 detainees, ranging in size from $12m^2$ to $16m^2$. In no case did the number of detainees assigned to a cell exceed its capacity. In every case detainees—whether POWs or members of illegal armed formations—were held apart from those held in connection with ordinary crimes.

Although conditions vary among facilities, all cells are equipped with beds, mattresses, bedding, water and sanitary facilities.

In all the facilities, food is served three times daily, meeting accepted nutritional requirements. Some facilities are served by an in-house canteen; others are served by outside caterers. One facility shares a canteen with the adjacent Tbilisi Main Police Unit. There were no restrictions on access to water.

Detainees in need of medical care received such care.

Safeguards

In facilities maintained by the Ministry of Internal Affairs, the Main Unit for Monitoring and Protection of Human Rights provides internal monitoring, including announced and unannounced visits. Moreover, the ICRC was afforded unimpeded access to our facilities, visiting two of them.

The detention facility at the Vaziani military base is newly constructed, according to international standards. The detention facility is under control of the Military Police of the Ministry of Defense of Georgia.

Moreover, the ICRC was afforded unimpeded access to Vaziani, and its representatives inspected all parts of the facility in which POWs or members of illegal armed formations were held. All detainees held by the Ministry of Defense were visited by the ICRC, which interviewed them in private and afforded them the opportunity to make telephone calls to their families.

To date, no complaints or allegations of abuse of detainees have been received. However, the Prosecution Service of Georgia will investigate any adverse information that it may receive through public channels, including information from international organizations.

Question 7: Were persons perceived as being associated with the adverse party after the end of hostilities in 2008 discriminated against and/or deprived of the enjoyment of some human rights? What measures were taken against such practice?

In the case of Georgia, there has not been a single example of ethnically motivated violence or other discriminatory acts against ethnic Ossetians or Russians residing in the territory of Georgia. To note there are approximately 38,000 ethnic Ossetians residing in Georgia outside the Tskhinvali region/South Ossetia. The State Minister on Reintegration of Georgia regularly visited regions populated by ethnic Ossetians to monitor the situation, including Lagodekhi, Sagarejo, Telavi, Bazaleti, Kvemo Shavshvebi, Tsitelubani, Borjomi and etc.

The OSCE prepared a Report on The Situation of Ossetians in Georgia Outside the Former Autonomous District of South Ossetia in February 2009 – after the war with Russia in August 2008. The Reports reads:

> *"Contrary to initial concerns shared by human rights and humanitarian actors, the August 2008 war did not lead to a change of the situation of ethnic Ossetians in Georgian controlled territory or to their long-term displacement in any significant numbers. The population of ethnically mixed villages in the adjacent areas to the administrative boundary line of the former Autonomous District of South Ossetia has not raised any concerns over discrimination. On the contrary, firsthand reports testify to mutual support among neighbours of different ethnic background during wartime. Ethnic Ossetians to whom UNHCR had talked in collective centres had not raised concerns over discrimination either. The Representative of the UN-Secretary General on the Human Rights of IDPs, who visited Georgia in October 2008, met with persons of Ossetian ethnic origin among IDPs, usually from mixed marriages, and could not identify concerns related to their ethnic origin. Inhabitants of the areas adjacent to the former Autonomous District of South Ossetia had insisted that there were no inter-ethnic problems between Georgians and Ossetians, because they often lived in mixed marriages."*[1]

As regards the treatment of ethnic Georgians after the hostilities, the violence and targeting still continues. The list of incidents is provided bellow:

August

- On 13 August, armed proxy militants under Russian control assaulted the representatives of "Cartu Bank" in the town of Gori and took away their Ford Expedition vehicle.
- On 13 August, at about 13:00 five Russian-speaking soldiers assaulted Kakhaber Nadiradze (b. in 1979, resident of Chiatura) in the town of Gori, taking away his Jeep Pajero vehicle and other belongings.
- On 13 August, seven armed proxy militants under Russian control assaulted Ivane Elizbarashvili (b. in 1974, resident of village Teleti, Gardabani district) near village Karaleti and took away his Opel-Vectra vehicle.
- On 13 August, several armed proxy militants under Russian control robbed Teimuraz Turazashvili (b. in 1956, resident of Tbilisi), abducting his Volkswagen Golf vehicle.

[1] OSCE, Report on The Situation of Ossetian in Georgia Outside the Former Autonomous District of South Ossetia; pp. 4-5.

- On August 13, two individuals assaulted Ervand Chegelidze (b. in 1952, resident of Gori), abducted his Opel-Vectra vehicle No: AMA-845.
- On August 13, near village Shavshvebi, armed individuals in military uniforms assaulted Malkhaz Natriashvili, (b. in 1964, v. Kveshi resident), abducting his Opel-Astra vehicle No: BOI 785.
- On 13 August, two Russian-speaking soldiers stopped a minibus in Gori, robbed its driver Merab Dzotsenidze (b. in 1961, resident of Tbilisi) of 3500 GEL and took away his Mercedes Benz minibus.
- On August 13, armed criminals attacked Temur Iakobashvili, (b. in 1952, resident of v. Kvemo Khvedureti) near village Doglaura on a central highway. Iakobashvili was driving his Opel-Vectra No: ILO-503. Temur Iakobashvili has been injured and then robbed.
- On August 13, in village Breti area, six unidentified armed Ossetian criminals hijacked a jeep "Grand-Cherokee" (MIIM-970), property of a Georgian company "Rus-Energo."
- On August 13, "UAZ" type vehicle No: PSP-452 belonging to Ltd "Gori Emergency Service 03", was stolen from the Gori Military Hospital area.
- On August 14, the house of Mediko Sukhitashvili, resident of village Karaleti, was burned.
- On 15 August, six Russian-speaking soldiers assaulted Nikoloz Khmiadashvili (b. in 1961, resident of Gori) in village Rekha, Gori district and took away his Vaz-21011 vehicle.
- On 16 August, armed proxy militants under Russian control stopped Vazha Kopadze (b. 1959, resident of village Dvani, Kareli district) in village Breti, Kareli district and took away his Vaz-2103 vehicle.
- On 16 August, armed Russian speaking soldiers robbed Temur Saakashvili (b. in 1958, resident of Tbilisi) near village Mejvriskhevi, Gori district, taking away his Vaz-2103 vehicle.
- On August 16, a flat was robbed in Gori on Tsereteli St. no. 2, which belonged to Sonia Bitadze (b. in 1969, resident of Gori).
- On August 18, cornfields in village Dzevera, belonged to Nona Bukhradze (b. in 1969, resident of Ninoshvili st 102) were burnt down.
- On August 18, armed proxy militants under Russian control assaulted Nugzar Gamgebeli, (b. in 1956, resident of v. Kelktseula, Gori district), abducting his Opel-Astra vehicle No: HYH-682.
- On August 20, a shop was robbed at Shindisi highway no.7, which belonged to Amiran Khakhutashvili (b. in 1962).
- On 24 August, Russian soldiers stopped a Nissan car in Poti, which belonged to the Caucasus bureau of Associated Press, kidnapping journalists Davit Pipinashvili (citizen of Georgia) and Raul Galego (citizen of Spain). After negotiations between Russian officers and Georgian police, they were released.
- On August 24, armed proxy militants under Russian control and Russians robbed a shop in Gori, Vologda district.
- On August 24, Nanuli Makrakhidze (registered at Muskhelishvili st. 54, Gori) was killed by the bomb explosion near the military base in Gori, Tsmindatskali area.
- On August 24, a Russian-Ossetian group stole a car "Golf -3" (JIM-105), that belonged to Jimsher Kachidze (b. in 1979, v. Kvibisi resident) in village Rekhi, from Badri Karelashvili's household.
- On August 24, in village Koshka, Abe Gobozov, resident of v. Khelchua shot and injured 2 residents of village Koshka Guram Javakhi, (b. in 1938) and Arkadi Tatiuri (b. in 1961).
- On August 25, near the railway station in Khashuri, the body of Zviad Turmanidze (b. in 1981, the resident of v. Kvenatkotsa, Kareli region) has been found. The body had traces of several heavy injuries.

- On August 25, armed proxy militants under Russian control in military uniforms injured George Kasradze, (b. in 1941, v. Ergneti resident).
- On August 25, Nodar Kareli (b. in 1953, v. Tkviavi resident), stepped on a bomb that exploded. He was taken to the hospital, where he was provided with corresponding treatment.
- On 25 August, Russian soldiers insulted and beat up Georgian police officer Ramaz Jvania (b. in 1979) in Poti. Currently, Jvania is undergoing medical treatment.
- On August 26, an unidentified dead body of a male was found in village Shindisi, Gori district;
- On August 26, Zaza Tsereteli, (b. in 1985, v. Ergneti resident) declared that he was injured by armed proxy militants under Russian control near the public school 3, Amilakhvari st.
- On August 26, armed proxy militants under Russian control released Tamaz Sirbiladze's children, who were kidnapped during the war. The children were tortured and beaten. Tamaz Sirbiladze is the resident of village Variani, Gori district.
- On August 28, armed proxy militants under Russian control stole cattle, which belonged to Mikheil Ginturi (b. in 1939, v. Mejvriskhevi resident).
- On 30 August, armed proxy militants kidnapped four Georgian beekeepers from a beekeeping farm in the Dzirula valley. Their whereabouts are still unknown.
- On 30 August, armed proxy militants under Russian control stopped Nugzar Gamgebeli (b. 1956, resident of village Kelktseuli, Gori district) in village Shindisi, Gori district and took away his Opel-Astra vehicle.

September

- On 1 September, four armed proxy militants under Russian control attacked the house of the Kvinikadze family in the village Abanos Koda, Kareli district, killing Nora Kvinikadze (b. 1936), injuring her son Giorgi Kvinikadze (b. 1962) and her grandson Raul Kvinikadze (b. 1988).
- On 1 September, unidentified individuals injured Nodar Berkenashvili (b. in 1953, v. Shindisi resident).
- On 1 September, a cow that belonged to Zurab Makasarashvili (b. in 1943, resident of v. Marana) was stolen.
- On 2 September, two Russian soldiers and four armed proxy militants under Russian contol, driving an armored vehicle, approached the Georgian police checkpoint in the village Akhalubani, Gori district. They threatened the Georgian police officer: Badri Gogidze, Emzar Ghonghadze, Kakhaber Metreveli, Mamuka Maisuradze, Shalva Nebieridze, Ivane Datashvili, Ioseb Melanashvili and Levan Gigauri and took away their rifles and Makarov pistols. They also abducted their Toyota police vehicle and Ford vehicle of passer-by Ilia Mighrajanashvili (b. 1984, resident of village Akhalubani).
- On September, 3, unidentified individuals stole cattle belonging to Iakob Begeluri, resident of village Disevi, Gori district.
- On 8 September, Russian soldiers and armed proxy militants under Russian control detained two Polish TV journalists Dariush Bokhatkevich and Martin Vesolovski, as well as their driver Levan Guliashvili near village Karaleti, taking away their cameras and car. On 9 September, they were released.
- On September 8, Nodar Tatulashvili, born in 1960, v. Plavismani resident was wounded with a knife in the breast area. The accident took place in Plavismani.
- On September 9, Zhora Finavriti (b. in 1938, the resident of v. Brostleti), was injured after a bomb exploded in his orchard in v. Brotsleti, Gori district.

- On 10 September at about 10:15, armed proxy militants under Russian control opened fire from the Russian checkpoint at Karaleti, wounding one Georgian police officer Kakha Tsotniashvili, who later died at the hospital.
- On September 10, Zaza Pavliashvili, (b. in 1970, v. Dzevera resident) was injured in his village.
- On September 10, Vasil Javakhishvili, (b. in 1938, v. Ksuisi resident) was injured by Ossetians in his village.
- On September 11, armed proxy militants under Russian control brutally beat up Mikhael Tukhareli (b. in 1940, in v. Disevi, Gori district). Later armed proxy militants under Russian control robbed him and burned his house down.
- On September 11, a "Ford" (private vehicle) was stolen in Gori, parked at Stalin Street.
- On 12 September, armed proxy militants under Russian control burned nine houses of ethnic Georgians in the village Eredvi, Little Liakhvi Valley.
- On 12 September, armed proxy militants under Russian control beat up Vasil Javakhishvili, an ethnic Georgian living in the village Ksuisi, Tskinvali district.
- On 13 September, armed proxy militants under Russian control kidnapped 6 residents of villages Disevi and Koshka of Gori district, poured gasoline on them and threatened to burn them alive if they did not abandon their villages.
- On 13 September, armed proxy militants under Russian control opened fire towards the village Ganmukhuri, Zugdidi district, killing one Georgian police officer Besik Khulordava.
- On 15 September, at 13:45, seven armed proxy militants under Russian control stopped a Georgian minibus near village Mereti, Gori district, beat up the driver and his companion, vandalized the vehicle and threatened to "burn the bus together with its passengers" if seen again in this area.
- On 15 September, armed proxy militants under Russian control looted and then burned down the houses of Vladimer Bolashvili in village Ditsi, Gori district and Jimsher Lomsadze in village Zemo Nikozi, Gori district.
- On 16 September, armed proxy militants under Russian control opened fire towards residents of the village Brotsleti, Gori district who were working in their orchards and had to flee back to their houses. Fortunately, no one was hurt.
- On September 16, Emir Mindiashvili, (b. in 1958, v. Ditsi resident) has been injured by armed proxy militants in his village.
- On 16 September, at 13:30 six armed proxy militants under Russian control entered the village of Ditsi, Gori district, robbed the house of Jimsher Markozashvili, shot in the air to frighten the local residents and severely beat up one of them - Emir Mindiashvili (aged 51).
- On 16 September, at 15:00 armed proxy militants under Russian control devastated the farm owned by Otar Koniashvili in the village of Kveshi, Gori district, stealing its livestock.
- On 17 September, armed proxy militants under Russian control robbed the farm owned by Gocha Giunashvili in the village of Kveshi, Gori district, assaulting its guard and stealing its livestock.
- On September 18, two cows were stolen by armed proxy militants under Russian control that belonged to Suliko Gigauri, (b. in 1931, resident of v. Kitsnisi).
- On 18 September, at 12:00-14:00, five armed proxy militants under Russian control robbed the houses of Tamaz Kopadze and Gocha Korashvili in the village of Dvani, Kareli district and then put these and several other houses on fire.
- On September 19, near the village of Megvrekisi, two armed proxy militants under Russian control hijacked Opel No: BOI-598 belonging to Bondo Chubinidze, (b. in 1971, resident of Gori, Gorgasali st. 14) The Ossetian criminals stole his and his passenger David Chubinidze's (b. in 1970, resident of Gori, Sukhishvili st. 63) cell phones September 20,

Vepkhia Gegelashvili, born in 1973, v. Khvedureti resident was injured by unidentified individuals.

- On September 21, George Mehnikov, born in 1986, v. Variani resident was injured by a bomb left by Russian occupants in his own garden. The bomb exploded and he received major injuries.
- On 21 September, at about 19:00, armed proxy militants under Russian control opened fire towards the village of Khurcha, Zugdidi district, killing one Georgian police officer Ramaz Kitia and wounding three more.
- On 21 September, armed proxy militants under Russian control burned four houses owned by ethnic Georgians in the village of Muguti, Znauri district.
- On 22 September, two Georgian police officers were wounded as the result of a mine explosion in the village of Khurcha, Zugdidi district. Currently, they are undergoing medical treatment. The mine was apparently left there by armed proxy militants under Russian control, who withdrew from the village earlier.
- On 22 September, armed proxy militants under Russian control kidnapped 15 year old Irakli Dzhalagonia from the village of Zemo Barghebi, Gali district and are demanding a ransom of 50 000 USD from his family.
- On 22 September, Georgian police officers saw a Russian reconnaissance plane above the villages of Khurvaleti and Tsitelubani, Gori district, which was taking photos of the Baku-Supsa oil pipeline. The UAV was shot down.
- On 24 September, armed proxy militants under Russian control kidnapped four ethnic Georgians Papuna Karaia (b. in 1980), Bezhan Ubiria (b. in 1980), Gogita Kvirkvia (b. in 1983) and Badri Akhalaia (b. in 1978) from the village og Otobaia, Gali district. They were released on the next day only after their families paid a ransom demanded by the kidnappers.
- On 25 September, at about 17:15, fifteen armed proxy militants under Russian control driving a UAZ type truck assaulted the workers of road building company "Ashtrom" at a sand quarry near the village of Orchosani, Akhalgori district, taking away their belongings and the company's "Ford-Transit" minibus.
- On September 25, in the village og Kitruli, armed proxy militants under Russian control robbed Zurab Dotiashvili, resident of v. Kirbala, and stole 46 cows.
- On September 26 at night, armed proxy militants under Russian control entered the village of Vanati (Jojiaant settlement) and burned the remained houses.
- On September 27, 3 armed proxy militants under Russian control dressed in military uniforms, driving a "Niva" entered the village of Zemo Nikozi. They were forcing local population to accept Ossetian passports, otherwise they would be forced to leave the territory and their houses were promised to be burned.
- On September 29, armed proxy militants under Russian control robbed the houses of Sandro Iluridze and Vazha Gelashvili in Akhalgori.

October

- On 2 October, armed proxy militants under Russian control entered the village of Kere, they were menacing local population using machine guns and burned one house.
- On 3 October, in the town of Gori, nearby the military base, two teenagers, Vaja Elbakidze and George Maisuradze were injured by a mine explosion.
- On 3 October, at 10 o'clock in the morning, Russian militaries were disseminating proclamations in the Georgian villages of Chuburkhinji, Pichori and Otobaia of Gali district.
- On 3 October, Russian militaries occupied the premises of the village of Lukhori school, started digging trenches and mining the adjacent territories. The study process has been ceased in this school.

- On 4 October, in the villages of Megvrekisi and Ergneti, an Ossetian gang headed by so called "Tklipiani" (other details are not known) were looting and searching houses. They were using a Mitsubishi Pajero and "UAZ" cars with no number plates.
- On 5 October, at 3:30, one police officer was injured after fire was opened from the direction of the Russian checkpoint in the village of Variani.
- On 6 October, Russian militaries were demanding alcohol from the Gegerdava family in the village of Sida of Gali district. They insulted the members of this family and shot Mindia Gegerdava to death.
- On 6 October, at 00:50, in the village of Pakhulani of Tsalenjikha district, 2 mortar shells (82 mm) were dropped near the highway, fired from the territory of Abkhazia. At 07:10, 2 shells of the same caliber were dropped in the centre of the village of Pakhulani, 200m east from river Ilori.
- On 6 October, at 8:20, in the adjacent area of Enguri dumb, a Russian army "Ural" type heavy truck, drove to the direction of the villageof Jvari, when the EUMM monitors heard the noise caused by an explosion.
- On 6 October, armed proxy militants under Russian controlstopped 9 EUMM monitors, who were conducting their mission in 2 vehicles and 2 Belgian journalists. Their personal belongings, money, equipment and mobile phones were stolen.
- On 9 October, armed proxy militants under Russian control beat Omar Kasradze, the resident of v. Ergneti, who was taken to the Gori hospital.
- On 9 October, in the village of Mosabruni of the Akhalgori district, the servicemen of the *de facto* Ossetian Ministry of Defense separate mountain battalion (Bala Betsauti is the commander) opened fire and robbed the house of a local resident.
- On 10 October, the residents of the village of Satikhari of Tskinvali region once again robbed the school in village Ksuisi, the expensive heating equipment donated by the UN has been stolen.
- On 11 October, 3 Russian fighters violated Georgian airspace. For half an hour, they were flying over the territories of Gori, Tskhinvali and Akhalgori.
- On 12 October, at 10:49, in the village of Zemo Nikozi, 2 mines with time mechanisms exploded at a 15 min interval.
- On 12 October, armed proxy militants under Russian control looted the house of Aleksishvili family in the village of Boli of Akhalgori district.
- On 13 October, Russian planes violated Georgian airspace twice: at 09:57, 2 planes crossed air border near Staphanstsminda, at 10:29, 3 military planes entered Georgian airspace and flew over the territories of Oni, Sachkhere, Java, Tskhinvali and Kazbegi.
- On 14 October, near the village of Dadianeti armed proxy militants under Russian control kidnapped a 12-year-old boy and were requesting ransom.
- On 15 October, in the village of Sakasheti a local resident was killed after the explosion of a mine left over by the Russian occupants, another civilian Genadi Kiknadze received serious injuries.
- On 15 October, at 12:30 a Russian Military helicopter entered from the direction of Gromi valley, flew over the villageof Mejvriskhevi and left towards Akhalgori.
- On 15 October, in the villages of Kekhvi, Kurta, and Achabeti Ossetian looters divided the properties and lands of Georgians and are harvesting their crops.
- On 16 October, armed proxy militants under Russian control kidnapped a herdsman and his cattle from the village of Zemo Nikozi.
- On 16 October, proxy militants stole cattle from the village of Korinta, Akhalgori district.

- On 16 October, armed proxy militants under Russian control detained two local Georgians while they were cutting woods near the village of Akhmaji, Akhalgori district. The armedproxy militants stole their two "ZIL-131" vehicles and electric saws
- On 16 October, at the adjacent territory of the village of Zemo Khviti of Gori district four armed proxy militants under Russian control attacked inhabitants of the village – Giorgi Lazarashvili (b. in 1943), Giorgi Gogishvili (b. in 1957,) and Jumber Ergemlidze; they hijacked Lazarashvili's vehicle "Mitsubishi-Montero" (OOO-010) and stole 56 cows; Later, Lazarashvili, Gogishvili and Ergemlidze were released.
- On 16 October, armed proxy militant forces under Russian control entered the villages of Zardiaantkari and Gugutiaantkari of Gori district and burned the remaining houses.
- On 17 October, at night armed proxy militants under Russian control opened fire from automatic rifles at the village of Nikozi, Gori district.
- On 18 October, in the morning, a Russian UAV was flying over the village of Nikozi, Gori district. Later it left in the direction of Tskhinvali.
- On 18 October, armed proxy militants under Russian control shut down a water pipeline from Patara Liakhvi gorge towards Gori district. As a result, 17 villages of the Gori district were left without water.
- On 18 October at about 03:30 p.m., armed proxy militants under Russian control exploded the bridge of the village of Adzvi, Gori district.
- On 18 October, the armed proxy militants under Russian control closed and took away an electric transformer from the village of Zemo Okona, Znauri district, aiming to force the Georgian population out of the village.
- On 19 October, at 07.00 the fire, including from mortars, was opened from the Abkhazian side towards the village of Khurcha. One house of a local resident was significantly damaged.
- On 19 October, at 5.30 a.m., armed proxy militants under Russian control exploded the bridge connecting the village of Tagiloni of Gali district with the village of Shamgona, Zugdidi district.
- On 21 October, a Georgian police car was blown up by a remote controlled mine in the village of Avlevi of the Kareli region, as a result one policeman Giorgi Pertenava was wounded.
- On 21 October, 40 armored vehicles and several hundreds of Russian soldiers entered the territory of Akhalgori district from Tskhinvali.
- On 21 October, Russian occupants did not allow the pupils from the village of Saberio, Gali district to go to school in Tsalenjikha. About 60 children were left without access to schools.
- On 21 October, a remote controlled bomb exploded in a mess of the village of Chegali. The building where the mess is located is used by Russian occupants. This mess has been frequently visited by Georgian workers and presumably, the explosion targeted them. A cook working at this mess was injured.
- On 23 October armed proxy militant under Russian control forces detained Beka Kalandadze (b. in 1979) and Lasha Tsintsadze (b. in 1989), the residents of the village of Muguti, Znauri region. They were released later.
- On 24 October, in the village Khurvaleti, Gori district armed proxy militants under Russian control attacked a delegation from the Georgian Ministry of Education, which visited the local school. The armed proxy militants tried to seize their vehicle and personal belongings, but the locals helped the delegation.
- On 24 October, at 10:00 a.m., armed proxy militants under Russian control exploded the railway bridge connecting the villages of Shamgona and Tagiloni.

- On October 25, at 1:15 a.m. and 9:00 a.m. mortar shells were launched from Abkhazian territories to the village of Mujava, they damaged the house of Otar Sabulua.
- On 25 October, when the governor of Tsalenjikha region Gia Mebonia was inspecting the house which was attacked the night before, a mine exploded, killing him and wounding the owner of the house Otar Sabulua and policeman Zviad Lagvilava. Otar Sabulua also died of injuries.
- On 25 October, armed proxy militants under Russian control appropriated two buses, belonging to Georgian drivers. These buses were donated to Akhalgori for local purposes by the Georgian President.
- On 26 October, in the village of Artsevi of Tskhinvali region the representatives of the proxy militants under Russian control detained members of the EU Monitoring Mission and later released them.
- On 26 October, armed proxy militants under Russian control expelled Givi Mamamtavrishvili together with his four family members and Anastasia Gigauri together with her two family members from their houses in the village of Ikoti of Akhalgori district for not knowing Ossetian language.
- On 27 October, the body of 19-year-old Alika Khuntsaria was found in the well in the village of Gudava of Gali district. According to the testimonies of the witnesses, Khuntsaria was stopped by Russians at the checkpoint and verbally abused for carrying Georgian ID. Later he was found murdered.
- On 27 October, Russian occupants demanded from local population to clean the territory of local graveyard, where they plan to place military installation.
- On 28 October, Russian occupants and armed proxy militants under Russian control mined all the shores of the river Enguri, which are used by local Georgians for crossing and accessing Georgian controlled territories.
- On 28 October, armed proxy militants kidnapped 6 inhabitants of the village of Zerti from forest near village Kirbali of Gori district;
- On 29 October, the security guard of school no.1 of settlement Akhalgori, Tamaz Varduashvili found a bombshell in the schoolyard, which exploded in his hands. The injured man was taken to Tbilisi Ghudushauri Hospital.
- On 29 October, in the village of Ghumurishi of Gali region, 28-year-old Linda Shakaia exploded on a mine, which was left there by the Russian occupants. As a result of the explosion, Shakaia lost upper limbs.
- On 30 October, armed proxy militants under Russian control opened fire at a Georgian police checkpoint in the village of Ergneti from Tskhinvali, the fire continued for 20 minutes.
- On 31 October, armed proxy militants under Russian control exploded the bridge near Gori connecting two villages Kveshi and Zemo Artsevi.
- On 31 October, armed proxy militants arrested the journalists of Georgian Public Channel, who were preparing the broadcast regarding the explosion of the bridge near Artsevi. Later the journalists were released.
- On 31 October, in village of Largvisi armed proxy militants under Russian control appropriated several sheep belonging to shepherd Nugzar Shermadini, who resisted. Armed proxy militants under Russian control killed his remaining sheep using machine gunfire.
- On 31 October, armed proxy militants under Russian control established a curfew restricting the movement of civilians and transport after 22:00. They check passports of local residents. 8 persons have been arrested for violating this regime.

November

- On 1 November, Georgian police arrested Jacob Tekhov, resident of the village of Disevi, for caring a hand grenade F-1.
- On 1 November, Russian occupants exploded 3 bridges in Gali, near the villages of Khurcha and Nabakevi. The movement of the local population is restricted, as well as all the connecting routs to Georgian controlled territories is mined.
- On 1 November, the resident of Akhalgori Nodar Basharuli was abused in his own shop by Ossetians. They also opened fire at his shop, stole alcoholic drinks and food from the shop. Basharuli was forced to move to Georgian controlled territory and ask the Georgian authorities for assistance.
- On 2 November, 6 Georgians were kidnapped from the forest near the village of Kirbali, Gori district. On 11 November, they were released.
- On 4 November, the 43-year-old Koba Dahkoshvili was kidnapped from the village of Kvemo Khviti, who has escaped the next morning.
- On 5 November, fire was opened from Tskhinvali towards Georgian checkpoints near the village of Zemo Nikozi.
- On 5 November Alik Gigolaev, the resident of the village of Zemo Artsevi was killed by unknown persons near village Korkula.
- On 5 November, Russians robbed the house of Nino Tsinamdzgvrishvili, the resident of v. Kanchaveti, Akhalgori district.
- On 5 November, armed proxy militants under Russian control robbed the house of Givi Tatunishvili in village Kanchaveti, Akhalgori district. The owner has been beaten up and his cattle stolen.
- On 6 November, the house of Mstkheta-Mtianeti Governor Tsezar Chocheli was robbed in Akhalgori by the head of the armed proxy militia under Russian control (police) Ilia Khubulov. He stole wooden construction material using the truck belonging to Anzor Bestaev (nicknamed "Khiva").
- On 6 November, 23.00, armed proxy militants under Russian control opened fire from the village of Disevi towards Georgian village Koshka. The fire did not cease for about an hour.
- On 6 November, armed proxy militants under Russian control arrested Zurab Kobaladze in the village of Avnevi, Znauri district. The person is mentally unhealthy. Kobaladze was placed in isolated cell in Tskinvali KGB building.
- On 6 November, 3 anti-tank mines were found on a footpath connecting the Gali district village of Tagiloni to the village of Shamgona in Zugdidi district.
- Georgian population of Gali is leaving their homes. From the 40 remained families of village Nabakievi, 10 have left within few days in the beginning of November.
- On 7 November, armed proxy militants under Russian control started seizing IDs, passports and other documents from Georgian population in Gali district.
- On 7 November, armed proxy militants under Russian control demanded 500 GEL for the release of a 70-year-old Dzadzamia, who was arrested with allegation of illegally crossing so-called Abkhazian border.
- On 7 November, armed proxy militants under Russian control Giga Dgebuadze and Zuri Jobava, who were visiting their relatives in the village of Otobaia of the Gali district. They were seized of their Georgian passports and taken to Gali police.
- On 8 November, a group of 50 armed proxy militants under Russian contorl opened a checkpoint in the village of Perevi, Sachkhere district.
- On 8 November, armed proxy militants under Russian control started to collect food for Russian occupants from Georgian population of the villages of Chuburkhinji and Saberio. The extortion was conducted by the head of local administration Anzor Kirtadze and representatives of Russian Ministry of Defense. Local population is unable to resist

- On 8 November, armed proxy militants under Russian control arrested 8 Georgians and accused them of illegal crossing of border, carrying arms and narcotics. Border is closed and all the passes are controlled. Only the members of International Organizations and personnel working on Enguri plant are allowed to enter Abkhazian controlled territories.
- On 10 November, at 07.15, in the village of Dvani, Kareli district 2 policemen Imeda Kakhniashvili and Tamaz Khachapuridze died of a mine explosion while patrolling; the mine was put the by proxy militants. The group of police officers arrived to the site for assistance, but this group also exploded on a remote controlled bomb. 3 police officers were wounded: Giorgi Shubitidze, Giorgi Mdinaradze and Enis Jonidava.
- On 11 November, the bus connecting the village of Zemo Bargebi to Zugdidi has been stopped by armed proxy militants under Russian control. Later the drivers were called to proxy regime police and asked to pay permanent taxes for traveling to Zugdidi
- On 11 November, several residents of Gali district were arrested for illegally crossing Enguri river (bridge is exploded) near village Tagiloni. They were forced to pay 10-15 thousand rubles and those who were unable to pay were taken to Gali police.
- On 12 November, the Russian occupants (Chechen and Armenian soldiers) beat up 3 Georgian youngsters in Gali district, who were taken to hospital.
- On 13 November, the proxy regime police officers of Tkvarcheli district started to seize Georgian IDs and mobile phones from Georgian population. They arrested 2 members of Tsokolia family, who were taken to Tkvarcheli police.
- On 14 November, the mine explosion killed cattle in the village of Mujava, Tsalenjikha district.
- On 15 November, armed proxy militants under Russian control fire towards Georgian police patrolling near the village of Kalagali (close to Pakhulani). One Policeman Zurab Jejelava died of injuries. Fire was reopened when EU monitors arrived to the site.
- On 16 November, armed proxy militants under Russian control arrested Khashuri residents Tristan Gugutishvili and Vasil Simonishvili near the village of Kirkula, Tskhinvali district. They were released the next morning.
- On 16 November, a Russian UAV was found near the village of Kere, Gori district.
- On 17 November, another Russian UAV was found in the village of Plavi, Gori district; population called police and the group of deminers arrived at the site. After their arrival the remote controlled mine attached to the UAV exploded and killed 2 deminers Giorgi Skhvitaridze and Marat Nozadze. 8 more police officers were wounded as well as a 10-year-old kid who stood close to the site.
- On 18 November, in the village of Ksuisi of Tskhinvali district armed proxy militants under Russian control killed Ramaz Shoshitaishvili.
- On 20 November, at 06.45 a.m., two Russian armored vehicles entered the village of Ganmukhuri from Otobaia, followed by armed militants. They opened fire at the Georgian police checkpoint in Ganmukhuri from machine guns, mortars, grenade launchers and armored vehicles. The fire lasted for about 15 minutes. The fire damaged the house of local resident Gogeli Pertaia. The occupants mined the road from Ganmukhuri to Otobaia. The second incident occurred at 10:30 when Russians opened intensive fire from mortars to Georgian checkpoint in Ganmukhuri. Fire lasted 5 minutes. EUMM monitors pictured 2 combat helicopters flying over Ganmukhuri on a lower altitude when they visited the site of the accident.
- On 21 November, armed proxy militants under Russian control exploded the radio transmission tower and station in the village of Chorchana of Khashuri district. This station and tower were previously used for Baku-Supsa pipeline operation.

- On 25 November, at around 8:15 p.m., the Russian occupational forces stationed near the village of Odzisi, Akhalgori district opened fire as the motorcade of the President of Georgia Mikheil Saakashvili and the President of Poland Lech Kaczynski was passing by.
- On 25 November, armed proxy militants under Russian control entered the village of Pakhulani; they tried to count the number of existing population.
- On 26 November, 2 Georgians were abducted from the village of Dirbi adjacent territories: Koba Kharashvili (b. in 1980) and Omar Mkrtchishvili (b. 1983). They were released after 1 week of detention.
- On 29 November, the resident of Gali Irina Mshenia was kidnapped. On December 3rd, her dead body was found near the village of Nabakevi.
- On 30 November, armed proxy militants under Russian control opened fired at Georgian positions in the village of Plavismani.

December

- On 2 December, fire was opened towards the Georgian village of Ergneti-nkari, Gori district.
- On 5 December, at 8:15 a.m. armed proxy militants under Russian control fired from the village of Kheleshua to Georgian police station in village Mereti. Separatists missed the target and damaged the premises of a neighboring house of a local resident.
- On 10 December, at 06:00 a.m., a remote controlled explosive device exploded on Plotevi Bridge, near the village of Nikozi, Gori district, while the officers of Shida Kartli Patrol Police were patrolling of this area. There are no casualties as a result of explosion although the patrol police car was damaged.
- On 10 December, at 17:00 p.m. fire was opened towards the armored vehicle of the OSCE mission patrol. The came from the territory controlled by armed proxy militants under Russian control, not far from the village of Khviti, Gori district. The incident did not cause any casualties or injuries, although the vehicle was damaged.
- On 12 December, early in the morning, Russian military troops left the territory of the village of Perevi for 8 hours. In order to ensure security and order, Georgian police started taking positions in the village. Backed by one APC and a platoon, Russian military troops returned to Perevi approximately at 17:00 pm and regained the positions, which they left in the morning.
- On 15 December, at 07:00 am, Russian occupants, started reinforcing their positions in Perevi, they deployed around 300 airborne from 6 combat helicopters and moved mountain battalion to the village. Russian occupants, under the threat of opening fire to the units of Georgian Police deployed in the village, demanded them to pull back from the village. Aiming to ease the rising tension, Georgian policemen had to withdraw from Perevi. EU monitors and observers from OSCE mission to Georgia, together with several EU ambassadors also witnessed the fact of re-entering Perevi village by Russian occupants.
- On 17 December, at 21:00, Georgian police checkpoint in the village of Khurvaleti, Gori region, came under fire from automatic weapons from Russian occupied territory. As a result one police officer Shalva Simonishvili was heavily wounded and placed in Gori hospital.
- On 23 December, early in the morning, the family of Otar Gogakhia exploded on a mine (they were coming to Zugdidi in a horse-carriage) near the village of Chuburkhinji. 4 persons were injured, two of them were brought to Zugdidi hospital, the other two were not allowed to go to Zugdidi by Russian soldiers. All the access roads, passes, bridges and other points are mined by Russians and armed proxy militants under Russian control, which threatens

their lives and health in case of approaching so called borderline between Abkhazia and Georgia.

- On 24 December, the heavy automatic fire was noticed on Ossetian side near the village of Koshka. In the evening, they shot several times at Georgian police positions, causing no damage or injuries.
- On 27 December, at 23.30, Georgian police checkpoint situated in the village of Koshki, Gori district came under fire from the direction of Russian occupied territories. As a result the employee of Shida Kartli regional police of the Ministry of internal Affairs, Lavrenti Panchulidze was wounded;
- On 30 December, at 21:00, the fire from automatic weapons was opened at a Georgian checkpoint in the village of Koshki. Nobody was injured.

January, 2009

- On 4 January, at 08:00 am Georgian police checkpoint situated in the village of Ganmukhuri, Zugdidi district came under intensive fire from Russian controlled territory, manly from village Pichori, Gali district. Machine-guns as well as mortars were used. As a result of firing, no one was injured.
- On 4 January, the family of Demur Kiria was robbed by the residents of the village of Tagiloni, Gali district. Demur Kiria was kidnapped and found murdered on 5 January.
- On 8 January, at 05.00 a.m. Russians and armed proxy militants under Russian control opened fire from automatic weapons and grenade launchers towards the Georgian village of Orsantia. They fired more than 15 shells. The unexploded shells were found in the yard of Kvaraia family. The incident did not cause any injuries or casualties.
- On 11 January, at 22:00 p.m. Ossetians and Russians opened fire at the police station in the village of Zemo Nikozi. Automatic weapons as well as grenade launchers were used. The incident lasted for 20 minutes. Nobody was injured.
- On 13 January, at 23:00 p.m. Russians and armed proxy militants under Russian control attacked Georgian police checkpoint in Rukhi, from the direction of Chuburkhinji. Attack lasted for 20 minutes and was launched using automatic weapons. The incident did not cause any injuries or casualties.
- On 14 January, at 14:20, Georgian police check point in the village of Koshka was attacked from theterritory controlled by armed proxy militants under Russian control in close proximity of village Disevi. Attack was launched from grenade launchers and automatic weapons. Incident did not cause any injuries or casualties.
- On 16 January, approximately at 10:00 am as a result of firing from the Russian occupied territory, the employee of Shida Kartli Regional Police Main Division of MIA, Mamuka Kakhniashvili (Born in 1982) was killed on the territory of Georgian police checkpoint situated in the village of Knolevi. According to the investigation, the bullet was fired from a sniper rifle with a silencer.
- On 18 January, at 05:00 am the Georgian Police checkpoint situated in the village of Koki Zugdidi district came under fire from the Russian occupied territory. The firing was conducted with machine-guns as well as mortars, as a result of which, the employee of Second Division of Special Tasks Main Division of MIA was wounded and consequently transferred to the hospital.
- On January 19, at 17:00 pm a pickup police vehicle came under fire from the Russian occupied territory while patrolling near the Georgian police checkpoint situated in the village of Dvani, Kareli district. The intensive shelling from Russian occupied territory was conducted with machine guns and lasted for 20 minutes. As a result of firing, several

employees of the Ministry of Internal Affairs were shot and wounded, namely: Levan Gogilashvili, and Mamuka Janiashvili who were transferred to Gori military hospital.

- On 23 January, early in the morning the resident of Gali Tengiz Akubardia tried to drive to Zugdidi from Gali in order to take his baby son to a doctor. He was requested to pay 300$ by armed proxy militants under Russian control in order to let him drive through the checkpoint. He could not pay the amount and drove his car to his wife waiting for him on the other side of Enguri bridge. Armed proxy militants under Russian control then opened fire that caused injuries of one passenger in Akubardia's car.
- On 24 January, in the afternoon, the fire was opened at the OSCE patrol monitoring the situation near Akhmaji. The incident did not cause any injures or casualties.
- On 25 January, close to afternoon 2 Russian Mi-24s entered Georgian controlled airspace from Ergneti and flew over Georgian police checkpoints in villages Knolevi, Gogeti, Dvani, Nikozi, Ditsi, Khurvaleti and from Lamiskana and Akhmaji left for Akhalgori.
- On 27 January, the 14-year-old Iosеb Khorkheli was injured in a result of a hand grenade explosion in the yard of school of the village of Kirbali. The boy got serious injuries and was hospitalized.
- On 27 January, at about 14 p.m. fire was opened at Odzisi police checkpoint near the so-called administrative border with Akhalgori district. The incident took place when EUMM and OSCE were conducting patrolling near the site.
- On 28 January, at 23:00 fire from automatic weapons was opened to Georgian police checkpoint on Enguri bridge, near the village of Rukhi. Incident did not cause any injures or casualties.
- On 29 January, late at night, Russian soldiers were demanding food from Mebonia family in the village of Nabakevi, Gali district. The member of the family, Koba Mebonia resisted and was killed at the gate of his house. The body was taken by the soldiers in order to hide evidences.
- On 31 January, at 11 a.m. EUMM monitors together with Lithuanian journalists were visiting the village of Shamgona in order to prepare a story about the explosion of the bridge in village Tagiloni, on the other side of Enguri River. Russians and armed proxy militants under Russian control shot several times from automatic rifles in the air, in order to disrupt the recordings. The incident did not cause any injures or casualties.

February

- On 2 February, at 15.00 Georgian police checkpoint was attacked from automatic rifles in the village of Knolevi from so-called South Ossetia. Incident did not cause any injures or casualties.
- On 7 February, at 7:00 a.m. armed proxy militants under Russian control operating from the Georgian territory under Russian occupation assaulted a car moving on the main East-West highway and abducted Malkhaz Beuklishvili, an official from the Georgian Football Federation Mr. Beuklishvili was driven towards territory currently under Russian occupation in the stolen vehicle. The gunmen allied demand ransom in exchange of the hostage. Beuklishvili was released on February 8, in the evening.
- On 7 February, in the evening, Russian militaries and armed proxy militants under Russian control wounded Zura Bobokhua near the village of Khurcha, who was trying to reach Georgia, controlled territories from village Nabakevi. He was taken to Zugididi hospital for treatment.
- On 9 February, at about 23:30, Georgian police station in the village of Mereti was attacked from the Ossetian side. Automatic rifles were used during the attack. The incident did not cause any injures or casualties.

- On 10 February, at around 10:30 a.m. armed proxy militants under Russian control kidnapped two monitoring officers of the OSCE mission in Georgia near the village of Adzvi, Gori district. The monitoring officers were held on the Russian occupied territory, in the town of Tskinvali. Later they were released.
- On 10 February, at around 15:00, Georgian journalists from TV channels Imedi and 1st channel were detained by armed proxy militants under Russian control and released within half an hour.
- On 11 February, at about 12:20 p.m. Russian occupying forces deployed about 50 personnel and 1 APC near the village of Kvemo Nikozi, on Georgia controlled territories and blocked Georgian police checkpoint. They started building up fortifications.
- On 12 February, at 20:00, fire from automatic rifles was opened at Georgian the village of Koda from territories controlled by Russia and armed proxy militants under Russian control. Several houses were damaged. The incident did not cause any injures or casualties.
- On 13 February, in the evening, 3 cleaner ladies exploded in Osiauri military base of a fuse. aAll of them received severe injuries and one lady has died of injuries in Gori military hospital.
- On 22 February, at 16:30, Georgian police station in the village of Knolevi has been attacked from the South Ossetian side byautomatic weapons. Only the police station wasdamaged. The did not leave anyone injured.
- On 26 February, about 50 residents of Gali district were forced to leave their houses and move to Ganmukhuri. The reason of the escape was the coercion and intimidation by Russian militaries and armed proxy militants under Russian control, who were demanding to hand over Irakli Bokuchava, resident of Gali who was injured on 25th of February and escaped to Zugdidi. By 16.00, Russians and armed proxy militants under Russian control brought about 30 APCs to Orsantia and Nabakevi, showing off the force and shooting in the air. They aimed to force Georgian side to handover Irakli Bokuchava.
- On 26 February, at about 22:30, fire from automatic weapons was opened from the side controlled by Russia and armed proxy militants under Russian control towards the Georgian villages of Mereti and Gugutiantkari. The houses of civilians were damaged as well as one vehicle. The incident did not cause any injuries of casualties.
- On 27 February 2009, at about 16:30 pm, armed proxy militants under Russian control attacked a car moving from village Koda in the direction of the village of Tchvrinisi, both in Kareli district (near the so-called administrative border) abducted its passengers: David Kapanadze, Irakli Kapanadze, Demur Tchigladze and David Sadzaglishvili and drove them towards the Russian occupied territory. Later, Irakli Kapanadze and David Sadzaglishvili were released. In exchange for the other two hostages David Kapanadze and Demur Tchigladze, which are since then held in the Tskhinvali prison, the Ossetian *de facto* authorities were at first demanding ransom in the amount of 6000 EU and later the release of South Ossetian criminals from Georgian prison: either Marek Dudaev (serving his sentence for multiple homicide) or Giorgi Zaseev (serving his sentence for participation in the terrorist attack on police station in Gori on February 1, 2005).

March

- On 4 March, at 11:00 and 14:00 2 Russian helicopters Mi24 violated the cease-fire line over the villages of Ganmukhuri and Khurcha. They took pictures of Georgian police checkpoints and flew back to Abkhazian controlled territory.
- On 4 March 2009, the so-called State Security Committee (KGB) of South Ossetia detained two persons: Tamar Charaeva (born in 1950, a teacher in Akhalgori school no.3) and Givi Chigoev (born in 1954, the chairman of the local district council). For several weeks, they

were held in a temporary detention cell in Tskhivali. The separatist authorities charged them with "state treason" only because these persons have participated in the alternative South Ossetian presidential elections held on 12 November 2006.

- On 5 March, at 10:45 a.m. 2 Russian helicopters Mi24 violated Georgian the cease fire line over the villages of Ganmukhuri and Khurcha. They took pictures of Georgian police checkpoints and flied back to Abkhazian controlled territories.
- On March 5, at 17:00 Russian soldiers dropped plastic objects in a water collector near the village of Odzisi, which supplies drinking water to several villages. This objects blocked water supplies, after the expertise stated that these objects were polyethylene granules and could cause no harm to villagers, water supply was renewed.
- On March 6, at 1:00 a.m. 7 armed proxy militants under Russian control assaulted the herdsman in the village of Kvemo Atotsi and stole cattle, 12 cows. The incident did not cause any casualties.
- On March 8, in the morning there was a heavy explosion in Akhalgori. It was caused by technical reasons in a warehouse of "Grad" launching devices and shells. The incident caused injuries of several Russian soldiers.
- On 13 March, at about 23:30, the fire was opened at Georgian policemen near the police station in the village of Dvani. Fortunately, all of the police officers survived with no injuries.
- On 13 March, armed proxy militants under Russian controllooted and burned the houses of ethnic Georgians in the village of Tsirkoli, Akhalgori district, namely the houses of Psuturi and Miladze families.
- On 26 March, at about 14:00, armed proxy militants under Russian control opened fire at the villagers working in the fields close to village Ditsi. The incident did not cause any injuries or casualties.
- On 27 March, at about 16:45, armed proxy militants under Russian control opened fire from automatic guns towards the village of Mereti and then redirected fire at the Georgian police building. The incident did not cause any injuries or casualties.
- On 27 March, armed proxy militants under Russian control detained US citizen Chrsitopher Chivers, the correspondent of New York Times newspaper in Georgia, , and later released him.
- On 29 March, at 08:30, in the Georgian village of Dvani a Georgian police pick-up that was conducting a routine patrol, was hit by a remote cotrolled explosive device. As a result of the explosion four employees of the Special Tasks Main Division of the MIA were seriously injured, namely: Otar Mkhitariani, Davit Peikrishvili, Avtandil Megrelishvili, Levan Taniashvili and Badri Jioshvili, who later died in the hospital. In order to assist the injured, two officers of Shida Kartli police, Vano Datashvili and Zurab Durglishvili, immediately arrived at the place of incident and also received severe injuries due to the activation of another remote controlled explosive device. Consequently, the injured police officers were transferred to Gori military hospital.

April

- On 6 April, in the village of Tkviavi, a 14 year old teenager Giorgi Mariamidze found an unexploded shell in the local church yard. The shell exploded in his hands and the boy received serious injuries.
- On 12 April, in the village of Adzvi, Akhalgori district, three members of the armed proxy militants under Russian control robbed a local school, taking away 7 computers, and assaulted the guard Jambul Khomasuridze.

- On 21 April, armed proxy militants under Russian control detained two OSCE monitoring officers for "border violation" and later released them.
- On 22 April, in the morning hours, a mine exploded on a crop field near the village of Knolevi, Kareli district. No one was injured.
- On 22 April, at 20:30, armed proxy militants under Russian control opened fire at the Georgian police checkpoint near the village of Plavi, Gori district. No one was injured.

Question 8: What steps did your party and the adverse party take to clarify the fate of person reported missing since 1990 by the ICRC, their families, or by the party to which they belonged? In which cases were those steps successful? If they were not, why?

The Government of Georgia is party to the main international agreements of humanitarian law, among them the Geneva Conventions of August 12, 1949 and their two optional protocols of June 8, 1977. These mechanisms envision the implementation of norms directed at the protection of the rights of families to be informed about the fate of missing relatives. Georgia is also member of the international human rights protection treaties, mainly the International Covenant on Civil and Political Rights dated December 16, 1966 and the European Convention on Human Rights and Fundamental Freedoms dated November 4, 1950.

With the aim to fulfil its obligation in regard to the support of the families of missing persons, on March 6, 1996 the Commission was established according to the Presidents № 218 Degree. The commission was renewed by the №479 Presidents Decree dated 2004. In 2005 the amendments were added to the Decree, and in 2006 the Commission was transferred under the administrative authority of the Ministry of Refugees and Accommodation of Georgia.
The main achievements of the Commission are as follows:

1. The important information of Georgian nationals missing was gathered and organized;
2. The contribution was made in adoption of the law on supporting families of missing military personnel;
3. Based on the Statute, the different forms of support were offered to families of the missing military – provision with documents, financial aid, medical insurance etc.

Gathering and arrangement of information on missing persons

For many years the commission has been gathering important information on missing persons: military investigation, approximate maps of possible places where the persons were buried compiled by eyewitnesses, records from the work history etc. This information is properly stored in thematic and individual dossiers at the Tbilisi based office of the Commission. It should be noted that with the help of the ICRC the Commission managed to gather the "Ante Mortem" data on all missing military and civil persons. The gathered data was added to Ante-Mortem data base. The database allows for identification of corpses by forensic experts. The Commission is conducting periodical meetings as well as humanitarian cooperation with the Abkhaz Commission and public and nongovernmental organizations working in this field.

Numbers and figures of missing persons missing as a result of the Conflict in Abkhazia

After the cessation of hostilities 165 mortal remains were transferred by the Commission from the Abkhaz controlled territory. 49 corpses were handed to Abkhaz side, but there are still many left and identified.

- Support to the families of missing persons as a result of Conflict in Abkhazia

According to statistics, there are families of 1,763 missing persons living in Georgia, among them there are families of 795 soldiers and 968 civilians. According to the Commission 1,427 families are internally displaced. In recent years the Commission has offered support to the families of

missing persons, mainly those living in Tbilisi and in nearby regions. The aid was allocated in accordance with Law No 563, which was adopted with the involvement of the Commission in 1996.

Numbers and figures of persons missing as a result of the Conflict between Georgia and Russia (August 2008).

- Within the Structure of the Ministry of Internal Affairs

According to the statistics, during the armed conflict and in the following period, 25 employees of the MoIA were killed. Out of them 11 persons have been killed during the armed conflict, 3 police officers are still missing. 11 persons have been killed during fulfilment of their duties, (i.e. patrolling in zones adjacent to the conflict zone) after the active hostilities ceased (on posts).

Each family of killed/missing persons has received one-time financial aid of GEL 15,500 from the Government. Apart from that, the list of 14 killed/missing persons was handed to the charity fund "Tanadgoma" and their families were paid GEL 8,250 compensation. In addition, according to the internal decree of the Minister of Internal Affairs, dated 23 December 17 families have received financial aid of GEL 2,000-5,000.

The MoIA has purchased apartments for all families of MoIA employees missing/killed as a result of conflict. As for the social guarantees, the MoIA has facilitated the employment of the members of these families either in the MoIA or in other governmental structures, the children of these families were granted pensions in accordance with acting legislation. In addition, all families of missing persons are receiving the monthly salaries of their missing members from the MoIA.

- Within the Structure of the Ministry of Defence of Georgia

According to the latest statistics, a total 170 military persons employed in the structure of the Ministry of Defense of Georgia were killed/are missing as a result of the armed conflict between Georgia and Russia. Out of the total amount, 52 were found and identified by the DNA and10 military persons are still missing.

All families have received one-fold financial aid of GEL 15,500 from the Government and GEL 8,250 compensation from the charity fund "Tanadgoma".

The Ministry of Defence has purchased apartments for all families of persons killed (mainly in the so called "Military Town" in Tbilisi). As for the social guarantees, the MoD has also facilitated the employment of the members of these families either in its or in other governmental structures, the children of these families were granted pensions in accordance with legislation.

- Civilians

According to the on hand statistics, 19 civilians are missing as a result of the armed conflict between Georgia and Russia. The families of these persons have been mediated by the MoIA and brought to the National Bureau of Court Expertise to undertake the DNA analysis with the aim of identification of corpses of their missing relatives. As a result, 2 missing persons were identified.

Question 9: What investigations and prosecutions have been launched since 1990 by your judicial authorities against members of your forces, members of adverse forces? Members of local forces and against civilian in relation with crimes committed in relation to the conflict? In which cases did such prosecutions lead to conviction or acquittals? Please provide copies of relevant decisions. If prosecutions neither lead to convictions nor to acquittals, why did they not succeed?

Question 10: If forces or persons under your control, committed any violation(s) of international humanitarian law or human rights, did the victims of those violations obtain reparation? Were other measures of restorative justice adopted? If not why? How could the victims obtain such reparations?

On September 14, 1992, the acting Prosecutor of the Autonomous Republic of Abkhazia, Georgia initiated a criminal case into the facts of grave violations of national equality directed for stirring up inter-ethnic hatred and antagonism resulting in deaths and other serious consequences.

The investigation was launched in response to the ethnically motivated acts of violence happening on the territory of Autonomous Republic of Abkhazia, Georgia in August and September of 1992. The acts committed included but were not limited to killings, rape, grave physical injuries and kidnapping committed on ethnic grounds, explosions, destruction of state and private property, destruction of communications, etc.

An investigative brigade was created within the prosecution service which comprised of separate investigative groups for each district and city of the Autonomous Republic.

On September 28, 1993 the Prosecution Service of the Republic of Georgia launched a criminal case into alleged fact of genocide against the ethnic Georgian population committed on the territory of Autonomous Republic of Abkhazia, Georgia (criminal case No. 7793806). The criminal case was initiated under article 65^1 (Genocide) of the Criminal Code of the Republic of Georgia (then in force). The materials obtained in the course of the investigation lead by the Prosecution Service of Abkhazia, Georgia (stirring up the inter-ethnic hatred and antagonism) were attached to the criminal case as well. The investigation covered all the facts/incidents of violence/attacks against ethnic Georgians committed on the territory of Autonomous Republic of Abkhazia, Georgia since August 1992. Particular criminal cases launched in response to specific incidents were being merged into the criminal case No. 7793806.

A special investigative group was created that directed investigative activities throughout the whole territory of Georgia that inter alia included interrogations of victims and witnesses, medical examination etc.

Due to the continuing nature of the incidents of the crime alleged the criminal case also covered the acts of violence that have been committed after 1993. For example the massive attacks against the ethnic Georgian population of Gali District in May, 1998.

In the course of the investigation the acts committed qualified additionally as ethnic cleansing envisaged under Article 65^2 of the Criminal Code of Georgia (then in force).

A number of persons have been indicted, however, they have always been beyond the control of the central government; moreover, Georgia took political decision not to pursue investigation and do its utmost to achieve peaceful solution of the conflicts.

The investigation was launched concerning the violations committed in the course of the Russian-Georgian war in August 2008. Namely, on 9 August 2008, a couple of days after the Russian invasion of Georgia, the Office of the Prosecutor launched an investigation including under Articles 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. On August 11, another criminal case was opened on the facts of looting as provided by Article 413 of the Criminal Code of Georgia. These investigations have been merged. It is important to note that the investigation is not against anyone, but is launched on the facts and intends to shed light on the overall situation. Every person whose culpability is revealed in the course of the investigation will be subject to relevant legal proceedings. No charges have yet been made due to the difficulties to gather sufficient evidence. Initial statements from prisoners of war, civilian hostages have been taken, forensic examinations have been conducted, and seizure and inspection of affected areas under Georgian control has been implemented. However, lack of access to the affected areas in the Tskhinvali region/South Ossetia is a substantial impediment for a results-oriented efficient investigation.

Russia

- View on the conflict
- Chronology
- Military aspects – questions and answers
- Military aspects – additional questions and answers
- International Law – questions and answers; additional documents
- Humanitarian Law and Human Rights – questions and answers
- Humanitarian Law and Human Rights – additional questions

View on the conflict

К общей оценке
августовского конфликта 2008 г.

Об агрессии Грузии против Южной Осетии в августе 2008 года

Агрессия режима М.Саакашвили против народа Южной Осетии в августе 2008 года стала беспрецедентным по своему безрассудству и жестокости событием в новейшей истории.

Использование термина "война между Россией и Грузией" неправомерно. Вероломное нападение Грузии на мирное население Южной Осетии и российских миротворцев, количество погибших в результате этого нападения, а также заявления политического и военного руководства Грузии, продемонстрировали агрессивный замысел грузинской стороны.

В этих условиях у России не оставалось иного выбора, как использовать свое неотъемлемое право на самооборону, закрепленное в ст.51 Устава ООН. Действия российской стороны были энергичными и соразмерными масштабам нападения, преследовали единственную цель – защитить мирное население и российский миротворческий контингент от неспровоцированной агрессии грузинской стороны и предотвратить вооруженное нападение на них в будущем. Российская сторона не совершала нападений на гражданское население или гражданские объекты. Применение силы российской стороной в порядке самообороны продолжалось лишь до тех пор, пока существовали обусловившие его обстоятельства. Заметим, что договоренности Д.Медведева-Н.Саркози от 12 августа и 8 сентября 2008 г. были выполнены российской стороной в полном объеме в октябре 2008 г.

Соответствующее уведомление о действиях Российской Федерации в соответствии со ст.51 Устава ООН было направлено в Совет Безопасности. Непосредственно после начала Грузией военной операции в Южной Осетии Россия инициировала обсуждение этого вопроса в СБ ООН. Сложившееся положение рассматривалось в ночь на 8 августа 2008 г. на 5951-м и последующих заседаниях Совета.

Преступная попытка грузинского руководства по «наведению конституционного порядка», с особым цинизмом предпринятая в день начала летней Олимпиады, в период которой исторически принято прекращать все военные действия, не может иметь оправдания. На тот момент существовало достаточно возможностей решить вопрос о территориальной целостности Грузии цивилизованным путем. В целях мирного урегулирования грузино-абхазского и грузино-югоосетинского конфликтов существовали переговорные и миротворческие форматы с прямым участием международного сообщества, ООН и ОБСЕ. Россия добросовестно выполняла свои миротворческие и посреднические функции, стремилась содействовать достижению мирных договоренностей, проявляла выдержку и терпение перед лицом провокаций, не отойдя от своей позиции даже после одностороннего провозглашения независимости Косово.

Мы не раз предупреждали М.Саакашвили, что если он прибегнет к силовым методам, то это неизбежно обрушит переговорный процесс, приведет к признанию Россией независимости Абхазии и Южной Осетии. Он знал, на что шел и чем рискует. Однако режим М.Саакашвили предпочел агрессивный кровавый путь, изначально не имевший никаких перспектив. Вся вина за случившееся целиком и полностью лежит на нынешних грузинских властях.

В этой ситуации удручает и тот факт, что все предупреждения России о высокой вероятности подобного развития событий были проигнорированы международным сообществом. Более того, велась линия на моральное и материальное поощрение воинственных устремлений режима М.Саакашвили. Советы и поставки наступательных вооружений из Вашингтона, Киева, ряда натовских стран способствовали укреплению милитаристских тенденций в политике грузинского руководства.

Наши неоднократные призывы к подписанию соглашений о неприменении силы между Грузией и Южной Осетией, Грузией и Абхазией не нашли поддержки у наших западных партнеров. В то же время смена изначально антироссийской информационной пропаганды западных СМИ

после начала военных действий на более взвешенные и объективные оценки причин трагедии августа 2008 г. свидетельствуют о том, что в конечном итоге «истина становится дороже».

Агрессивным нападением на Южную Осетию в ночь на 8 августа 2008 г., повлекшим многочисленные человеческие жертвы, в том числе среди миротворцев и других российских граждан, подготовкой аналогичной акции против Абхазии М.Саакашвили сам поставил крест на территориальной целостности Грузии. Постоянно применяя грубую военную силу против народов, которых, по его словам, он хотел видеть в составе своего государства, М.Саакашвили не оставил им иного выбора, кроме как обеспечивать свою безопасность и право на существование через самоопределение в качестве независимых государств. В этой связи Указы Президента Российской Федерации Д.А.Медведева о признании Российской Федерацией независимости Республик Южная Осетия и Абхазия стали единственной возможностью сохранить жизни людей и не допустить дальнейшего кровопролития в Закавказье.

Последовавший разрыв дипотношений между Грузией и Россией, инициированный Тбилиси, еще более усугубил ситуацию в российско-грузинских отношениях, фактически «заморозив» их, несмотря на традиционно добрососедские связи между нашими странами и их многовековые исторические корни. Для нас очевидно, что в агрессии против Южной Осетии виноват не грузинский народ, а именно преступный режим М.Саакашвили. Пропаганда официального Тбилиси и сегодня дезориентирует рядовых граждан страны. В то же время Россия, питающая искренние чувства дружбы и симпатии к грузинскому народу, уверена, что рано или поздно он сам по собственной инициативе и без внешнего вмешательства обретет достойных руководителей, которые смогут по-настоящему заботиться о своей стране и развивать взаимоуважительные, равноправные, добрососедские отношения со всеми народами Кавказа, способствовать укреплению безопасности в регионе.

On Georgia's aggression against South Ossetia in August 2008[1]

The aggression perpetrated by the Saakashvili regime against the people of South Ossetia in August 2008 became an unprecedented event in modern history both in terms of its recklessness and cruelty.

The term "Russian-Georgian war" is not appropriate in this respect. The treacherous attack launched by Georgia against the peaceful population of South Ossetia and the Russian peacekeepers, the number of casualties resulting from this attack as well as statements made by Georgia's political and military leadership demonstrated aggressive intent on the part of the Georgian side.

Against this backdrop Russia had no choice but to use its inalienable right to self-defence enshrined in Article 51 of the UN Charter. The actions taken by the Russian side while proactive in nature and commensurate to the scale of the attack were designed to achieve but one goal – to protect the civilian population and the Russian peacekeeping contingent from the unprovoked Georgian aggression and prevent such armed attacks against them in the future. The Russian side never attacked the local population or any civilian facilities. Russia continued to use force in self-defence as long as the conditions requiring the same persisted. It should be noted that the Russian side fully complied with the agreements reached between D. Medvedev and N. Sarkozy on 12 August and 8 September 2008 respectively.

The relevant notice detailing the rationale behind Russia's actions undertaken in accordance with Article 51 of the UN Charter has been submitted to the Security Council. Immediately after Georgia had launched the military operation in South Ossetia, Russia brought this issue to the table at the UN Security Council. The situation was discussed through the night on 8 August 2008 at the 5951st as well as subsequent meetings of the Council.

There may be no justification for the Georgian government's criminal attempt to "bring constitutional order" undertaken ever so cynically on the opening day of the Summer Olympics when traditionally all military actions should be halted. At that time there were ample opportunities to address the issue of Georgia's territorial integrity in a civilised manner. Various negotiating and peacekeeping formats directly involving the international community, UN and OSCE had been created to find a peaceful solution to the Georgian-Abkhaz and Georgian-South Ossetian conflicts. Russia complied with its peacekeeping and intermediary obligations in good faith, while trying to help in reaching peace agreements, and demonstrated self-restraint

[1] Unofficial translation by the Independent International Fact-Finding Mission on the Conflict in Georgia.

and patience in the face of provocations, unflinchingly maintaining its position even after Kosovo's unilateral declaration of independence.

We warned Mr. Saakashvili a number of times that any attempt to resort to a forceful solution would inevitably undermine the process of negotiations and lead to Russia's recognition of Abkhazia's and South Ossetia's independence. He was aware of what was at stake as well as the risks involved. However, the Saakashvili regime favoured the aggressive bloodthirsty approach, which from the very outset was doomed to fail. The Georgian government bears the full brunt of responsibility for what happened.

Equally regrettable is the fact that all warnings issued by Russia pointing to the high probability of such a turn of events, were ignored by the international community. Furthermore, efforts have been made to lend moral and material support to Mr. Saakashvili's belligerent ambitions. Advisory help and offensive weapons provided by Washington, Kiev and a number of NATO member-states contributed to strengthening militarist trends in policies conducted by the Georgian government.

Our frequent calls in favour of reaching an agreement to ban any use of force between Georgia and South Ossetia as well as Georgia and Abkhazia found no support amongst our Western partners. On the other hand, the fact that the anti-Russian propaganda characteristic of the Western Media during the initial stage of the military operation gave way to a more cautious and objective coverage of root causes behind the tragedy that took place in August 2008, goes to show that ultimately, "truth is valued more".

By launching an aggressive attack against South Ossetia on the night of 8 August 2008 causing massive casualties among the civilian population as well as Russian peacekeepers and other Russian nationals, and by harbouring plans to launch a similar attack against Abkhazia, Mr. Saakashvili singlehandedly reduced Georgia's aspirations to restore territorial integrity to zero. Constantly trying to use brutal military force against the very ethnic groups whom he purportedly wanted to see as a part of his state, Mr. Saakashvili left them with no other choice but to seek ways to ensure their security and the right to self-determination as independent nations. In this respect the Decrees issued by President Dmitry Medvedev of the Russian Federation recognising Abkhazia's and South Ossetia's independence offered the only opportunity to save the lives of people and prevent further bloodshed in the Transcaucasian region.

The fact that relations between Georgia and Russia were severed at the Georgian initiative further exacerbated the situation rendering these relations virtually "frozen", despite the traditionally close neighbourly ties between our countries deeply rooted in many centuries of history. It is apparent to us that it is not the Georgian people who should bear the blame for the aggression against South Ossetia but rather Mr. Saakashvili's criminal regime.

Tbilisi's official propaganda is trying to this day to disorient ordinary citizens of this country. At the same time, Russia whose sentiments towards the Georgian people are truly amicable and warm, remains confident that sooner or later the Georgians at their own initiative and without any outside interference will be able to elect worthy leaders who would genuinely care about their own country and strive to develop equitable and friendly neighbourly relations based on mutual respect with all other nations in the Caucasus, in so doing strengthening security in the region.

Chronology

SHORT CHRONOLOGY,
Peacekeeping Operation to Force Georgia to Peace

7 August 2008

00.40-03.57	Georgian side opens cannon artillery fire on the SARABUKI and DMENISI area.
01.00	Georgian armed forces command takes a decision to muster militiamen.
02.13	Georgian artillery opens fire from the KURI area at TSKHINVALI.
09.40	UBIATI comes under mortar shelling.
14.30	Georgian officers leave the Combined Headquarters (CHQ) of the Joint Peacekeeping Force (JPKF) location. Duty stations abandoned by observers from the Georgian side.
14.45	Mortar shelling of NULI and AVNEVI.
15.43-16.15	Georgian armed forces units in AVNEVI fire from cannon artillery, tanks and IFVs towards KHETAGUROVO; fire attacks delivered on the SVERI and ZEMO-NIKOZI area and on the southeastern outskirts of TSKHINVALI.
19.00	Shelling of TSKHINVALI.
23.30	Commander of peacekeeping operations at the Joint Staff of Georgian Armed Forces Brig. Gen. MAMUKA KURASHVILI announces the start of combat operations against "Ossetian separatists."
23.40	A massive fire attack on TSKHINVALI begins.

8 August 2008

02.30	Georgian AF units capture MUGUTI and start an offensive operation in two directions: MUGUTI, AVNEVI and KHETAGUROVO and MUGUTI, ZEMO-NIKOZI and TSKHINVALI.
04.15	Firing on TSKHINVALI from multiple launch rocket systems begins. Georgian armed forces (tank units) fired by direct laying at the JPKF CHQ and peacekeeping battalion locations.
06.00	On the city's southern outskirts Georgian units assume the offensive.
07.40	Georgian air force delivers an air strike on the DZHAVA cantonment.

and DIDI GUPTA Village.

11.00 Security Council of South Ossetia asks Russia for help.

11.20 General mobilization declared in Georgia.

11.54 In TSKHINVALI Georgian AF units, having seized the Yuzhny peacekeeping battalion cantonment, fought for the cantonment Severny.
The Russian PKF battalion at Severny (upper) cantonment beat off 5 attacks and continued to fight. Its losses were: 2 men killed and 5 men wounded.
The Government House of the Republic of South Ossetia destroyed, and the state command center moved to the JPKF CHQ area.

14.30 Under these conditions the Russian Federation was forced to reinforce its peacekeeping troops within the JPKF (with units of the 693rd and 135th Motorized Rifle Regiments of the 19th Motorized Rifle Division) in order to carry out the peacekeeping tasks laid upon Russia, as well as to defend Russian citizens in South Ossetia.

22.00 Reinforcement units: 1/693rd MRR as it advances toward the blocked peacekeepers in the JAVA-TSKHINVALI sector fights a battle with Georgian units (up to an infantry battalion with a tank company) 6 km northeast of TSKHINVALI; 1/135th MRR digs in on TSKHINVALI's northern outskirts.
The creation of a task force completed in the JAVA area (a motorized rifle battalion of the 693rd MRR, 141st separate tank battalion, a 239th separate reconnaissance battalion, and 292nd self-propelled artillery regiment of the 19th Motorized Rifle Division) to render assistance to (relieve) the peacekeeping battalion.

9 August 2008

00.00 Broadcasting of all Russian television channels on the territory of Georgia terminated. Voice of America radio doubles its broadcasting frequency.

01.25 The main force of the Georgian body of troops leaves TSKHINVALI and tries to dig in 2 km south of the city.

05.30 4 combat ships of the Black Sea Fleet move to the OCHAMCHIRA disembarkation area.

08.00 Martial law declared in Georgia for 15 days.

13.59 Artillery shelling of the city of TSKHINVALI.

15.00 Georgian artillery fires on columns of South Ossetian refugees as they move along the Zar Road and on reinforcement units of peacekeeping forces of Russia. Georgian units consisting of a mechanized battalion of an infantry brigade and a national guard battalion with artillery support undertook from the southern direction an assault attempt on the positions of the peacekeeping battalion of the 135th Motorized Rifle Regiment.

15.20 After regrouping, Georgian units undertook a new assault attempt on TSKHINVAL.
Suffered losses in the fighting and withdrew to the ZEMO-NIKOZI, TBETI, KHETAGUROVO AND PRISI areas.

17.10 5 Georgian Navy boats move from POTI Port towards the Port of OCHAMCHIRA.

19.12 As they closed with Black Sea Fleet ships, the approaching Georgian Navy boats did not respond to any signals and inquiries, and ignored the demands to leave the security zone. After warning shots the small antisubmarine ship Kasimov and the small missile boat Mirazh stroke with their weapons at the violator boats, after which the latter left the security zone.

10 August 2008

01.07 Disembarkation of a battalion tactical group (BTG), 108th Amphibian Assault Regiment, 7th Amphibian Assault (Mountain) Division, from the large landing ship Tsezar Kunnikov completed.

03.34 Georgian artillery continues striking at columns of units of Russian armed forces advancing along the Zar Road.

06.30 Disembarkation of a BTG, 108th Amphibian Assault Regiment, 7th Amphibian Assault (Mountain) Division, from the large landing ship Saratov completed.

08.00 The 108th Amphibian Assault Regiment, 7th Amphibian Assault (Mountain) Division, concentrates in the TEPLICHNY KOMBINAT (Greenhouse Enterprise) area (8 km northeast of OCHAMCHIRA); a BTG of the 31st Separate Amphibian Assault Brigade moved to BABUSHARA Airport.

10.00 Georgian units firing on convoys with wounded, not allowing the Red Cross to conduct evacuation.

17.53 Ukrainian authorities warn that the Black Sea Fleet ships may be denied return to SEVASTOPOL.

20.10 Units of the 108th Amphibian Assault Regiment, 7th Amphibian Assault (Mountain) Division, raise the blockade of the bridge over the river INGURI.

During 24 hrs Formations and units of the Georgian armed forces (1st, 3rd, 4th and 5th infantry brigades, an artillery brigade, and a separate radio technical battalion) continued to conduct local operations for the capture of the territory of the Republic of South Ossetia.
Mobilization of Georgian national guard reservists continued.

11 August 2008

03.00 The last units of the 3rd and 4th infantry brigades of the Georgian armed forces leave TSKHINVALI.

05.00 US C-17A aircraft deliver 800 Georgian troops and 80 tons of cargo from AL KUT, Iraq, to NOVOALEXEYEVKA Airport.

12.00 Formations and units of Russian armed forces start assuming control of a security zone.

15.20 Three Georgian Su-25 jets strike at areas of TLIAKANI, KVARNETI, KEKHVI, and EREDVI Villages. One plane shot down.

15.30 Staff of the United Nations Observer Mission in Georgia (UNOMIG) withdrawn from Kodori Valley in Abkhazia, UN Assistant Secretary General Edmond Mulet reported.

18.00 70th Motorized Rifle Regiment with a BTG of the 234th Amphibian Assault Regiment and 693rd Motorized Rifle Regiment with a BTG of the 104th Amphibian Assault Regiment reach the GORI area and assume the defensive along the SAKASHETI, VARIANI and KARALETI LINE.
Units of the 108th Amphibian Assault Regiment and of the 526th and 558/131st Separate Motorized Rifle Brigades blocked ZUGDIDI.

21.40 Concentration of personnel of the 1st Infantry Brigade that had arrived from Iraq noticed at the Georgian armed forces' training center in GORI.

12 August 2008

06.00 Georgian AF start restoring the combat power of, and regrouping troops.
SENAKI blocked by units of the 108th Amphibian Assault Regiment, 7th Amphibian Assault (Mountain) Division.

07.00 Units of the 247th Amphibian Assault Regiment, 7th Amphibian Assault (Mountain) Division, start advancing from NABAKEVI to occupy the passes TABARI, KHONI and KALAMARI-SUKI (east of Kodori Valley) on the routes of possible advance of Georgian units.

12.00 Georgian armed forces take up defensive positions, concentrating major efforts on holding GORI.

12.30 Russian armed forces units (70th Motorized Rifle Regiment with a BTG of the 234th Amphibian Assault Regiment and 693rd Motorized Rifle Regiment with a BTG of the 104th Amphibian Assault Regiment) reach the northern outskirts of GORI.

12.45 The President of the Russian Federation announces completion of the operation to force Georgia to peace.

13.00 The leadership of the Russian Ministry of Defense takes a decision to suspend the further advance of Russian forces.

18.30 The Presidents of Russia and France voice the principles for resolving the conflict.

23.25 Small antisubmarine ship Suzdalets spots a high-speed group target moving from the POTI direction. The target did not respond to an inquiry. A warning salvo was fired from an AK-630. The target lays smoke screens, turns back and disappears.

13 August 2008

Russian armed forces units conducted no combat actions; they pressed back a group of Georgian troops from the security zone and blocked the conflict area. Provided conditions for delivery of humanitarian aid to the civilian population.

03.00 Aircraft made air/radar reconnaissance and escorted truck convoys with humanitarian cargo.

09.00 In the Kodori Valley area Georgian armed forces units surrender their arms and withdraw from the valley. Abkhazian armed forces units conduct search operations there.

12.00 The President of Georgia agrees to the main items of the Russian-French plan for a peaceful settlement of the conflict. Georgian armed forces continued the withdrawal of troops (1st, 3rd and 4th Infantry Brigades) towards TBILISI.

14 August 2008

18.40 The US President announces the "beginning of a humanitarian mission to Georgia led by the US military," demanding the Russian side ensure that "all lines of communication and transport in Georgia remain open for the delivery of humanitarian assistance."
14 August 2008 .

14.08 A US C-17A military transport aircraft lands in TBILISI Airport with humanitarian cargo.

15.35 A part of the Georgian armed forces units are withdrawn towards MTSKHETA, the rest of the troops were taking up defensive positions near TBILISI.

21.00 US C-17A aircraft make five flights to TBILISI Airport delivering humanitarian and military cargoes.

15 August 2008

06.00 Georgian armed forces units continued regrouping with the aim of building up the group of troops in the TBILISI area; individual sabotage and reconnaissance groups and snipers operate on South Ossetian territory.

10.00 A defense circle being created around TBILISI and contiguous settlements. Defensive positions continue to be organized in the area of MTKHETA.

15.00 NATO countries start rendering humanitarian assistance to Georgia.

17.00 Forward units of the 71st Motorized Rifle Regiment, 42nd Motorized Rifle Division, set up five peacekeeping posts to assume control of the security zone.

16 August 2008

10.00 18 posts sets up in the LASHE and KOSHKA sector by efforts of the 429th Motorized Rifle Regiment, 19th Motorized Rifle Division.

13.00 693rd Motorized Rifle Regiment with a BTG of the 104th Amphibian Assault Regiment took up defensive positions with a forward edge along the left bank of the DIDI-RUI canal line so as to prevent a breakthrough of Georgian armed forces units towards KUTAISI and GORI. 70th Motorized Rifle Regiment, 42nd Motorized Rifle Division, in cooperation with a BTG of the 234th Amphibian Assault Division, 76th Amphibian Assault Division, took up defensive positions with a forward edge along the Lake Nalarbizevi line, elevation 735.6, 500 m western elevation 751.4, western outskirts of NATSRETI, so as to prevent a breakthrough of Georgian armed forces units towards TBILISI and GORI.

To reinforce the group of troops in South Ossetia, the introduction of units of airborne forces (a separate special-purpose unit of a separate regiment, 45th special-purpose regiment; 2/104th Amphibian Assault Regiment; BTG, 331st Parachute Regiment, 98th Airborne Division) into the territory of the republic begun.

17 August 2008

04.00 Sabotage groups of the Georgian armed forces attempted to commit acts of sabotage in the ROKI TUNNEL area.

09.00 1st Infantry Brigade from Iraq takes up defensive positions on the OAKMI and eastern outskirts of KASPI line; on the SAGURAMO and MTSKHETA line a Georgian Interior Ministry special purpose unit defends; a reserve (up to a tank battalion strong) is concentrated at DIGOMI.

10.00 71st Motorized Rifle Regiment, 42nd Motorized Rifle Division, increases the number of posts in threatened sectors. All in all, 36 posts are set up, including 16 on the western direction;
20 on the eastern direction.

To build up efforts of the group of forces in the Republic of South Ossetia, a reserve of manpower and equipment created in readiness for introduction into the conflict zone: 242nd and 255th Motorized Rifle Regiments, 944th Self-Propelled Artillery Regiment, 20th Motorized Rifle Division in the ARDON area; 205th Separate Motorized Rifle Brigade at the place of permanent deployment.

21.15 A column of Russian peacekeepers moving from SENAKI fired on from grenade launchers 3 km south of the 301st Checkpoint.

The Georgian leadership actively searches for ways to restore the combat power of the armed forces.

22.00 Georgian armed forces remain deployed in the barracks; same applies to units stationed in GORI.

18 August 2008

During 24 hrs Formations and units of the Russian armed forces occupy designated areas, carry out search/reconnaissance actions and provide security for the civilian population in their zones of responsibility; units are also getting ready for withdrawal to their places of permanent deployment.

06.00 The French Foreign Minister declares the need to send international peacekeeping forces into the Georgian-Ossetian zone of conflict and to put pressure on the conflicting parties so as to get Russian troops withdrawn from the territory of Georgia.

12.00 South Ossetia objects to the presence on its territory of international observers and asks Russia to deploy a Russian military base in the region.

15.00 Georgian armed forces units continue carrying out measures to restore combat power and prepare defenses on the approaches to TBILISI and step up sabotage and terrorist activities on South Ossetian territory.

18.00 By decree of the President of Abkhazia, martial law canceled in a number of areas of the republic.

19 August 2008

06.00 The leadership of Georgian security agencies undertakes attempts to regain control over the motor road between GORI and TBILISI.

08.00 Georgian armed forces are strengthening their defensive positions in the Tbilisi sector.
According to intelligence, the entry into the Black Sea is planned of: on August 22 – the ships from Poland (ORP General Pulaski), United States (USS Taylor) and Canada (HMCS Ville de Quebec); on August 24 – from the United States (coast guard cutter Dallas); in September – US Navy ship Pathfinder; on September 21 – the frigates from Spain (SPS Almirante Don Juan de Borbon) and from Germany (FGS Luebeck).

12.00 Units for reinforcement of the Russian peacekeeping forces occupy

designated areas and provide security for the civilian population in their zones of responsibility.
United Kingdom and United States submit to the emergency foreign ministers meeting of NATO a proposal to "suspend" cooperation with Russia in the area of ensuring joint security.

13.00 Information about demoralization of Georgian armed forces personnel confirmed. During a 4th Infantry Brigade marching drill review by the Georgian president at VAZIANI, personnel looked depressed, about 200 troops did not have a military uniform; up to 150 troops had left the mountain training center at SACHKHERE. US servicemen responsible for the training of Georgian armed forces noted the low fighting efficiency of the troops and their inability to resist Russia's armed forces.

17.00 By return fire after an attack on a group of Russian peacekeepers by armed persons in the SKHALTBA area one policeman was killed and one taken prisoner.

18.00 Mobile groups of Russian peacekeepers discovered and detained in the areas of POTI Port an armed group of 20; ZUGDIDI an armed group of 20 in 5 armored vehicles with the identification signs of the 2nd, 3rd and 5th Infantry Brigades of the Georgian armed forces.

21.00 Georgian special forces units try to intensify reconnaissance, sabotage and terrorist activities, for which purpose they continue to use unmanned spy planes. One such UAV was downed by an air defense crew on duty of the Russian reinforcement units 16 km south of TSKHINVALI.

20 August 2008

08.00 Formations and units of Georgia's armed forces continue regrouping and the restoration of combat power. A part of the forces take up defensive positions on the approaches to TBILISI.
1st Infantry Brigade defends on the OKAMI – eastern outskirts of KASPI line;
on the SAGURAMO – MTSKHETA line a special forces brigade of Georgia's Interior Ministry has taken up defensive positions, and an all-arms reserve of up to a tank battalion is concentrated in the DIGOMI area.
Work continues on the organization of positions in the KHOVLE area (3 km southwest of KASPI).
4th Infantry Brigade concentrated at its VAZIANI place of permanent deployment; up to an infantry brigade in the KODHZORI area. Up to

800 Georgian troops, presumably up to two infantry battalions from among 2nd Infantry Brigade personnel are concentrated in the ONI area.
Georgian special purpose units try to intensify sabotage and terrorist activities on the territory of South Ossetia and in contiguous areas.

08.30 The SPS Almirante Don Juan de Borbon of Spain and FGS Luebeck of Germany start passing through the Dardanelles Strait.

11.30 A firing Georgian machine-gun crew noticed 1-2 km from the Central Republican Hospital building in TSKHINVALI on a mountain slope. Russian peacekeepers open return fire for effect.

12.00 In Stavropol Territory FSB agencies detain on a charge of spying in Georgia's favor a senior Russian armed forces officer, M. Khachitze, who served in one of the military units in the North Caucasus.

13.00 Four surface ships and one submarine of the Turkish Navy noticed in Black Sea waters (submarine Gür, frigates Barbaros, TCG Gediz, Göksu and O.K.Peri).

14.35 Georgian armed forces command attempts to restore the system of communication and troop control.
Work of 10 Georgian armed forces communication centers on ultra-short-wave frequencies noted

16.00 Two portable launchers and nine antitank guided missiles discovered and removed in the area 2 km west of DAVATI.

21.00 The President of South Ossetia signs a degree lifting martial law.

21 August 2008

00.10 The Georgian leadership asks the US Defense Department to urgently return to places of permanent deployment the Georgian servicemen taking a course of training in American educational institutions. In addition, questions of supplies to Georgia of military purpose products are actively discussed with the US leadership.

06.00 Georgian armed forces units and formations are concentrated in the central part of the country, restore their combat power and prepare for further actions.
1st Infantry Brigade holds the OKAMI – eastern outskirts of KASPI line; the SAGURAMO-MTSKHETA line is held by Georgian Interior Ministry special forces; a reserve (consisting of up to a tank battalion)

is concentrated in the DIGOMI area.
4th Infantry Brigade at its place of permanent deployment (VAZIANI). Intelligence shows the Georgian side deployed additional manpower and equipment on the left bank of the river Ksani, concentrating in the AGAYANI area up to seven tanks and one armored personnel carrier, and in the KHIDISKURI area – up to five tanks and one armored personnel carrier, as also up to 20 units of special equipment.

08.30 Reinforcement units of Russian peacekeeping forces:
in the South Ossetia sector:
perform service at 30 peacekeeping posts and outpost supports in the GORI area and along the administrative border of South Ossetia (71st Motorized Rifle Regiment, 42nd Motorized Rifle Division; and 429th Motorized Rifle Regiment, 19th Motorized Rifle Division); terrain organization continues in the areas of concentration (70th Motorized Rifle Regiment, 42nd Motorized Rifle Division; and 693rd Motorized Rifle Regiment, 19th Motorized Rifle Division), protect important facilities on lines of communication; units of the 20th Motorized Rifle Division conduct loading work and advance on railway transport to the place of permanent deployment;
in the Abkhazia sector:
are in the areas of concentration west of SENAKI, provide security for the civilian population in the area of SENAKI and POTI (108th Amphibian Assault Regiment, 247th Amphibian Assault Regiment, and 31st Separate Amphibian Assault Brigade); control the pass KALAMARI-SUKI (2nd Amphibian Assault Regiment and 247th Amphibian Assault Regiment); make preparations to set up additional peacekeeping observation posts in the first (from the 526th Motorized Rifle Battalion, 131st Separate Motorized Rifle Brigade) and second (from 558th Motorized Rifled Battalion, 131st Separate Motorized Rifle Brigade) security zone lines; perform the tasks in protecting the administrative buildings in ZUGDIDI (43rd Motorized Rifle Battalion, 15th Separate Motorized Rifle Brigade).

13.30 Based on the results of a "national gathering," Abkhazia and South Ossetia send to Russia the appeals of the presidents and parliaments of the republics to recognize the independence of their self-proclaimed states.

18.35 The SPS Almirante Don Juan de Borbon of Spain and FGS Luebeck of Germany enter the Black Sea.

22 August 2008

08.00 The command of Georgian security agencies continues the conduct of

reconnaissance activities to find out the nature and focus of activities by Russian armed forces units and South Ossetian militias as well as the preparation of armed actions in the Georgian-Ossetian zone of conflict.
Formations and units of the Georgian armed forces are concentrated in the central part of the Republic, restore combat power and prepare for further actions. Engineering work is under way to create operational defenses.
Formations and units of the Russian armed forces, having suspended active combat actions, occupy designated areas, conduct search and reconnaissance actions and provide security for the civilian population in their zones of responsibility. Formations and units of the 20th Motorized Rifle Division, concentrated in the area 1.5 km northwest of ARDON, are occupied with movement to the place of permanent deployment by rail.

10.00 Small missile ship Mirazh returns to its base in SEVASTOPOL, with no hindrance on the part of Ukrainian authorities.

15.10 The frigate ORP General Pulaski Pulaski (Polish Navy) and the US destroyer McFall pass through the Bosporus Strait.

17.30 Formations and units of the Russian armed forces complete setting up peacekeeping observation posts of the security zones in the South Ossetia sector (217th Parachute Regiment, 98th Airborne Division – eights first-line posts; 135th Motorized Rifle Regiment, 19th Motorized Rifle Division – ten second-line posts) and in the Abkhazia sector (526th Motorized Rifle Battalion, 131st Separate Motorized Rifle Brigade – eight first-line posts; 558th Motorized Rifle Battalion, 131st Separate Motorized Rifle Brigade – nine second-line posts).

18.00 Formations and units of the Russian armed forces that took part in the peacekeeping operation moved behind the first line of peacekeeping observation posts. Start preparations for withdrawal to their places of permanent deployment from August 23, 2008.

Military aspects – questions and answers

First set of questions to the Governments of the Russian Federation and Georgia, related to military issues

1. There have been various accounts of the chronology of the conflict in August 2008. What is your understanding of the order in which events took place?

2. What was the rationale for Georgian operations in the Tskhinvali region on the 7th and 8th of August 2008? When did operations start towards the City of Tskhinvali? When were the Russian troops deployed from the Russian Federation into the Roki tunnel? When did they move into the Tskhinvali region? Were any Russian units deployed in the Tskhinvali region prior to 7th August 2008?

3. What were roles and activities of the components of the Joint Peacekeeping Forces (which had a mandate in the Tskhinvali region) as well as those of the CIS Peacekeeping Force (which had a mandate in the Georgian-Abkhaz conflict zone) in August 2008?

4. What was the timing of deployments/operations, in the Upper Kodori Valley? And which Forces were involved?

5. What types of units were used and how many troops were deployed in general and for particular operations? What percentage were conscripts and reservists?

6. What were the organization and the chain of command and control?

7. What were the levels of decisions for the choice of targets and assets engaged?

8. What training had been given to troops evolved in the operations on the International Law of Conflict? What plans were made for the protection of civilians before military operations began? What did the regular forces do in order to prevent human rights violations, including looting, burning of houses etc., during the hostilities of August 2008 and afterwards?

9. What military preparations were made prior to August 2008?

10. What plans were made for a withdrawal and redeployment of Forces from the zone of conflict ? What was the sequence and timing of any such withdrawal or redeployment ?

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Ответы на вопросы по военным аспектам миссии Европейского союза по расследованию фактов, связанных с событиями на Кавказе в августе 2008 г.

Что послужило основной причиной грузинской операции в Южной Осетии 7-8 августа 2008 г.?

Грузинская агрессия против Южной Осетии явилась логичным продолжением политики режима М.Саакашвили, пришедшего к власти в Тбилиси при активном содействии США в результате так называемой «революцией роз». Именно поэтому руководство Грузии на всех уровнях упорно уходило от принятия на себя обязательств о неприменении силы в разрешении конфликтов с Абхазией и Южной Осетией, подписания соответствующих документов.

Чтобы оценить, что же послужило основной причиной грузинской операции в Южной Осетии 7-8 августа 2008 г., необходимо понять психологию тех руководителей (как в Грузии, так и за ее пределами), которые принимали решение о начале военных действий против Южной Осетии. 8 августа 2008 г. было Днем открытия Олимпийских игр в Пекине, а как известно, даже в древней Греции, на родине олимпийского движения, когда начинались Олимпийские игры - прекращались войны и междоусобицы. Как говорится, о чем еще можно говорить? Ответ на вопрос, что послужило основной причиной грузинской операции в Южной Осетии, прост - военно-политическим руководством Грузии был реализован курс на присоединение Южной Осетии и Абхазии силовым путем в момент, когда агрессию никто не ожидал.

Обстановка в Южной Осетии существенно обострилась с начала августа 2008 г. В нарушение договоренностей о прекращении огня по ночам противоборствующими сторонами с контролируемых ими территорий велись перестрелки из стрелкового оружия, в том числе снайперского, а также гранатометов и минометов. В течение 6 и 7 августа 2008 г. подразделения министерств обороны и внутренних дел Грузии, дислоцированные в зоне грузино-осетинского конфликта, а также в некоторых других районах Грузии, были приведены в высшую степень боевой готовности и приступили к выдвижению в районы оперативного предназначения.

В преддверии запланированных на 8 августа 2008 г. переговоров в формате Смешанной Контрольной Комиссии, руководство Грузии, вероломно нарушив взятые на себя обязательства о прекращении огня в зоне грузино-осетинского конфликта приступило к проведению силовой операции «по восстановлению конституционного порядка» на территории Республики Южная Осетия. Формальным поводом для нападения, по заявлению заместителя помощника госсекретаря США по делам Кавказа, Центральной Азии и Юго-Восточной Европы М.Брайзы, послужил обстрел осетинами села Тамарашени.

Помимо перечисленных выше оснований, можно отметить, что с момента прихода к власти М.Саакашвили к власти в 2004 году он нередко допускал необдуманные действия как во внутренней, так и во внешней политике, проявляя такие черты, как авантюризм и склонность к риску. Это также можно рассматривать в качестве одной из причин того, что Грузия неосмотрительно развязала крупномасштабную военную операцию.

Когда началась операция в г. Цхинвале?

В 23.30 7 августа 2008 г. заместитель начальника объединенного штаба вооруженных сил Грузии по миротворческим операциям бригадный генерал М.Курашвили объявил о начале ведения боевых действий против «осетинских сепаратистов», выступив с телеобращением.

В 23.35 7 августа 2008 г. Грузия приступила к операции по установлению контроля над территорией Южной Осетии под условным наименованием «Чистое поле». Грузинской стороной был открыт шквальный огонь из РСЗО и ствольной артиллерии по г. Цхинвал и другим юго-осетинским населенным пунктам. В результате огневого налета были полностью разрушены 10 осетинских сел и деревень, а в г. Цхинвали - все государственные учреждения, большое количество жилых домов и городок миротворцев.

Когда российские войска вступили с территории Российской Федерации в Рокский тоннель? Когда началось их продвижение в Южную Осетию?

В 14.30 8 августа подразделения 693 мсп и 135 мсп 19 мед в интересах выполнения возложенных на Россию миротворческих задач, а также для защиты российских граждан, находящихся в Южной Осетии, вступили с территории Российской Федерации на территорию Южной Осетии через Рокский тоннель и **начали продвижение в Южную Осетию.** Авиация и артиллерия начали наносить удары по грузинским военным объектам с целью воспрещения подхода резервов противника, нарушения его коммуникаций, вывода из строя аэродромов базирования, уничтожения складов и баз ГСМ и изоляции районов боевых действий.

Основанием для этого шага явились действия Грузии, которая в ночь с 7 на 8 августа 2008 г., нарушив имеющиеся договоренности о мирном урегулировании грузино-осетинского конфликта, попыталась решить

проблему территориальной целостности силовым (военным) путем, развязала агрессию против Южной Осетии.

В зону конфликта осуществлялась переброска подразделений ВС Грузии из внутренних районов страны. Началось выдвижение личного состава и техники подразделений 3 пехотной бригады из г. Кутаиси в район юго-западнее г. Цхинвал. В районе н.п. Гори сосредоточились подразделения реактивной артиллерии. В н.п. Хони начал погрузку на железнодорожный транспорт бронетанковый батальон 5-ой механизированной бригады.

В 6.00 8 августа 2008 г. введенные в бой на южной окраине г. Цхинвал грузинские воинские части попытались сходу овладеть городом. В ходе наступательной операции грузинской стороной продолжалось авиационное и артиллерийское поражение, в том числе объектов в пунктах дислокации миротворческого батальона (2 мсб 135 мсп) и Объединенного штаба Смешанных сил по поддержанию мира (далее - ССПМ).

В 7.40 8 августа 2008 г. грузинские ВВС нанесли авиационный удар по военному городку п.п. Джава и п.п. Ново-Гуфта.

В этих условиях российские миротворцы в соответствии с Мандатом на проведение операции по поддержанию мира продолжали выполнять задачи на наблюдательных постах и контрольно-пропускных пунктах, контролируя основные дорожные направления и обеспечивая безопасность мирных жителей в зоне ответственности.

В 11.00 8 августа Совет Безопасности Южной Осетии обратился к России за помощью. К этому времени подразделения ВС Грузии в г. Цхинвал, захватив восточный городок миротворческого батальона «Южный», вели бой за «Северный» городок. К 12.00 8 августа 2008 г., пытаясь сломить сопротивление миротворческих сил и югоосетинских вооруженных формирований, грузинские войска ввели в бой танковые подразделения. Российские миротворцы, которые находились в «Северном» (верхнем) городке, отразили 5 атак и продолжали вести неравный бой. **В этот момент появились первые потери у миротворцев (2 чел. убитыми и 5 чел. ранеными), что дало право руководству Российской Федерации на принятие решения о вводе войск в Южную Осетию.**

В сложившихся условиях, по просьбе правительства Южной Осетии, а также для защиты российских граждан, находящихся на ее территории, Российская Федерация была вынуждена принять меры по усилению своего миротворческого контингента и начать операцию по принуждению Грузии к миру. В соответствии с Конституцией Российской Федерации (согласно ст. 61 Российская Федерация гарантирует своим гражданам защиту и покровительство за её пределами) и федеральным законодательством **Президент Российской Федерации Д.А.Медведев 8 августа 2008 г. принял решение о защите жизни и достоинства российских граждан в Южной Осетии. В период с 8 по 12 августа 2008 г. усиленные подразделения российских миротворцев провели операцию по принуждению Грузии к миру.**

Развертывались ли и где именно в Южной Осетии какие-либо российские соединения до 7 августа 2008 г.?

Вплоть до 8 августа 2008 г. российские подразделения на территории Южной Осетии находились только в составе ССПМ (мотострелковый батальон 135 мсп численностью 496 чел. и миротворческий батальон от Республики Северная Осетия - Алания численностью 488 чел., схема дислокации российского воинского контингента в зоне грузино-осетинского конфликта по состоянию на 8 августа 2008 г. прилагается).

Каковы были в августе 2008 года роль и деятельность подразделений ССПМ (имевших мандат в Южной Осетии), а также миротворческих КСПМ СНГ (имевших мандат в зоне грузино-абхазского конфликта)?

Смешанные силы по поддержанию мира задействованы в зоне грузино-осетинского конфликта с 1992 года. Мандат и условия их участия в урегулировании грузино-осетинского кризиса определены в Соглашении между Российской Федерацией и Республикой Грузия о принципах урегулирования грузино-осетинского конфликта от 24 июня 1992 г.

Коллективные силы СНГ по поддержанию мира задействованы в зоне грузино-абхазского конфликта с 1994 года. Правовой основой для их участия в конфликте являются:

Соглашение о прекращении огня в Абхазии и механизме контроля за его соблюдением от 27 июля 1993 г.;

Решение об использовании Коллективных сил по поддержанию мира в зоне грузино-абхазского конфликта от 22 августа 1994 г.;

Решение Совета глав государств Содружества Независимых Государств «Об утверждении мандата на проведение операции по поддержанию мира в зоне конфликта в Абхазии, Республика Грузия» от 21 октября 1994 г.;

Решение об уточнение и продлении мандата Коллективных сил по поддержанию мира в зоне конфликта в Абхазии, Республика Грузия от 26 мая 1995 г.;

Решение о продолжении операции в зоне конфликта в Абхазии, Грузия от 26 июля 2002 г. - 2 октября 2002 г.;

Решение о пребывании коллективных сил по поддержанию мира в зоне конфликта в Абхазии, Грузия и мерах дальнейшего урегулирования конфликта от 18 февраля 2003 г. - 2 апреля 2003 г.;

Решение о пребывании Коллективных сил по поддержанию мира в зоне конфликта в Абхазии, Грузия и мерах дальнейшего урегулирования конфликта от 25 июля 2003 г. - 19 сентября 2003 г.

Основные задачи Смешанных сил по поддержанию мира в зоне грузино-осетинского конфликта и Коллективных сил СНГ по поддержанию мира в зоне грузино-абхазского конфликта до 7 августа 2008 г. заключались в следующем:

обеспечение соблюдения грузино-российского «Соглашения о принципах урегулирования грузино-осетинского конфликта» от 24 июня 1992 г. и грузино-абхазского «Соглашения о прекращении огня и разъединении сил» от 14 мая 1994 г.;

блокирование района конфликта, обеспечение контроля за прекращением огня;

наблюдение за выводом войск (вооруженных формирований) и их разоружением, роспуском сил самообороны и обеспечение режима безопасности в зоне контроля;

охрана важных объектов и коммуникаций, сопровождение гуманитарных грузов;

наблюдение за выполнением сторонами достигнутых между ними договоренностей;

создание благоприятных условий для проведения переговорного

процесса по разрешению конфликтов;

создание условий для безопасного и достойного возвращения беженцев в районы их прежнего постоянного проживания;

содействие в восстановлении районов, пораженных конфликтами, в том числе в оказании гуманитарной помощи, проведении разминирования, воссоздании основных систем жизнеобеспечения населения;

В соответствии с «Положением об основных принципах деятельности воинских контингентов и групп военных наблюдателей, предназначенных для нормализации ситуации в зоне грузино-осетинского конфликта», утвержденным Решением Смешанной Контрольной Комиссии по урегулированию грузино-осетинского конфликта «О Смешанных силах по поддержанию мира» от 6 декабря 1994 г., воинские контингенты имеют право вести боевые действия имеющимися на вооружении мотострелковых подразделений средствами в соответствии с приказами Объединенного военного командования.

С началом боевых действий миротворческие контингенты перешли к самообороне, а также выполняли задачи по охране важных объектов в зонах своей ответственности. С прибытием сил и средств усиления продолжили выполнение миротворческих задач до развертывания в соответствии с договоренностями «Медведев-Саркози» Мониторинговой миссии Европейского союза в Грузии (1 октября 2008 г.).

10 октября 2008 г. миротворческие силы были расформированы.

Время начала развертывания операции в верхней части Кодорского ущелья? и чьи вооруженные формирования были вовлечены?

Власти Республики Абхазия внимательно отслеживали развитие ситуации в Южной Осетии. В рамках существующих договоренностей о взаимопомощи между участниками сообщества «За демократию и права народов» (Абхазия, Южная Осетия, Приднестровье), в случае начала боевых действий со стороны Грузии против югоосетинской республики, абхазские вооруженные силы планировали проведение войсковой операции в верхней части Кодорского ущелья.

В г. Сухум 7 августа 2008 г. состоялось заседание Совета Безопасности Республики Абхазия, в ходе которого президентом республики С.Багапш было заявлено о том, что степень участия Абхазии в рамках существующего с Южной Осетией соглашения будет определяться в соответствии со складывающейся обстановкой и подписано обращение к Президенту

Российской Федерации с просьбой об усилении миротворческого контингента ВС РФ в зоне грузино-абхазского конфликта. ВС республики были переведены в степень боевой готовности «Повышенная».

8 августа 2008 г. часть сил и средств восточной группы войск ВС Абхазии передислоцирована в зону ограничения вооружений на административную границу с Гальским районом Абхазии.

9 августа 2008 г. в 15.25 президент Абхазии С.Багапш объявил о том, что абхазские вооруженные силы начали операцию по вытеснению грузинских силовых структур из верхней части Кодорского ущелья. К 18.30 ВС РАб наращивают группировку в районе НП № 107 для проведения операции в Кодорском ущелье. В ночь с 9 на 10 августа 2008 г. подразделениями ВС РАб проведены рейдовые действия на южном берегу р. Ингури с целью выявления наличия вооруженных формирований Грузии.

К 10 августа 2008 г. было проведено усиление миротворческого контингента ВС РФ в зоне грузино-абхазского конфликта воинскими частями Воздушно-десантных войск.

К 15.30 11 августа 2008 г. по сообщению помощника Генерального секретаря ООН Э.Мюллс сотрудники Миссии ООН по наблюдению в Грузии выведены из Кодорского ущелья. С целью освобождения верхней части Кодорского ущелья от вооруженных формирований Грузии (около 2800 чел.) последовательными **действиями абхазских формирований, усиленных батальонной тактической группой ВДВ, Кодорское ущелье занято практически без сопротивления.**

К 9.00 13 августа 2008 г. в районе Кодорского ущелья подразделения ВС Грузии осуществили сдачу оружия и вышли из ущелья. Подразделениями ВС Абхазии в ущелье были проведены поисковые действия.

Таким образом, был восстановлен «Status quo» и юрисдикция РАб над Абхазской Сванетией, с июля 2006 года, находящейся под контролем Грузии.

Какие рода войск использовались и сколько военнослужащих было развернуто в ходе операции в целом и в частности?

По своему содержанию операция по принуждению Грузии к миру носила межвидовый характер. Были задействованы все виды Вооруженных Сил Российской Федерации (Сухопутные войска, Военно-воздушные силы, Военно-Морской Флот), а также Воздушно-десантные войска.

Резервисты (военнослужащие, призванные из запаса) не использовались.

На каких уровнях принимались решения по выбору целей и средства их достижения?

Решения на выбор целей и средства их достижения принимались на всех уровнях в соответствии с установленными обязанностями и компетенцией органов управления (штабов), командующих (командиров).

Следует отметить, что военных целей миротворческой операции по принуждению Грузии к миру ВС РФ удалось достичь без массированного применения силы на земле и в воздухе.

В целом действия ВС РФ несли на себе отпечаток сдержанности - командование группировками войск (сил) «притормаживало» войска. Действия войск (сил) сочетали в себе как быстроту и достаточную силу для воспрещения подхода грузинских резервов, так и достаточную сдержанность, чтобы дать возможность мирным жителям, в том числе грузинскому населению, покинуть зону вооруженного противостояния. Удары боевой авиации также наносились исключительно по военным объектам в целях недопущения массовых разрушений гражданской инфраструктуры и населенных пунктов.

Какие военные приготовления проводились накануне августа 2008 года?

Относительно так называемых **военных приготовлений российской стороны**, необходимо отметить, что накануне августа 2008 г. обстановка в зонах грузино-осетинского и грузино-абхазского конфликтов претерпела кардинальные изменения, практически была свернута работа механизмов политического урегулирования конфликтов по причине отказа грузинской стороны от участия в их деятельности. Наметились устойчивые тенденции в грузинском руководстве, направленные на слом ранее существовавших форматов грузино-абхазского и грузино-осетинского урегулирования, вывод российских миротворцев из зон конфликтов и разрешение абхазской и югоосетинской проблем силовым путем.

Несмотря на часто повторяющиеся предостережения, которые имели место в официальных источниках и средствах массовой информации, в нарушение имеющихся соглашений на территорию абхазской Сванетии Грузией была введена группировка силовых структур численностью свыше 2000 человек и размещено так называемое «правительство Абхазии в изгнании». Аналогично на территории Южной Осетии грузинским руководством было размещено так называемое «альтернативное правительство» Д.Санакоева.

Следует особо подчеркнуть, что мы неоднократно на всех уровнях предупреждали официальный Тбилиси, что попытки грузинских властей изменить существующие форматы миротворческих операций в Абхазии, Южной Осетии, вывести (заменить) российских миротворцев неизбежно повлекут за собой обострение обстановки в зонах конфликтов, что в конечном итоге может послужить началом военных действий и выходу из-под контроля ситуации в Кавказском регионе в целом. В этих непростых условиях российские миротворческие контингента продолжали выполнять задачи по поддержанию мира, являясь единственным сдерживающим фактором, гарантом мирного урегулирования конфликтов на территории Грузии.

В связи с обострением обстановки в зоне грузино-абхазского конфликта в марте-апреле 2008 г., вызванного концентрацией вооруженных сил Грузии с тяжелой техникой в непосредственной близости от границ Абхазии, полетами грузинской авиации над территорией Абхазии, участившимися провокациями в отношении российских миротворцев командующий Коллективными силами СНГ по поддержанию мира в зоне грузино-абхазского конфликта (далее -

КСПМ) обратился в Секретариат СНГ и к военно-политическому руководству Российской Федерации с просьбой об увеличении численности КСПМ СНГ в пределах установленных норм.

Справочно: В соответствии с решением Совета глав государств СНГ «Об использовании КСПМ СНГ в зоне грузино-абхазского конфликта» от 22 августа 1994 г. численность КСПМ СНГ была определена в количестве 2500-3000 чел. По состоянию на апрель 2008 г. численность составляла 1997 чел.

На основе принятого решения, в целях недопущения возобновления военных действий между конфликтующими сторонами, к 30 апреля 2008 г. численность КСПМ СНГ была увеличена на 545 военнослужащих и стала составлять 2542 чел. Об увеличении численности миротворческого контингента грузинская сторона была своевременно проинформирована командованием КСПМ СНГ в том объеме, как это предусматривалось нормативной правовой базой по урегулированию данного конфликта.

У границ Южной Осетии М.Саакашвили в нарушение Дагомысского Соглашения от 24 июня 1992 г. были созданы ударные группировки войск, которые включали более 11 тыс. чел, до 100 танков, до 30 реактивных систем залпового огня, свыше 110 орудий полевой артиллерии, при превосходстве над Смешанными силами по поддержанию мира в силах и средствах по личному составу - 9,75 : 1, по танкам - абсолютное, по РСЗО - абсолютное, по орудиям полевой артиллерии - 3: 1. В связи с чем российские миротворцы с 4 августа 2008 г. были приведены в высшие степени боевой готовности, несли службу на позициях, на наблюдательных постах и контрольно-пропускных пунктах в усиленном режиме.

Мы предупреждали, что Россия поддерживает боевой потенциал, состояние боевой и мобилизационной готовности Вооруженных Сил Российской Федерации на уровне, обеспечивающем отражение агрессии, направленной против Российской Федерации, оставляет за собой право обеспечить безопасность своих граждан, находящихся на территориях Южной Осетии и Абхазии, а российские миротворческие контингента способны выполнить задачи в соответствии с международными договорами Российской Федерации по поддержанию мира в зонах грузино-осетинского и грузино-абхазского конфликтов.

Какие планы были разработаны для свертывания и вывода войск из зоны конфликта? Последовательность и сроки такого свертывания и вывода?

В соответствии с решением Президента Российской Федерации **российские войска 12 августа 2008 г. были остановлены на достигнутых рубежах,**
а с 15.00 того же дня соединения и воинские части Вооруженных Сил Российской Федерации прекратили активные боевые действия. Вооруженные силы Грузии были рассеяны и беспорядочно отступали в направлении Тбилиси, бросая вооружение и военную технику.

С 18 по 22 августа 2008 г. российские войска, принимавшие участие в миротворческой операции, были выведены из временно занимаемых районов на территории Грузии в зоны безопасности, прилегающие к границам Южной Осетии и Абхазии. **К 1 сентября 2008 г.** завершён их плановый вывод на территорию Российской Федерации, а в целях обеспечения безопасности населения Южной Осетии и Абхазии, контроля за соблюдением достигнутых договоренностей в зонах безопасности подразделениями миротворческих сил были выставлены две линии наблюдательных постов:

на абхазском направлении - 18 наблюдательных миротворческих постов. Из них 8 постов - на первой линии по южной и юго-восточной границе зоны ответственности Коллективных сил по поддержанию мира, 10 постов - на второй линии вдоль границы Абхазии с Грузией;

на югоосетинском направлении - 19 наблюдательных постов, из них на первой линии - 9, на второй - 10.

На встрече **8 сентября 2008 г.** в г. Москве президенты Российской Федерации Д.А.Медведев и Франции Н.Саркози **дополнительно развили договоренности от 12 августа 2008 г.** В частности, предусматривалось осуществить полный вывод российских миротворческих сил Российской Федерации из зон, прилегающих к Южной Осетии и Абхазии, на линию, предшествующую началу боевых действий в течение 10 дней после развертывания в этих зонах международных механизмов, включая не менее 200 наблюдателей от Евросоюза.

1 октября 2008 г. Евросоюз в срок выполнил свои обязательства по размещению в Грузии своих наблюдателей, **9 октября 2008 г.** из зон безопасности вокруг Южной Осетии и Абхазии были выведены наши миротворцы, на два дня раньше, чем предусматривалось договоренностями Д.А.Медведева -Н.Саркози.

Отдельно предлагается остановиться на рассмотрении на имевших место **планах операций вооруженных сил Грузии** по захвату Абхазии и Южной Осетии, которые демонстрировались ранее. Речь идет о документах в электронном виде, записанных на двух компакт-дисках, изъятых у грузинской стороны в ходе операции по принуждению Грузии к миру, а также о копиях приказов командира 4 пехотной бригады ВС Грузии на боевое применение подразделений указного соединения в регионе «Самачабло» (Южная Осетия) от 7 августа 2008 г.

Оригиналы данных документов приобщены в качестве вещественных доказательств к материалам уголовного дела №201/374108-08, возбужденного по фактам массовых убийств и геноцида в отношении граждан Российской Федерации - миротворцев и местных жителей осетинской национальности, проживающих на территориях Республики Южная Осетия. В Главное следственное управление Следственного комитета при прокуратуре Российской Федерации, которое расследует данное уголовное дело, по мере необходимости направлялись краткие переводы этих документов, а также материалы с оценкой указанной информации.

Представляет особую важность копии приказов 4 пехотной бригады ВС Грузии с переводом, а также компакт-диск и распечатка с него топографических карт с нанесенной обстановкой и отображением действий собственных сил Грузии в ходе планируемого наступления, а также вероятный характер действий противника (указанные материалы с оценкой их содержания прилагаются).

Данные материалы свидетельствуют о заблаговременной подготовке вооруженных сил Грузии к вторжению на территорию Республики Южная Осетия и Республики Абхазия.

Оценка материалов, содержащихся на магнитных носителях, захваченных у грузинской стороны

Текстовая информация, записанная на дисках, изложена на грузинском языке латинским шрифтом. Все схематичные и картографические материалы исполнены с использованием условных тактических знаков Объединенных вооруженных сил (ОВС) НАТО и по стандартам блока.

Файлы создавались и редактировались в период с марта 2005 года по март 2007 года. В ссылках на авторов имеются имена Давид и Акакий. В качестве организации-разработчика проходит "J-3" (по нашим сведениям, управление оперативного планирования министерства обороны Грузии).

Кроме того, на двух файлах имеются эмблемы генерального штаба ВС Грузии *(с 2007 г. преобразован в объединенный штаб, что свидетельствует о заблаговременной проработке планов силового способа восстановления контроля над Южной Осетией)* и штаба сухопутных войск.

Документы имеют гриф "Секретно" и представляют собой планы по применению войск (сил) в операциях по захвату Абхазии и Южной Осетии. В замысле операции указано, что оперативная группировка (ВС Грузии) в течение 72 часов уничтожает противника и восстанавливает юрисдикцию Грузии в регионе. Они включают топографические карты с нанесенной обстановкой и отображением действий собственных сил в ходе подготовки и проведения наступления, вероятный характер действий противника, свидетельствующие о заблаговременной подготовке к вторжению вооруженных сил Грузии на территорию Республики Южная Осетия и Республики Абхазия.

Кроме того, они содержат текстовые, табличные, картографические, схематичные и фотоматериалы по структуре оперативной группировки, подразделениях национальной гвардии, характеристике района боевых действий и отдельных элементов инфраструктуры Южной Осетии и Абхазии. Имеются разделы с описанием противника (осетин) и российских миротворческих сил, таблица применения сил и средств артиллерии на всех этапах наступательной операции, разработанная для организации огневой поддержки грузинской группировки при ведении наступательной операции в Южной Осетии. При чем среди перечня артиллерийских целей - штаб российских миротворческих сил в г. Цхинвал.

В вооруженных силах иностранных государств, в том числе стран-членов НАТО, подобного рода планы используются при проведении командно-штабных учений, а также для докладов (презентаций) высшему военно-политическому руководству страны.

В представленных материалах объекты воздействия в полосе наступления грузинских войск (сил), в том числе населенные пункты с преимущественным проживанием осетинского населения, указаны красным цветом (по терминологии ОВС НАТО - "противник"). В качестве артиллерийских целей, наряду с объектами силовых структур Южной Осетии, были спланированы штаб российских миротворцев, дом правительства

республики и телевизионная вышка в г. Цхинвал, полигон российского миротворческого батальона.

Во всех планах по захвату Абхазии и Южной Осетии в числе военной техники и вооружения, намеченных к применению, указаны 152-мм самоходные гаубицы "Дана" и 120-мм реактивные системы залпового огня (РСЗО) РМ-70, поставленные Грузии Чехией в 2003-2007 годах и не являющиеся высокоточными видами вооружения. Так, площадь поражения одним залпом РСЗО РМ-70 составляет 14,5 га.

Файл "Разведывательное обеспечение операции" представляет собой презентацию документа на 96 листах. Он содержит текстовые, картографические, схематичные и фотоматериалы. Документ подготовлен в целях разведывательного обеспечения наступательной операции по захвату грузинскими войсками Южной Осетии. В него вошли описание района операции и отдельных элементов инфраструктуры с приложением фотографий, сделанных в 2004 и 2006 годах. Подробно освещаются структура, численный состав югоосетинских силовых структур (по грузинской версии - министерство обороны, ОМОН, СОБР, комитет госбезопасности, отряды ополченцев, наемники), их вооружение и военная техника, возможный характер применения в случае начала боевых действий по захвату грузинами г.Цхинвал. Также подробно описаны структура, численный и боевой состав, вооружение и техника российского миротворческого батальона, расположение постов миротворцев. Место дислокации российского батальона, а также учебный полигон миротворцев, наряду с элементами инфраструктуры югоосетинских силовиков, имеются в перечне военных объектов, подлежащих уничтожению.

Файл "План действий 1 пехотной бригады" представляет собой презентацию документа на 102 листах, разработанного, предположительно, в штабе бригады. Он содержит текстовые, картографические, схематические и фотоматериалы и является докладом-представлением плана по проведению наступательной операции в Абхазии во взаимодействии с другими соединениями и подразделениями ВС Грузии. Планом предусматривается ведение наступления 1 пбр в прибрежной зоне в направлении Очамчира, Бабушара. В документе также рассматриваются возможные действия противника (абхазской стороны) и меры по его нейтрализации. Подробно освещаются боевой и численный состав абхазских силовых структур.

Файл "План действий 1 пехотной бригады "Преддверие 2", представляет собой презентацию документа на 86 листах, разработанного, предположительно, в штабе 1 пехотной бригады сухопутных войск грузинских вооруженных сил. Он содержит текстовые, картографические, схематические и фотоматериалы и является докладом-представлением плана по захвату Южной Осетии во взаимодействии с другими соединениями и подразделениями ВС Грузии. Планом предусматривается проведение войсковой операции по уничтожению и вытеснению противника из Самачабло (грузинское название Южной Осетии) в течение 72 часов и восстановление грузинской юрисдикции в регионе. Отмечается, что 1 пехотная бригада входит в состав основных сил и выполняет задачу по захвату г. Цхинвал. На ее флангах спланированы действия

других соединений: справа - 3 пехотной бригады, слева - 5 пехотной бригады. В документе также рассматриваются варианты возможных действий противника (осетин) и меры по его нейтрализации. Подробно освещаются боевой и численный состав осетинских силовых структур.

Файл "План действий 1 пехотной бригады "Преддверие" представляет собой презентацию документа на 88 листах, разработанного, предположительно, в штабе 1 пехотной бригады СВ ВС Грузии. Он содержит текстовые, картографические, графические, схематичные и фотоматериалы и является докладом-представлением плана по захвату Южной Осетии во взаимодействии с другими соединениями и подразделениями ВС Грузии. Различий между планами "Предверие" и Преддверие 2" практически нет, за исключением того, что на флангах 1 пбр спланированы действия других соединений: справа -2 пехотной бригады, слева - 4 пехотной бригады. В документе также предусматриваются блокирование мест дислокации российских миротворцев во время наступления.

Таким образом, анализ содержащихся на магнитных носителях материалов, позволяет сделать вывод о том, что вооруженные силы Грузии заблаговременно готовились к вооруженному вторжению на территорию Республики Южная Осетия и Республики Абхазия. В представленных планах предусматривалось уничтожение объектов как военного, так и гражданского назначения, в том числе сел с преимущественным проживанием граждан осетинской национальности. Штаб и полигон российских миротворцев также были спланированы в качестве артиллерийских целей. При проведении наступательных действий планировалось применение средств артиллерии неизбирательного действия, в том числе реактивных систем залпового огня, применение которых в населенных пунктах влечет массовую гибель мирного населения и масштабные разрушения объектов жизнеобеспечения граждан.

Сравнительный анализ планов, содержащихся на компакт-дисках, с реальными событиями в ходе действий грузинской вооруженной группировки на территории Южной Осетии показывает, что между ними имеется ряд существенных отличий. По нашей оценке, это, предположительно, вызвано неожиданным для руководства ВС Грузии принятием решения М.Саакашвили о проведении операции и сжатыми сроками ее подготовки.

Вместе с тем, как и предусматривалось вышеуказанными планами, грузинской стороной на юго-осетинском направлении была сформирована крупная группировка сил и средств, созданы большие запасы боеприпасов, позволявшие вести постоянный артиллерийский обстрел с периодической сменой огневых позиций. Развертывание подразделений осуществлялось как по периметру РЮО, так и с контролируемых Тбилиси грузинских анклавов на территории Южной Осетии.

В целом, данные материалы подтверждают имевшуюся в Генеральном штабе Вооруженных Сил Российской Федерации информацию о численности, боевом составе и вооружении ВС Грузии, а также о поставках из-за рубежа отдельных видов вооружений.

Responses to questions on military aspects posited by the European Union Fact-Finding Mission on the events that took place in the Caucasus in August 2008[1]

What was the rationale for Georgian operations in South Ossetia on the 7th and 8th of August 2008?

The Georgian aggression against South Ossetia came as a logical progression of policies conducted by the Saakashvili regime, which came to power in Tbilisi with the significant backing of the United States as a result of the so-called "Rose Revolution". It is precisely due to that fact that the Georgian leadership at all levels persistently avoided assuming any obligation not to resort to the use of force to resolve the conflicts with Abkhazia and South Ossetia or signing any documents to that effect.

In order to identify the rationale behind the Georgian operation in South Ossetia on the 7th and 8th of August 2008 one needs to understand the psychological profile of the leaders (both in Georgia and outside of its boundaries) who took the decision to launch a military operation against South Ossetia. The 8th of August 2008 marked the inauguration of the Olympic Games in Beijing. It is common knowledge that even in ancient Greece where the Olympic movement was born wars and internal conflicts would be put on hold during the games. As the saying goes, this truth is self-sufficient. The response to the question as to what was the main rationale behind the Georgian operation in South Ossetia is quite simple – the political and military leadership of Georgia chose to annex South Ossetia and Abkhazia by force at a time when no one expected any aggression.

The situation in South Ossetia started to deteriorate in early August 2008. In violation of the ceasefire agreements in place at night the warring parties would exchange small arms and sniper fire, and use mortars and grenade launchers from their respective territories. On 6 and 7 August 2008 units from Georgia's Ministry of Defence and Ministry of the Interior present on the ground in the Georgian-Ossetian conflict zone as well as in several other areas in Georgia were put on highest combat readiness alert and began to move out to their respective areas of operations.

On the eve of the negotiations in the Joint Control Commission format scheduled to take place on 8 August the Georgian government treacherously violated its obligations under the ceasefire agreement in the Georgian-Ossetian conflict zone and launched a military operation "to restore the constitutional order" in the territory of the South Ossetian Republic. The formal motive for the attack according to the Deputy Assistant Secretary of State Matthew Bryza who was responsible for relations with countries in the Caucasus, Central Asia and South-East Europe, was the fact that ostensibly the Ossetians had fired upon the village of Tamarasheni.

In addition to the foregoing reasons it might be worth noting that ever since Mr. Saakashvili came to power in 2004 he was known to frequently take rash actions both in his domestic and foreign policies clearly demonstrating such character traits as adventurism and propensity for taking risks. This fact can also be considered as one of the reasons behind Georgia's decision to unleash this ill-advised large-scale military operation.

When did operations start towards the City of Tskhinvali?

At 23:30 on 7 August 2008 brigadier general M. Kurashvili, Deputy Chief of Joint Staff of the Georgian Armed Forces responsible for peacekeeping operations

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[1] Unofficial translation by the Independent International Fact-Finding Mission on the Conflict in Georgia.

announced in a televised address that a military operation against "Ossetian separatists" had begun.

At 23:35 on 7 August 2008 Georgia began the operation aimed at restoring its control over the territory of South Ossetia, code named "Clean Field". The Georgian side opened intensive fire using multiple-launch rocket systems and conventional artillery against the city of Tskhinvali and other residential settlements in South Ossetia. This artillery attack razed 10 Ossetian villages and settlements to the ground and destroyed all government institutions, majority of residential buildings and the base of the peacekeeping forces in the city of Tskhinvali.

When were the Russian troops deployed from the Russian Federation into the Roki tunnel? When did they move into the Tskhinvali region?

On 8 August at 14:30 units of the 693rd and 135th motorised rifle regiments of the 19th motorised rifle division charged with the task of carrying out the peacekeeping mission entrusted with the Russian Federation and protecting Russian citizens located in South Ossetia were deployed from the territory of the Russian Federation to the territory of South Ossetia through the Roki tunnel and **began to move into South Ossetia**. Air force and artillery units launched strikes against Georgian military facilities to restrict enemy reserve movements, disrupt its communications, incapacitate base airfields, destroy warehouses and bases containing petrol and lubricants and to isolate the area of hostilities.

These steps were taken in response to Georgia's attempt to resort to (military) force during the night of 7-8 August to solve its territorial integrity issues by way of unleashing an aggression against South Ossetia in violation of existing agreements mandating a peaceful resolution of the Georgian-Ossetian conflict.

Units of the Georgian Armed Forces were redeployed from inner districts of the country to the conflict zone. Personnel and equipment of the 3rd infantry brigade began to move out from the city of Kutaisi to an area located southwest of Tskhinvali. Rocket artillery units were concentrated in the area of Gori. An armour battalion of the 5th mechanised brigade began loading on the railway transport in the town of Khoni.

On 8 August at 6:00 the newly committed Georgian military units attempted to take the city in stride. In the course of the offensive the Georgina side continued to deliver air strikes and artillery fire including against targets inside the peacekeeping battalion's deployment area (2nd motorised rifle brigade, 135th motorised rifle regiment) and the Joint Peacekeeping Forces Headquarters (hereinafter JPKF).

On 8 August at 7:40 Georgian air force units delivered a strike against military bases in the towns of Dzhava and Didi-Gupta.

Against this background the Russian peacekeepers continued to carry out their missions at their observation and check points in accordance with their peace support mandate as well as to control key roads and ensure security and safety of local residents in the area of their responsibility.

On 8 August at 11:00 the South Ossetian Security Council appealed to Russia for help. At this time units of the Georgian Armed Forces in the city of Tskhinvali already captured the "Southern" ("Yuzhny") base of the peacekeeping battalion and attempted to take the "Northern" ("Severny") base by force. By 12:00 on the same day in an attempt to break down the resistance put up by the peacekeeping forces and South Ossetian armed groups Georgian forces sent in armour units. The Russian peacekeepers manning the "Northern" (upper) base repelled 5 attacks and continued

to engage the overwhelming enemy forces. **At this stage the peacekeepers began to sustain their first casualties (2 servicemen killed and 5 wounded), which entitled the Russian Federation leadership to take the decision to send additional troops to South Ossetia.**

Given these circumstances, following a request from the government of South Ossetia the Russian Federation was forced to take measures to augment its peacekeeping contingent and to begin a peace enforcement operation against Georgia to protect the lives of Russian citizens in the territory of the Republic. In accordance with the Constitution of the Russian Federation (pursuant to Article 61 the Russian Federation guarantees protection and patronage for its citizens abroad) and Federal legislation, **on 8 August 2008 President D.A. Medvedev of the Russian Federation adopted a decision to protect the lives and dignity of Russian citizens in South Ossetia.** Between 8 and 12 August 2008 the augmented units of Russian peacekeepers carried out a peace enforcement operation against Georgia.

Were any Russian units deployed in the Tskhinvali region prior to 7 August 2008?

Up until 8 August 2008 the only Russian units stationed in the territory of South Ossetia were those seconded to the Joint Peacekeeping Forces (a motorised rifle battalion from the 135th motorised rifle regiment, 496 servicemen, and a peacekeeping battalion from the Republic of North Ossetia – Alania – total strength - 488; a schematic depicting the deployment layout of the Russian military contingent in the Georgian-Ossetian conflict zone on 8 August 2008 has been enclosed herewith).

What were roles and activities of the components of the Joint Peacekeeping Forces (which had a mandate in the Tskhinvali region) as well as those of the CIS Peacekeeping Force (which had a mandate in the Georgian-Abkhaz conflict zone) in August 2008?

The Joint Peacekeeping Forces had been involved in the Georgian-Ossetian conflict zone since 1992. Their mandate, as well as terms and conditions governing their role in resolving the Georgian-Ossetian crisis, was set out in the Agreement entered into by the Russian Federation and the Republic of Georgia dated 24 June 1992, which also details principles of resolving the Georgian-Ossetian conflict.

The CIS Peacekeeping Forces have been stationed in the Georgian-Abkhaz conflict zone since 1994. Their role in this conflict is governed by the following legal framework:

The ceasefire agreement in Abkhazia and mechanisms created to verify compliance with this agreement dated 27 July 1993;

The decision to use CIS Peacekeeping Forces in the Georgian-Abkhaz conflict zone dated 22 August 1994;

The decision taken by the CIS Council of Heads of States "to approve the mandate to conduct a peace support operation in the conflict zone in Abkhazia and the Republic of Georgia" dated 21 October 1994;

The decision to update and extend the mandate given to the CIS Peacekeeping Forces in the conflict zone in Abkhazia and the Republic of Georgia dated 26 May 1995;

The decision to continue the operation in the conflict zone in Abkhazia and Georgia dated 26 July 2002 – 2 October 2002;

The decision to station the CIS Peacekeeping Forces in the conflict zone in Abkhazia and Georgia as well as to implement measures to further resolve the conflict dated 18 February 2003 – 2 April 2003;

The decision to station the CIS Peacekeeping Forces in the conflict zone in Abkhazia and Georgia as well as to implement measures to further resolve the conflict dated 25 July 2003 – 19 September 2003.

Prior to 7 August 2008 *the core mission* of the Joint Peacekeeping Forces deployed in the Georgian-Ossetian conflict zone and the CIS Peacekeeping Forces in the Georgian-Abkhaz conflict zone was as follows:

ensure compliance with the Georgian-Russian "Agreement governing the principles of resolving the Georgian-Ossetian conflict" dated 24 June 1992 and the Georgian-Abkhaz "Agreement on ceasefire and separation of forces" dated 14 May 1994;

isolate the conflict zone, exercise ceasefire control;

monitor the withdrawal of troops (armed formations) and their disarmament, disbandment of self-defence forces and ensure compliance with the security regime in the controlled area;

protect vital facilities and communications, provide convoys for humanitarian cargoes;

monitor the parties' compliance with the previously reached agreements;

create an enabling environment to facilitate the negotiations process with a view to resolving the conflicts;

create the necessary conditions to facilitate safe and dignified repatriation of refugees to their former areas of residence;

provide assistance in rebuilding areas affected by the conflicts incl. humanitarian assistance, demining and restoring vital civilian facilities;

In accordance with the "Provision on core principles governing the activities of military contingents and groups of military observers called upon to normalise the situation in the Georgian-Ossetian conflict zone" approved by the decision to create "the Joint Peacekeeping Forces" taken by the Joint Control Commission for Settlement of the Georgian-Ossetian Conflict on 6 December 1994, military contingents shall be entitled to engage in combat operations and use weapons assets available to the motorised rifle units in accordance with the orders issued by the Joint Military Command.

Since the beginning of the hostilities the peacekeeping contingents operated in a self-defence mode and continued to carry out their mission protecting vital facilities in their respective areas of responsibility. After the fresh augmentation units and capabilities arrived they continued to carry out their peacekeeping missions until the European Union Monitoring Commission was deployed in accordance with the "Medvedev-Sarkozy" agreements (1 October 2008).

As of 10 October 2008 the peacekeeping forces have been disbanded.

What was the timing of deployments/operations in the Upper Kodori Valley? And which forces were involved?

The government of Abkhazia continued to closely monitor the situation in South Ossetia. In the framework of existing agreements on mutual assistance between members of "the Community for democracy and rights of peoples" (Abkhazia, South Ossetia, Transnistria), the Abkhaz forces were planning for a military operation in the

upper Kodori gorge in the event of any hostilities from the Georgian side against the Republic of South Ossetia.

On 7 August 2008 a meeting of the Abkhaz Republic Security Council took place in Sukhumi. During the meeting President of the Republic S. Bagapsh stated that the degree to which Abkhazia would be involved in the framework of the agreement in place with South Ossetia would depend on the evolving situation. He also signed a letter addressed to the President of the Russian Federation requesting that the RF peacekeeping contingent be augmented in the Georgian-Abkhaz conflict zone. The Republic's Armed Forces were put on high combat readiness alert.

On 8 August 2008 a number of forces and assets from the Eastern group of the Abkhaz Armed Forces were redeployed to the Restricted Weapon Zone towards the administrative border with the Gali district of Abkhazia.

On 9 August 2008 at 15.25 President of Abkhazia S. Bagapsh announced that the Abkhaz Armed Forces had begun an operation with a view to driving Georgian military and paramilitary forces out of the upper part of the Kodori gorge. By 18:30 the Armed Forces of Abkhazia augmented their group present in the area designated as NP No. 107 in order to carry out an operation in the Kodori gorge. During the night of August the 9th to August the 10th 2008 units of the Abkhaz Armed Forces conducted a raid along the southern bank of the Inguri river to identify any Georgian military presence.

By 10 August 2008 the Russian Federation military contingent deployed in the Georgian-Abkhaz conflict zone was augmented with airborne units.

By 15:30 on 11 August 2008 according to a statement made by the UN Assistant Secretary General Edmond Mulet, employees of the UN Mission in Georgia were evacuated from the Kodori gorge. To liberate the upper part of Kodori from Georgian military forces (2800 strong), **the Abkhaz troops aided by the airborne battalion task force undertook a sequence of actions and occupied the Kodori gorge virtually without encountering any resistance.**

By 9:00 on 13 August 2008 units of the Georgian Armed Forces deployed in Kodori surrendered their arms and left the gorge. Units of the Abkhaz Armed Forces conducted an area search operation.

Thus the "Status Quo" and the Abkhaz jurisdiction were restored in the Abkhaz Svanetia, which had remained under Georgian control since 2006.

What types of units were used and how many troops were deployed in general and for particular operations? What percentage were conscripts and reservists?

The peace enforcement operation against Georgia saw the engagement of all services of the Russian Federation's Armed Forces (Army, Air Force, Navy) as well as airborne troops.

Reservists (servicemen recalled from reserves) were not engaged in the operation.

What were the levels of decisions for the choice of objectives and assets engaged?

Decisions with respect to the choice of objectives and assets engaged were taken at all levels in accordance with the established chain of command and competencies of various command and control bodies (headquarters) and officers in charge (commanders).

It should be noted that the Armed Forces of the Russian Federation managed to achieve military objectives of the peacekeeping operation without having to resort to the use of force on a massive scale on the ground and in the air.

The overall actions taken by the RF Armed Forces were reserved in nature – commanders "held back" their troops. These forces acted in a manner that combined speed and sufficient power to preclude Georgian reserves from joining the main group of Georgian forces with adequate restraint to ensure that Georgian civilian population could leave the area of hostilities. Air strikes also targeted exclusively military installations in order to prevent possible mass destruction of civilian infrastructure and residential settlements

What military preparations were made prior to August 2008?

With respect to the so-called **military preparations carried out by the Russian side**, it should be noted that prior to August 2008 the situation in the Georgian-Ossetian and Georgian-Abkhaz conflict zones changed drastically. Political conflict settlement mechanisms became virtually defunct due to Georgia's refusal to participate. The Georgian leadership showed a persistent trend towards breaking down the previously agreed formats for settling the Georgian-Ossetian and Georgian-Abkhaz conflicts, withdrawing the Russian peacekeepers from the conflict areas and resolving the Abkhaz and South Ossetian issues by force.

In spite of the frequently repeated warnings published in official sources and the mass media and in violation of agreements in place with respect to the territory of the Abkhaz Svanetia, Georgia sent in a 2000 strong group of military and paramilitary units and put in place the so-called "Abkaz government in exile". By the same token in the territory of South Ossetia the Georgian government "placed" the so-called "alternative government" headed by D. Sanakoev.

It should be particularly emphasised that we repeatedly warned the official Tbilisi at all levels that any attempt on the part of the Georgian government to change the existing format of the peacekeeping operations in Abkhazia and South Ossetia or to withdraw (replace) the Russian peacekeepers would inevitably aggravate the situation in the conflict areas and may ultimately trigger hostilities resulting in a loss of control in the Caucasus region as a whole. Against this very complex background the Russian peacekeeping contingents continued to carry out their mission, maintaining peace and acting as the only restraining factor and a guarantor of a peaceful resolution of the conflicts in the territory of Georgia.

Due to the deteriorating situation in the Georgian-Abkhaz conflict zone in March-April 2008 caused by the concentration of Georgian armed forces and heavy weapons in the area adjacent to Abkhazia's borders, flights of Georgian aircraft over the Abkhaz territory and the growing frequency of provocations vis-à-vis the Russian peacekeepers, the Commander of the CIS Peacekeeping Forces in the Georgian-Abkhaz conflict zone (hereinafter – CIS PKF) turned to the CIS Secretariat and the military and political leadership of the Russian Federation with a request to increase the strength of CIS PKF personnel within the agreed limits.

Reference Information: In accordance with the decision taken by the CIS Council of Heads of States on "the role of the CIS PKF in the Georgian-Abkhaz conflict zone" dated 22 August 1994, the strength of the CIS PKF was set at

2500-3000 servicemen. As of April 2008 the force was 1997 strong.

Based on this decision by 30 April 2008 the CIS PKF were augmented with 545 servicemen bringing the total strength up to 2542 in order to prevent renewed hostilities between the warring parties. The Georgian side was informed about that step in a timely manner by the CIS PKF Command to the extent stipulated by the regulatory framework governing the resolution of this conflict.

Mr. Saakashvili in violation of the Dagomys Agreement dated 24 June 1992 created strike groups near the South Ossetian border that included more than 11 thousand personnel, up to 100 tanks, 30 multiple launch rocket systems, over 110 field artillery guns, outnumbering the Joint Peacekeeping Forces in personnel and capabilities 9.75 to 1, in tanks – in absolute terms, in MLRS – in absolute terms, and in field artillery units – 3 to 1. In view of the above as of 4 August the Russian peacekeepers were put on the highest combat readiness alert. They raised the level of security to the highest possible in their positions as well as at observation posts and checkpoints.

We issued warnings stating that Russia would maintain its military potential as well as combat and mobilisation readiness of its Armed Forces at a sufficient level to repel any aggression directed against the Russian Federation, that it reserved the right to ensure the safety and security of its citizens in the territory of South Ossetia and Abkhazia and the Russian peacekeeping contingents were capable of carrying out their mission in accordance with international agreements signed by the Russian Federation governing the peace process in the Georgian-Ossetian and Georgian-Abkhaz conflict zones.

What plans were made for a withdrawal and redeployment of Forces from the zone of conflict? What was the sequence and timing of any such withdrawal or redeployment?

In accordance with the decision taken by the President of the Russian Federation, **on 12 August 2008 Russian troops were ordered to stop their advance and remain in their positions,**

as of 15:00 on the same day units of the Russian Federation Armed Forces ceased any active combat operations. The Armed Forces of Georgia were scattered and continued their hasty retreat towards Tbilisi abandoning weapons and military equipment.

Between 18 and 22 August 2008 the Russian troops that took part in the peacekeeping operation were withdrawn from the temporarily occupied areas in the territory of Georgia to secure areas adjacent to the borders of South Ossetia and Abkhazia. **By 1 September 2008** their scheduled withdrawal to the territory of the Russian Federation was completed. Units of the peacekeeping forces also established two lines of observation points in the secure areas to ensure safety and security of the civilian population in South Ossetia and Abkhazia as well as compliance with the agreements reached. The observation points were deployed as follows:

18 observation points manned by the peacekeepers were created in the Abkhaz area. 8 of them were deployed as the first line along the southern and south-eastern border of the CIS Peacekeeping Forces' area of responsibility, 10 observation points were deployed as a second line along the Abkhaz-Georgian border;

19 observation points were deployed in the South Ossetian area – 9 of them along the first line and 10 along the second.

During the meeting that took place on **8 September 2008** in Moscow President D. A. Medvedev of Russia and President N. Sarkozy of France **further expanded the agreements reached on 12 August 2008.** In particular, the agreements stipulated that the Russian Federation was to fully withdraw its peacekeeping forces from the areas adjacent to South Ossetia and Abkhazia beyond the pre-conflict line of demarcation within 10 days after the deployment of the relevant international mechanisms, including at least 200 observers from the European Union.

On 1 October 2008 the European Union fulfilled its obligations in a timely fashion and deployed its observers in Georgia. **On 9 October 2008** our peacekeepers were withdrawn from the security zones around South Ossetia and Abkhazia – two days ahead of the deadline set out in the Medvedev-Sarkozy agreements.

Georgia's military operational plans designed to capture Abkhazia and South Ossetia listed above warrant special mention and particular attention should be paid to the documents in electronic format dated 7 August 2008 recorded on two compact disks confiscated from the Georgian side during the peace enforcement operation as well as copies of orders issued by the commander of the 4th infantry brigade of the Georgian Armed Forces to engage units of this brigade in a combat operation in the "Samachablo" region (South Ossetia).

Original copies of these documents were treated as material evidence in criminal case No. 201/374108-08 that was opened to investigate the allegations of mass murders and genocide against citizens of the Russian Federation, peacekeepers and ethnic Ossetians residing in the territory of South Ossetia. The Main Department of Investigations operating under the auspices of the Investigations Committee established by the Russian Federation Prosecutor General's Office responsible for investigating this criminal case, received short translations of these documents to the extent the same were necessary, as well as other materials containing evaluation of the foregoing information.

Particularly important are the copies of orders received by the 4th infantry brigade of the Georgian Armed Forces and their translation as well as a compact disk and printouts of topographic maps depicting the situation and actions of the Georgian Armed Forces during the planned assault and the probable course of actions to be taken by the opposing force (the foregoing materials and our conclusions with respect to their content have been enclosed herewith).

These materials corroborate the fact that the Armed Forces of Georgia had been preparing in advance to invade the territory of South Ossetia and Abkhazia.

Conclusions with respect to materials contained on electronic media captured from the Georgian side

The textual information recorded on the foregoing disks is written in the Georgian language but in Latin script. All schematics and cartographic materials contain tactical conventional symbols and designations commonly used by the Allied Forces (NATO) and have been executed pursuant to standards adopted by the Alliance.

Electronic files were created and modified between March 2005 and March 2007. Fields referring to authors of documents contain the names of David and Akaky. The developing organisation is J-3 (according to our sources, J-3 stands for the operational planning department of the Georgian Ministry of Defence).

Furthermore, two files contained the Coat of Arms of the Georgian General Staff (*since 2007 it has been transformed into the current Joint Staff, which substantiates the fact that the plan to restore control over South Ossetia by force had been developed well in advance)* and Army Headquarters.

Documents are marked "Classified" and contain plans of military engagement (engagement of forces) with a view to capturing Abkhazia and South Ossetia. The concept of operation indicates that the Task Force (Georgian Armed Forces) was to destroy the opposing force within 72 hours and restore Georgia's jurisdiction in the region. The documents include topographic maps depicting the situation on the ground and actions to be taken by own forces in the course of preparing and executing the offensive operation as well as the probable course of action of the opposing force, thus, substantiating the fact that the Armed Forces of Georgia had been preparing in advance to invade the territory of South Ossetia and Abkhazia.

In addition these files contain texts, tables, schematics, cartographic and photographic materials detailing the structure of the Joint Task Force, National Guard units, and containing a description of the area of operations and selected elements of South Ossetian and Abkhaz infrastructure. Other sections describe the opposing force (Ossetians) and the Russian peacekeeping forces. They also contain a table of artillery engagement throughout all phases of the offensive operation designed to provide artillery support to the Georgian Task Force during the offensive operation in South Ossetia. It should be noted in particular that the list of artillery targets included the headquarters of the Russian peacekeeping contingent in Tskhinvali.

Armed forces of other countries including those of NATO member-states use similar plans to conduct command-post exercises as well as in presentations (reports) to the highest political and military leadership of the country.

In the materials presented hereunder the target areas covered by the Georgian (forces) offensive including residential settlements predominantly populated by ethnic Ossetians were marked red (according to NATO/Allied Forces nomenclature, red stands for the "opposing force"). In addition to military and law enforcement installations in South Ossetia the list of artillery targets included the Russian peacekeeping contingent's headquarters, house of the Government, the television tower in Tskhinvali and the training grounds used by the Russian peacekeeping battalion.

The list of weapons to be used in recapturing Abkhazia and South Ossetia and the relevant plans include 152mm self-propelled howitzers "Dana" and 120mm multiple-launch rocket systems (MLRS) RM-70 sold to Georgia by the Czech Republic in 2003-2007, which are not classified as high-precision weapons systems. One MLRS RM-70 salvo covers a kill zone of 14.5 hectares.

The file entitled "Operational Intelligence Support" is a 96 page long presentation. It contains textual data, cartographic and photo materials as well as schematics. The document was prepared to describe intelligence support in the course of the planned Georgian offensive designed to capture South Ossetia. It also includes a description of the area of operations and selected elements of local infrastructure as well as photographs made in 2004 and 2006. The document provides a detailed account of the structure and strength of South Ossetian law enforcement and military forces (according to the Georgian version these include the Ministry of Defence, SWAT teams, Special Rapid Response Forces, State Security Committee, local militia and mercenaries), their weapons and military equipment and possible courses of action in the event of a Georgian operation to capture Tskhinvali. The document provided a detailed account of the Russian peacekeeping battalion's structure, numbers and combat strength, weapons systems and military equipment as well as the location of positions manned by the peacekeepers. The Russian peacekeeping battalion's deployment location as well as its training grounds along with other infrastructure facilities and installations used by South Ossetian law enforcement and military units were included in the list of military targets to be engaged and destroyed.

The file entitled "1st Infantry Brigade Action Plan" is a 102 page long presentation developed, presumably, in the brigade headquarters. It contains textual data, cartographic and photographic materials, schematics as well as a description of plans to conduct an offensive operation in Abkhazia in conjunction with other units and groups of the Georgian Armed Forces. According to the plan the 1st infantry brigade were to conduct an offensive operation in the coastal area and move out towards Otchamtchir and Babushar. The document also contemplates possible courses of action to be taken by the opposing force (the Abkhaz side) and measures to neutralise the same as well as a detailed description of the Abkhaz forces, their combat strength and numbers.

The file entitled "1st Infantry Brigade Action Plan – Threshold 2" is an 86 page-long presentation developed presumably in the 1st infantry brigade Army headquarters of the Georgian Armed Forces. It contains textual data, cartographic and photographic materials, schematics as well as a description of plans to conduct an offensive operation in South Ossetia in conjunction with other units and groups of the Georgian Armed Forces. The plan envisages a military operation designed to destroy and drive the opposing force out of Samachablo (the Georgian name for South Ossetia) within 72 hours and restore the Georgian jurisdiction in the region. It should be noted that the 1st infantry brigade was included in the main Task Group and tasked to capture Tskhinvali. Other units were to carry out different missions along its flanks: the 3rd infantry brigade was to operate on the right flank and the 5th infantry brigade – on the left flank. The document also contemplates possible courses of action to be taken by the opposing force (Ossetians) and measures to neutralise the same as well as a detailed description of the Ossetian forces, their combat strength and numbers.

The file entitled "1st Infantry Brigade Action Plan – Threshold" is an 88 page-long presentation developed presumably in the 1st infantry brigade headquarters of the Georgian Armed Forces. It contains textual data, cartographic and photographic materials, schematics as well as a description of plans to conduct an offensive operation to capture South Ossetia in conjunction with other units and groups of the Georgian Armed Forces. There are virtually no differences between the two plans ("Threshold" and "Threshold 2"), except for the variations in units engaged along the

flanks of the 1st infantry brigade – the plan "Threshold" envisaged that the 2nd infantry brigade were to deploy on the right flank and the 4th infantry brigade on the left flank. The document also prescribes actions to isolate the deployment location of the Russian peacekeepers during the offensive.

Thus, the foregoing analysis of the materials contained on electronic media brings us to the conclusion that the Armed Forces of Georgia had been harbouring plans to launch a military invasion against the territory of South Ossetia and Abkhazia well in advance. The above plans prescribed the destruction of both military and civilian targets including villages predominantly populated by ethnic Ossetians. The headquarters and training grounds of the Russian peacekeepers were also marked up as valid artillery targets. In accordance with the plans for the offensive artillery assets including multiple-launch rocket systems would be used indiscriminately – when used in residential areas such systems inevitably cause massive civilian casualties and large-scale destruction of vital civilian infrastructure.

A comparative analysis of plans recorded on compact disks and the real-life events that took place during the operation conducted by the Georgian military force in the territory of South Ossetia reveals a number of significant differences. According to our estimates these are accounted for by Mr. Saakashvili's unexpected decision to launch the operation after a rather shortened preparation period.

Nonetheless, in full accordance with the foregoing plans the Georgian side did amass large forces and capabilities in the area adjacent to South Ossetia and generated large reserves of munitions which made it possible to maintain constant artillery fire while changing firing locations. Units were deployed both along the South Ossetian border and in ethnic Georgian enclaves in the territory of South Ossetia controlled by Tbilisi.

All in all these materials corroborated the information available to the General Staff of the Russian Federation Armed Forces on the combat strength, numbers and weapons systems of the Georgian Armed Forces as well as the fact that selected types of weapons systems were sourced abroad.

Military aspects - additional questions and answers

Additional questions to the Governments of the Russian Federation and Georgia, related to military issues

A. On Russian Peacekeeping Forces (PKF)

1. When were the PKF fired at for the first time in Verkhny Gorodok, Lower and Upper Cantonment, Joint Headquarters, posts outside Tskhinvali and by which weapons?

2. When did the Russian PKF suffer their first casualties and materiel losses? (Please specify.)

3. When did the Commander of the Joint Peacekeeping Forces (JPKF), General Murat Kulakhmetov, inform the OSCE about these firings and casualties?

4. Did Russian PKF post on the roof of the main building in Verkhny Gorodok provide coordinates to the South Ossetian militia or the North (South) Ossetian PKF Battalion?
   a. If yes, from which time onwards?
   b. Was there a telephone conversation between General Murat Kulakhmetov and the Georgian Commander of the Georgian PKF, General Mamuka Kurashvili, on this issue?
   c. If yes, did Kurashvili warn Kulakhmetov to discontinue coordinating with South Ossetian militias before Georgian forces opened targeted fire against Russian or Ossetian PKF?

5. Which other coordination between Russian PKF and North (South) Ossetian PKF and South Ossetian militia took place during the defence of Tskhinvali?

6. JPKF reserve units:
   a. When was the JPKF reserve force (300 personnel to which every PKF battalion was entitled) called towards Tskhinvali?
   b. From when onwards had General Kulakhmetov tactical control over these units? Which units/equipment?
   c. When did these units arrive in Tskhinvali / at the Russian PKF positions?
   d Did these units send reconnaissance parties or liaison teams ahead to Tskhinvali or to Java? If yes, when?

7. Did the Russian air force give close air support to the Russian PKF Battalion deployed in Tskhinvali on 8/9 August 2008? If yes, when and how many sorties?

B. On the Peacekeeping Battalion of North Ossetia – Alania

1. Was the North Ossetian PKF Battalion de facto a South Ossetian Battalion (personnel)?

2. Was this PKF Battalion considered a unit of the Russian Federation or of South Ossetia?

3. What was the strength and armament of this battalion?

4. To what extent has the Ossetian PKF Battalion coordinated action with the South Ossetian militia – during the escalation and after the launch of a full-scale hostilities?

5. When and where did the Ossetian PKF Battalion see action – during escalation and armed conflict?

C. On the Georgian PKF Battalion

1. What was the strength and armament of the Georgian Battalion during escalation and at the launch of a full-scale hostilities?.

2. What was the role of the Georgian PKF Battalion during the escalation and the deployment of regular Georgian forces?

a. In the belt South of Tskhinvali?

b. In the ring of Georgian villages North of Tskhinvali?

c. Along the Georgian by pass road (Gori – Dmenis – Sarabuki Heights etc.)

(please specify action, time and location)

3. To what extent did the Georgian PKF Battalion coordinate with the Special Forces of the Georgian Ministry of Interior and with the Georgian militia (under Serekoyev administration)?

4. From which direction did the Georgian PKF Battalion participate in the attack on Tskhinvali? (South: Avnev, Nikozi; North: Tamaroshoni; East: Georgian by pass road Gori – Dmenisi?), if at all?

D. On the Special Forces of the Georgian Ministry of Interior (MIA)

1. Which strength did the Special Forces of the MIA have and which armament did they hold during the escalation and after the outbreak of full-scale hostilities?

2. What was their role during the escalation, the deployment of regular Georgian forces and after the outbreak of full scale hostilities?

a. In the belt South of Tskhinvali?

b. In the ring of Georgian villages North of Tskhinvali?

c. Along the Georgian by-pass road (Gori – Dmenis – Sarabuki Heights etc.)?

(please specify action, time and location)

E. On the South Ossetian Militia

1. Which strength and armament did the South Ossetian Militia dispose of at the outbreak of the August hostilities?

2. Which weapons did they use during fighting in Kotlegu-ovo, Muguti, Tbeti, Dmenisi and other villages as well as the town of Tskhinvali ?

4. How did they coordinate with Russian and Ossetian Peacekeepers?

Ответы на дополнительные вопросы
к российской стороне по военной тематике

А. По российским миротворческим силам.

Обстрелы объектов миротворческих сил Российской Федерации грузинской артиллерией начались 7 августа 2008 г. в 23 часа 40 минут в ходе обстрела г.Цхинвал. Первый реактивный снаряд упал на территорию Объединенного штаба ССПМ в 00 часов 03 минуты 8 августа, следующий – в 04 часа 08 минут 8 августа, на территорию батальона миротворческих сил от Российской Федерации (Верхний городок) снаряд упал в 00 часов 45 минут 8 августа. Первое огневое воздействие из минометов по миротворческим постам Российской Федерации произошло: по посту СВЕРИ – в 03 часа 15 минут 8 августа, по посту КЕХВИ – в 04 часа 35 минут 8 августа; из стрелкового оружия: по посту КВЕРНЕТИ – в 23 часа 57 минут 7 августа, по посту ТАМАРАШЕНИ – в 00 часов 01 минуту 8 августа, по посту ВАНАТИ – в 00 часов 25 минут 8 августа. В течение 8, 9 и 10 августа Грузия неоднократно подвергала обстрелу с применением артиллерии и стрелкового оружия наблюдательные посты: КЕХВИ, ВАНАТИ, ЕРЕДВИ, «ПАУК», АВНЕВИ, ПРИСИ, ЦУНАРИСБА, МЕГВРЕКИСИ, КВЕРНЕТИ, АНДЗИСИ. Пост МЕГВРЕКИСИ был подвергнут удару авиации.

Первые человеческие и материальные потери российские миротворцы понесли в 6 часов 35 минут 8 августа при ведении огня грузинским танком с восточной окраины населенного пункта Земо Никози по наблюдательному посту, находящемуся на крыше казармы миротворческого батальона (Верхний городок). В результате этого обстрела один военнослужащий батальона погиб, один был ранен и разрушена часть казармы. К 12 часам 00 минутам 8 августа в батальоне 2 человека погибло, 5 человек были ранены.

Следует отметить, что непосредственными очевидцами начала и хода грузинской агрессии вплоть до 14 часов 30 минут 8 августа были глава полевого офиса ОБСЕ в г.Цхинвал господин З.Михальский и два офицера-

наблюдателя Миссии ОБСЕ. Охрану их деятельности в г.Цхинвал осуществлял вооруженный караул от миротворческого батальона Российской Федерации.

Глава Миссии ОБСЕ в Грузии г-жа Т.Хакала в 23 часа 48 минут 7 августа была уведомлена по телефону генералом М.Кулахметовым о начале артиллерийского обстрела города, а также о проведенной им по этому факту телефонной беседе с генералом М.Курашвили. В дальнейшем генералом М.Кулахметовым были проведены неоднократные телефонные разговоры с Главой Миссии ОБСЕ, старшим военным наблюдателем Миссии С.Янгом, в которых они информировались о состоянии общей обстановки в зоне конфликта, в т.ч. и о потерях среди миротворцев.

Находящийся на крыше казармы российского миротворческого батальона наблюдательный пост передавал полученную им информацию только в Объединенный штаб, начальнику штаба и командиру российского миротворческого батальона. Информации о действиях этого наблюдательного поста и претензиях с грузинской стороны М.Курашвили не представлял ни разу. Последний телефонный разговор генерала М.Кулахметова с генералом М.Курашвили состоялся в 23 часа 45 минут 7 августа. В ходе разговора М.Курашвили сообщил, что Грузия приступила к проведению силовой операции по наведению конституционного порядка. После этого разговора его телефон был отключен. На связь он больше не выходил.

Координация действий между российским и североосетинским миротворческим батальонами, а также Министерством внутренних дел Южной Осетии осуществлялась только в рамках документа "Положения об основных принципах деятельности воинских контингентов и военных наблюдателей в зоне грузино-осетинского конфликта" и решений Смешанной Контрольной Комиссии (в дальнейшем СКК).

В связи с обстрелами миротворческих постов, Объединенного штаба, городка российского батальона, осуществления атак на него с применением

танков, фактами гибели и ранения миротворцев в 9 часов 30 минут 8 августа возникла явная необходимость усиления российского миротворческого контингента в соответствии с установленными документами СКК квотами (по 300 чел. дополнительно для батальонов от России и Северной Осетии).

Однако к 12 часам 00 минутам 8 августа в результате оценки поступающей с наблюдательных постов информации о характере действий грузинской стороны стало ясно, что созданные ею группировки сил и средств министерств обороны и внутренних дел в районах г.Цхинвал, населенных пунктов Авневи, Хетагурово, Знаур, Ередви, Гром, Арцев, Цинагар, Синагур, Квайса насчитывали до 10 тыс. человек (не менее 10 пехотных, 3 бронетанковых батальонов, батальона специального назначения при поддержке 4 артиллерийских и одного реактивного дивизионов, а с утра 8 августа - и авиации Министерства обороны Грузии; до пяти отрядов специального назначения МВД Грузии и нескольких батальонов резервистов, имеющих в своем составе до 100 танков, до 100 боевых бронированных машин, свыше 110 орудий и минометов, до 30 реактивных систем залпового огня).

В 14 часов 30 минут 8 августа в сложившихся условиях Россией было принято решение об усилении миротворческого контингента в интересах выполнения возложенных на Россию международным мандатом миротворческих задач и защиты российских граждан, находящихся в Южной Осетии.

Подразделения усиления вошли в зону конфликта (район южнее Гуфтинского моста) в 20 часов 30 минут 8 августа и поступили под контроль Объединенного штаба ССПМ. В состав усиления было выделено по два батальона от 135 и 693 мотострелковых полков, как это предусматривалось документами СКК. В дальнейшем в ходе их выдвижения по Зарской дороге северо-западнее г.Цхинвал они неоднократно подвергались обстрелам артиллерии и танков Грузии.

Становилось ясно, что сил, даже с учетом выделения подразделений усиления, для отражения агрессии такой группировки недостаточно.

К 22 часам 00 минутам 8 августа в районе с.Джава сосредотачиваются дополнительные силы усиления для оказания помощи российским миротворцам в их разблокировании.

В ходе авиационной поддержки миротворческих сил российскими военно-воздушными силами 8 августа было выполнено 63 вылета, 9 августа – 28 вылетов. Объектами поражения авиации были: скопления войск, колонны техники, огневые и стартовые позиции артиллерии, реактивные системы залпового огня, средства противовоздушной обороны.

Б. Вопросы по миротворческому батальону Северной Осетии – Алании

Миротворческий батальон Северной Осетии являлся батальоном Республики Северная Осетия – Алания – субъекта Российской Федерации.

Батальон был укомплектован гражданами Российской Федерации преимущественно осетинской национальности.

По состоянию на 7 августа в состав батальона входило 488 человек, вооруженных стрелковым оружием. На вооружении батальона было до 30 боевых бронированных машин, 82-мм минометы, до 60 автомобилей.

Миротворческий батальон Северной Осетии осуществлял координацию действий с Министерством внутренних дел Южной Осетии только в рамках "Положений об основных принципах деятельности воинских контингентов и военных наблюдателей в зоне грузино-осетинского конфликта" и решений СКК.

Впервые батальон (городок батальона, парк боевых машин) подвергся артиллерийскому обстрелу с грузинской стороны в 00 часов 03 минуты 8 августа. В 6 часов 55 минут 8 августа грузинской авиацией был нанесен бомбовый удар по парку с боевой техникой батальона.

Посты ЦАРЗ, МАМИСАНТУБАНИ уже с вечера 7 августа начали подвергаться обстрелам с направлений северной окраины с.Эргнети и северной окраины с.Квемо-Никози, а в 06 часов 30 минут 8 августа – атаке пехоты.

В 00 часов 22 минуты 8 августа грузинская пехота и танки открыли огонь по посту ИОНЧА. Нападению также подверглись посты: ЦИНАГАР – в 01 час 35 минут, САРАБУК – в 02 часа 35 минут, ГРОМ – в 03 часа 10 минут, ЦНЕЛИС – в 06 часа 00 минут, а пост МУГУТИ в 02 часа 10 минут - обстрелу из стрелкового оружия, минометов и атаке пехоты при поддержке танков.

В. <u>По грузинскому миротворческому батальону</u>

В соответствии с принятыми договоренностями численность миротворческих батальонов сторон не должна была превышать 500 человек. Однако грузинская сторона без согласования и официального уведомления скрытно довела его численность в июне 2008 г. до 600 человек, в июле – до 700 человек, а к 7 августа – до 800 человек.

В результате этих действий произошло незаконное увеличение установленной численности постов: ЕРЕДВИ – на 80 человек, ТАМАРАШЕНИ – на 50 человек. Численность незаконно развернутых в июле 2007 года постов АВНЕВИ составляла 80 человек, «ВЫШКА» (северная окраина Авневи) – 10 человек; развернутого в июле 2008 года поста САРАБУКИ – 30 человек и была доведена до 120, 25, 50 человек соответственно. С июля 2008 года в ночное время совместно с подразделениями специального назначения МВД Грузии стал выставляться пост ЭРГНЕТИ – 25 человек.

По этой причине в районах с.Эргнети – юго-восточная окраина г. Цхинвал, с.Авневи – с.Хетагурово и с.Ередви – с.Сарабуки – с.Дменис обстановка резко обострилась, а в начале августа 2008 года она становится критической. В результате перестрелок между этими постами и

югоосетинской стороной с 1 по 7 августа с обеих сторон имелись человеческие жертвы, раненые и поврежденные жилые дома.

Необходимо отметить, что офицеры грузинской части Объединенного штаба Смешанных сил без объяснения причин покинули территорию штаба в 14 часов 30 минут 7 августа. Старший воинский начальник от грузинской стороны полковник К.Урушадзе после 19 часов 00 минут 7 августа на телефонные звонки больше не отвечал.

Во второй половине дня 7 августа грузинский батальон вошел в состав осуществившей агрессию объединенной группировки силовых структур Грузии (Минобороны и МВД Грузии). Его база в с.Земо Никози, оборудованные позиции в районах западнее с.Сарабуки, с.Авневи были использованы в качестве плацдарма наступательных действий.

К исходу 7 августа подразделения батальона, находящиеся в базовом лагере в районе с.Ередви и на позициях в районе с.Сарабук передали их подразделениям 3-ей пехотной бригады Министерства обороны Грузии и сосредоточились юго-западней Никози.

В ночь на 8 августа и утром того же дня подразделения батальона участвовали в захвате с.Мугути, вели боевые действия в районе с.Хетагурово и действовали против осетинского миротворческого поста МУГУТИ.

Утром 8 августа батальон начал действовать в составе объединенной группировки силовых структур Грузии, осуществляющих штурм г.Цхинвал в районе юго-западной окраины города.

О степени участия батальона в штурме города говорит тот факт, что он имел самые большие потери среди подразделений объединенной группировки Грузии, действующих на этом направлении.

Подразделения батальона, находящиеся в районе грузинских деревень севернее г.Цхинвал, участвовали совместно с подразделениями специального назначения МВД Грузии в ночь с 7 на 8 августа и 8, 9 августа в обстрелах районов города (БАМ, Текстиль) с позиций, оборудованных на южной окраине Тамарашени, в перестрелках между Дзарцеми и Тлиакана, между

западной окраиной Курта и североосетинским миротворческим постом МОНАСТЕРИ.

Г. <u>По войскам специального назначения Министерства внутренних дел Грузии</u>

В зависимости от конкретных направлений действий и дней агрессии состав подразделений МВД Грузии был различен. Самая большая группировка сил МВД была создана к исходу 7 августа южнее г.Цхинвал в районе Земо, Квемо Никози – Эргнети (до 5 тыс. чел.).

Следует особо подчеркнуть, что в течение 2-ой половины 2007 г. и января - августа 2008 г. подразделения специального назначения Министерства внутренних дел Грузии были основной дестабилизирующей силой в зоне конфликта, несмотря на формальную легитимность своего присутствия там. Все основные инциденты между югоосетинской и грузинской сторонами происходили при их непосредственном участии, а зачастую – по их инициативе.

В июле-августе 2008 г. участились обстрелы южной окраины г.Цхинвал из стрелкового оружия, гранатометов, в т.ч. автоматических, минометов, а также действия снайперов с постов МВД Грузии, оборудованных в районе северной окраины с.Эргнети и с.Земо Никози. В районах Аргвицы – Приси, Авневи – Хетагурово, Свери – Андзиси аналогичные инциденты приобрели систематический характер.

Оборудованные еще в 2007 г. подразделениями специального назначения Грузии позиции в районах северной окраины с.Эргнети, северной окраины Квемо – Никози, в районе кладбища на северной окраине с.Земо – Никози, на южной окраине с.Приси, восточной окраине с.Двани послужили плацдармами для наступающих грузинских группировок.

К утру 8 августа южнее г.Цхинвал в районах с.Земо, с.Квемо Никози, с.Эргнети были сосредоточены: отряд специального назначения Шавнабада, два отряда специального назначения Главного управления по особым

поручениям, отряд специального назначения антитеррористического управления, подразделения Управления по охране трубопроводов, региональные подразделения специального назначения Главного управления по особым поручениям. Они составляли основу группировки сил и средств, действующих на направлении к г.Цхинвал. В течение 8 августа они несколько раз штурмовали город и участвовали в обстреле городка миротворческого батальона Российской Федерации.

Подразделения внутренних дел т.н. администрации Д.Санакоева с первого дня их образования были структурными подразделениями Министерства внутренних дел Грузии. Они напрямую подчинялись Тбилиси, минуя региональное управление внутренних дел Шида Картли (г.Гори).

Усиление подразделений полиции т.н. администрации Д.Санакоева в районе грузинских сел севернее г.Цхинвал подразделениями специального назначения МВД Грузии происходило в течение июня-августа 2008 г. Они участвовали в ведении огня по г.Цхинвал с южных окраин Тамарашени и Хеити, по населенному пункту Квернети - с позиций в районе западной окраины Тамарашени (городок подразделения специального назначения т.н. администрации Д.Санакоева), по осетинскому Андзиси – с северо-восточной окраины с.Свери. 8, 9 и в первой половине дня 10 августа ими осуществлялся обстрел российских миротворческих постов ТАМАРАШЕНИ, КВЕРНЕТИ, АНДЗИСИ, КЕХВИ, поста миротворческих сил от Северной Осетии – МОНАСТЕРИ.

В районе с.Они-Квайса действовал отряд специального назначения департамента конституционной безопасности МВД Грузии.

Руководство всеми этими подразделениями осуществлял зам.министра внутренних дел Грузии генерал Ш.Джанашвили.

Д. По милиции Южной Осетии

Подразделения МВД Южной Осетии в ходе боевых действий использовали стрелковое оружие и гранатометы; тяжелого вооружения не имели.

Координация действий российского и североосетинского миротворческого батальонов осуществлялась с югоосетинскими подразделениями только в рамках "Положений об основных принципах деятельности воинских контингентов и военных наблюдателей в зоне грузино-осетинского конфликта" и решений СКК.

Дополнительные вопросы к российской стороне по гуманитарной тематике

Российские военные контингенты не осуществляли и не осуществляют ни полицейских функций, ни элементов государственной власти в отношении граждан и организаций на территории Южной Осетии.

Представители российских вооруженных сил в помещениях, где содержались арестованные не российской стороной лица в ходе конфликта и в постконфликтный период в Южной Осетии, не присутствовали.

Подразделения Вооруженных Сил Российской Федерации (далее – ВС России) к 12 часам 30 минутам 12 августа 2008 г. вышли к северной окраине г.Гори., блокировали его с северо-западной и северо-восточной сторон. Обстановка в г.Гори, сложившаяся в результате оставления его воинскими частями ВС Грузии и бегства местной администрации, начиная с 12 августа 2008 г. усилиями российских военнослужащих приобрела устойчивую тенденцию к нормализации.

В целях стабилизации обстановки и обеспечения контроля над ситуацией в населенных пунктах на территории Грузии командованием Смешанных сил по поддержанию мира (далее – ССПМ) было принято решение о временной передислокации с 13 августа 2008 г. пяти

наблюдательных постов (далее – НП) миротворческих сил Российской Федерации:

НП "Авневи" выдвинут в район 1 км севернее Карели(мост через р.Кура);

НП "Арцеви" – в район с севернее с.Чобалаури (перекресток дорог на трассе Тбилиси-Гори);

НП "Квернети" – в район южнее Арадети (перекресток дорог на трассе Гори-Кутаиси);

НП "Андзиси" - в район восточнее с.Ахалшени (перекресток дорог на трассе Тбилиси-Гори);

НП "Мегврекиси" – в район 0,5 км восточнее Ахалшени (перекресток дорог на трассе Тбилиси-Кутаиси).

Благодаря принятым мерам, в течение 13 августа подразделения ВС России, оттеснив группировку ВС Грузии из зоны безопасности, блокировали район конфликта и, таким образом, обеспечили условия для доставки гуманитарной помощи гражданскому населению.

После обращения к руководству Грузии представителя Минобороны России генерала В.Борисова о восстановлении административного управления и обеспечения правопорядка в г.Гори прибыли секретарь Совета Безопасности Грузии А.Ломая, губернатор Шида Картли В.Варделашвили и начальник управления внутренних дел региона В.Джугели, с которыми был согласован порядок дальнейшего обеспечения безопасности в г.Гори сотрудниками МВД Грузии.

Перемещением наблюдательных постов, выставленных 13 августа, было обеспечено выполнение заключенных договоренностей в целях стабилизации обстановки.

Кроме того, дополнительно с 10 часов 00 минут 16 августа на участке с.Лаше, с.Кошка было выставлено 18 постов, с 10 часов 00 минут 17 августа их количество увеличено. Всего российская сторона выставила 36 постов, в т.ч.: на западном направлении – 16, на восточном – 20.

В период с 8 по 10 августа были отмечены следующие факты применения грузинской стороной оружия против подразделений медицинского обеспечения:

в результате открытия грузинскими подразделениями огня из танков по расположению российского миротворческого батальона в 7 часов 45 минут 8 августа было уничтожено 3 ед. техники медицинского пункта российского миротворческого контингента: автоперевязочная (на базе автомобиля КАМАЗ с прицепом), в которой находилась медицинская помощь раненным, и санитарный автомобиль УАЗ. В результате стрельбы из танка прямой наводкой было частично разрушено кирпичное здание медицинского пункта батальона, восемь миротворцев получили тяжелые ранения;

в 8 часов 30 минут 8 августа 2008 г. казарма и медицинский пункт российского батальона миротворческих сил были повторно подвергнуты обстрелам прямой наводкой из подошедших грузинских танков и фактически разрушены;

в 15 часов 00 минут - 15 часов 20 минут 9 августа грузинская артиллерия вела огонь по колоннам югоосетинских беженцев и подразделениям медицинской службы миротворческих сил России, движущимся по Зарской дороге;

в ночь с 9 на 10 августа подразделения ВС Грузии со стороны с.Хетагурово вели огонь по колонне с ранеными, передвигавшейся по Зарской дороге, не позволяя подразделениям медицинской службы миротворческих сил России и сотрудникам Красного Креста проводить эвакуацию. Наиболее мощный огневой налет был произведен в 3 часа 34 минуты 10 августа. Аналогичные действия были предприняты в 10 часов 00 минуты 10 августа.

Необходимо особо подчеркнуть, что рубежи открытия огня танками и места размещения корректировщиков огня (в районе вышки сотовой связи на северной окраине с.Авневи, базы миротворческого батальона Грузии), с учетом их удаления от дороги и наличия оптических приборов, позволяли им

визуально фиксировать машины медицинского обеспечения, имеющие соответствующие обозначения.

Безвозвратные потери в зоне грузино-осетинского конфликта среди российских военнослужащих в период с 7 по 12 августа 2008 г. составили 57 человек.

При этом по уточненным в ходе проведения следственных действий Следственным комитетом при прокуратуре Российской Федерации данным в результате агрессивного и ничем неспровоцированного нападения грузинских вооруженных сил на расположение российского миротворческого батальона в г. Цхинвал, совершенного в период 8-9 августа 2008 г. были убиты 10 российских военнослужащих, а 40 миротворцам батальона причинен вред здоровью различной степени тяжести. Среди погибших были Полушкин Артем, Яско Вадим, Шмыгановский Александр, Марченко Антон, Шевелев Серегй, Коренев Александр, Кононов Сергей, Шадов Залим, Гиматов Кублан, Синельников Владимир (список прилагается).

В докладе от 5 августа 2009 г., в котором было заявлено о потерях 64 российских военнослужащих, учет ведется до 26 августа 2008 г. (до момента признания независимости Южной Осетии и завершении, таким образом, грузино-осетинского конфликта).

В настоящее время Республика Южная Осетия является признанным Российской Федерацией независимым государством и, соответственно, субъектом международных правоотношений. Персональных данных личного состава подразделений югоосетинской милиции и точных сведений по их вооружению к моменту начала конфликта в августе 2008 года в распоряжении Российской Федерации не имеется. Информация такого рода может быть получена миссией Евросоюза по запросу непосредственно к руководству Республики Южная Осетия

Хотели бы обратить внимание миссии ЕС по установлению фактов на то, что информация, представленная грузинской стороной в Европейский

Суд по правам человека, Международный Суд ООН, а также в Международный уголовный суд искажает реальный ход событий.

Грузией коренным образом было нарушено Соглашение о принципах урегулирования грузино-осетинского конфликта от 24 июня 1994 г.

К 7 августа 2008 г. в демилитаризированной зоне конфликта была сосредоточена группировка силовых структур Грузии: личного состава - до 10 тыс. чел., свыше 100 боевых бронированных машин, до 100 танков, свыше 110 орудий и минометов, до 30 реактивных систем залпового огня, и в целом Грузия закончила основные подготовительные мероприятия для осуществления агрессии против Южной Осетии, получая при этом всестороннюю поддержку военно-политического руководства США.

Накануне агрессии в период с 15 по 31 июля 2008 г. на территории Грузии были проведены совместные американо-грузинские учения "Иммедиэйт риспонс - 2008". Численность военнослужащих США, принимавших участие в маневрах, составляла 1500 человек. Мероприятие включало два этапа - командно-штабной и практический (полевые занятия), в ходе которых особое внимание уделялось отработке вопросов боевого слаживания подразделений вооруженных сил Грузии при действиях в населенных пунктах.

В ходе учений военные специалисты США приняли непосредственное участие в разработке силовой операции Грузии против Южной Осетии и осуществили подготовку привлекаемых к ее реализации подразделений грузинских вооруженных сил.

Российский миротворческий контингент в составе ССПМ, находящийся в зоне грузино-осетинского конфликта в соответствии с международными соглашениями, не принимался грузинской стороной во внимание в качестве сдерживающего фактора. Более того, предполагая возможное применение Российской Федерацией Военно-воздушных сил для защиты миротворцев, руководство Грузии заблаговременно усилило систему ПВО в районе, непосредственно прилегающем к зоне конфликта.

В 2005 году Украина поставила Грузии десять ЗРК «Оса-АКМ», которые были включены в состав сформированного в Тбилиси отдельного зенитного ракетного дивизиона. В этих целях в июне 2008 года из Украины морским путем была доставлена батарея зенитных ракетных комплексов (ЗРК) «Бук-М1». В июле 2008 года в районе г. Гори с помощью украинских специалистов проведено укомплектование указанного подразделения личным составом, его обучение и боевое слаживание.

В этот же период украинцы поставили комплекс радиотехнической разведки «Кольчуга-М», а также две РЛС 36Д6-М, предназначенные для обнаружения, опознавания и сопровождения воздушных целей, в том числе крылатых ракет. Грузины также получили около 50 ПЗРК «Игла-1» и до 400 ракет к ним, более 1 млн. патронов к стрелковому оружию и 8 тыс. выстрелов к гранатомету РПГ-7.

Кроме того, в соответствии с имеющимися трофейными документами грузинских вооруженных сил, на этапе подготовки к агрессии против Южной Осетии все объекты российских миротворцев были запланированы для огневого поражения или блокирования грузинскими танковыми и пехотными подразделениями.

В целом, за период правления М.Саакашвили процесс милитаризации Грузии приобрел неадекватные оборонным потребностям страны масштабы и охватил практически все сферы военного строительства. В 2006-2008 гг. численность личного состава грузинской армии выросла на 15 тыс. военнослужащих (на 100%) и по состоянию на 1 января 2008 г. составила 32307 чел. (по ДОВСЕ разрешено 40000 чел.).

По темпам роста военных расходов Грузия заняла первое место в мире. Если в 2002 г. бюджет Минобороны составлял 18 млн. долл. США, то к 2008 г. он увеличился в 50 раз и достиг 900 млн. долл. США. С учетом внебюджетных поступлений («серые» схемы, фонды содействия армии, «патриотические взносы» диаспоры), которые в сумме примерно равны

бюджетным расходам, реальные затраты Тбилиси на военные цели, по некоторым оценкам, превышают 8,5% ВВП.

В 2005-2008 гг. резко возросли закупки вооружений с акцентом на наступательные виды. Согласно представленным в ООН данным о структуре оборонного бюджета страны, на эти цели расходовалось до 40% средств. Широко привлекалась западная военная помощь. Страны НАТО фактически спонсируют приобретение Тбилиси оружия на вторичном рынке за счет излишков вооружений и военной техники советского производства, реализуемых в странах Восточной Европы и Балкан. Среди поставщиков оружия в Грузию лидировала Украина.

В течение 2007-2008 гг. российская сторона постоянно привлекала внимание Форума ОБСЕ по сотрудничеству в области безопасности к накоплению Грузией обычных вооружений, опасному в контексте конфликтов в Абхазии и Южной Осетии. В контактах с представителями государств, участвующих в вооружении Грузии, российская сторона последовательно указывала на то, что подобные действия идут вразрез с усилиями по оздоровлению обстановки на Кавказе и чреваты открытым вооруженным конфликтом, который может охватить весь регион.

В результате закупок и поставок вооружений за период с 1 января 2005 г. по 1 января 2008 г. количество находящихся на вооружении грузинской армии танков возросло почти в 2 раза (с 98 до 183), боевых бронированных машин - более чем в 1,5 раза (с 83 до 134), артиллерии калибра свыше 100 мм - в 3 раза (с 96 до 238), ударных вертолетов -в 3 раза (с 3 до 9), боевых самолетов - на треть (с 7 до 9) (подсчет проведен на основании официальной информации, представленной Грузией в рамках ДОВСЕ).

Таким образом, несмотря на то, что формально Грузией не были нарушены ограничения, налагаемые ДОВСЕ на количество личного состава и обычных вооружений, действия ее руководства и поддерживающих

государств фактически вступили в противоречие с рядом основополагающих международных принципов и этических норм:

нарушен один из основополагающих принципов ОБСЕ, связанный с необходимостью воздерживаться от передач вооружений, которые могли бы вести к затягиванию или обострению какого-либо существующего вооруженного конфликта, привнести в какой-либо регион дестабилизирующий военный потенциал или иным образом способствовать возникновению региональной нестабильности;

нарушен «дух» ДОВСЕ, заключенного с целью недопущения дестабилизирующего накопления наступательных потенциалов обычных вооружений;

усиленное «втягивание» Грузии в НАТО вступает в противоречие с требованиями к кандидатам в альянс об обязательном отсутствии неурегулированных внешних и внутренних конфликтов;

открытая поддержка милитаристских устремлений руководства Грузии со стороны наиболее влиятельных государств Запада явилась мощным импульсом к развязыванию агрессии против Южной Осетии.

СПИСОК

личного состава Вооруженных Сил погибшего (умершего) на территории Южной Осетии в ходе проведения операции по принуждению Грузии к миру с 08.08.2008 г. по 09.08.2008 г.

№ п/п	В/зв	Ф.И.О.	Дата и место рождения	Дата и причина смерти	Семейное положение. Адреса близких родственников	Дата и место захоронения
1.	Ряд.	ГИМАТОВ Кублан Алимашанович	12.01.1988 г.р. с.Савинка,Палласовский р-н, Волгоградская обл.	08.08.2008 г. смерть в бою	Отец-Алимшан Аминович, Волгоградская обл.Палласовский р-н, с.Савинка,х.Куликов, ул.Мирная,д.12	18.08.2008 г. пос.Лиманный Палласовского р-на, Волгоградская обл.
2.	Ряд.	КОНОНОВ Сергей Витальевич	12.03.1987 г.р. с.Короленко Алнашского р-на Удмуртской Р.	08.08.2008 г. смерть в бою	Отец-Виталий Иванович, Алнашский р-н,с.Варзи-Ятчи, ул.Первомайская, д.21	18.08.2008 г. с.Варзи-Ятчи, Алнашского р-на Удмуртской Р.
3.	С-т	КОРЕНЕВ Александр Александрович	09.01.1985 г.р. пос.Кадычкан Магаданской обл.	08.08.2008 г. смерть в бою	Отец-Кононов Александр Иванович, пос.Кадычкан Магаданской обл.	19.08.2080 г. пос.Кадычкан Магаданской обл.
4.	Ряд.	МАРЧЕНКО Антон Александрович	05.09.1987 г.р., пос.Чернышевск, Читинская обл.	08.08.2008 г. смерть в бою	Мать- Марина Николаевна, Оренбургская обл. Бузулукский р-н, пос.Обухово	19.08.2008 г., г.Бузулук, Оренбургской обл.

№ п/п	В/зв	Ф.И.О.	Дата и место рождения	Дата и причина смерти	Семейное положение. Адреса близких родственников	Дата и место захоронения
5.	Ефр.	ПОЛУШКИН Артем Сергеевич	25.05.1987 г.р. д.Дмитриевка Благовещенского р-на Р.Башкортостан	10.08.2008 г. смерть в бою	Отец-Сергей Николаевич, мать-Марина Петровна, Р.Башкортостан, Благовещенский р-н д.Дмитриевка ул.Бельская,л.12	06.09.2008 г. д.Дмитриевка Благовещенского района, Р.Башкортостан
6.	Ст.с-т	СИНЕЛЬНИКОВ Владимир Александрович	06.04.1976 г.р., ст.Федоровская Абинского ор-на Краснодарского края	08.08.2008 г. смерть в бою	Отец-Александр Ефимович, Краснодарский край, Абинский р-н, х.Ольгинский, ул.Октярьская, д.24	16.08.2008 г. х.Ольгинский, Абинский р-н, Краснодарский край
7.	Ефр.	ШАДОВ Залим Тарзанович	02.06.1983 г.р., г.Терек, К.-Б.Республика	08.08.2008 г. смерть в бою	Мать-Лена Эльдаровна К.-Б.Республика, г.Терек, ул.Кабардинская, д.162,кв.75	16.08.2008 г. с.Инаркой, Терский район, К.-Б.Республика
8.	Ст.л-т	ШЕВЕЛЕВ Сергей Юрьевич	01.03.1981 г.р., г.Псков	08.08.2008 г. смерть в бою	Жена-Анна Николаевна, К.-Б.Республика, г.Прохладный, ул.К.Маркса, 17, кв.53	20.08.2008 г. г.Горнево, Псковская обл.

№ п/п	В/зв	Ф.И.О.	Дата и место рождения	Дата и причина смерти	Семейное положение. Адреса близких родственников	Дата и место захоронения
9.	Ряд.	ШМЫГАНОВСКИЙ Александр Викторович	11.02.1987 г.р., д.Пороги Мокроусовского р-на Курганской обл.	08.08.2008 г. смерть в бою	Отец-Виктор Матвеевич, г.Курган, мкр.Тополя, пер.Мирный,д.13	10.09.2008 г. г.Курган, Курганская обл.
10.	С-т	ЯСКО Вадим Владимирович	1982 г.р. г.Абай, Казахская ССР	08.08.2008 г. смерть в бою	Жена-Анна Сергеевна, К.-Б. Республика, г.Прохладный ул.Свободы, д.92.кв.79	02.09.2008 г. г.Прохладный, Кабардино-Балкарская Р.

International Law – questions and answers; additional documents

Independent International Fact-Finding Mission on the Conflict in Georgia
(IIFFMCG)

First set of questions on legal issues to the Governments of the Russian Federation and Georgia

1. Please explain the formal and informal relationship between the Russian Federation and Georgia and the Tskhinvali region/South Ossetia and Abkhazia respectively before the outbreak of the conflict in August 2008 in all levels. Would you call the developments in legal, political, economic space, including infrastructure, energy and social welfare in the recent years between the Russian Federation and the Tskhinvali region/South Ossetia and Abkhazia as an integration processes? How do you qualify in legal terms the decision taken by the Russian Federation a few months before the outbreak of the conflict to establish formal contacts between the Russian Federation and the Tskhinvali region/South Ossetia and Abkhazia respectively?

2. Please explain the process and dynamics of acquiring Russian nationality by persons residing in the Tskhinvali region/South Ossetia and Abkhazia, and explain the reasons for the conferral of Russian citizenship. How do you reconcile this with your assessment of the international legal status of the territories?

3. Please give accounts of the implementation of the Sochi Agreement of 1992 related to the Tskhinvali region/South Ossetia as well as the Moscow Agreement on a Ceasefire and Separation of Forces of 1994 related to Abkhazia and relevant protocols to those agreements and their implementations in reality by the parties. How do these relate to the movements of Russian troops immediately before 7 August 2008?

4. Please explain Russian troop movements before and during the conflict of August 2008. How does this relate to the amended Treaty on Conventional Forces in Europe and the Russian practice during most of the time preceding the conflict? Please explain Georgian military posture and troop movements before and during the conflict.

5. Please give legal and other reasons for the Russian recognition of the territories of the Tskhinvali region/South Ossetia and Abkhazia. Please qualify the legal status and the objectives of the friendship treaties concluded between the Russian Federation and the Tskhinvali region/South Ossetia and with Abkhazia respectively on 17 September 2008.

6. In the course of the conflict and in terms of responsibility under international law: How would you describe the formal and informal relationship between the Russian military and South Ossetian and Abkhaz armed forces respectively, prior to 17 September 2008 and nowadays? Please explain especially the respective command chains.

7. Which measures did you take to protect civilians, and to prevent looting, detainment, and mistreatment of civilians during and after the hostilities?

8. Which measures did you take to provide relief and support to civilian populations in the areas affected by hostilities and their aftermath?

Independent International Fact-Finding Mission on the Conflict in Georgia
IFFMCG
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1202 Geneva

ОТВЕТЫ НА ВОПРОСЫ МИССИИ ЕВРОПЕЙСКОГО СОЮЗА ПО РАССЛЕДОВАНИЮ ФАКТОВ, СВЯЗАННЫХ С СОБЫТИЯМИ НА КАВКАЗЕ В АВГУСТЕ 2008 Г. (ПРАВОВЫЕ АСПЕКТЫ)

Вопрос №1: *Как можно было бы юридически квалифицировать принятое Российской Федерацией за несколько месяцев до начала конфликта решение установить официальные контакты между Российской Федерацией Южной Осетией и Абхазией?*

Ответ: До конфликта 2008 г. Россия признавала Абхазию и Южную Осетию составными частями государства Грузия. Вместе с тем с учетом последствий вооруженных конфликтов 1990-х гг. было очевидно, что Грузия не осуществляла на практике свою юрисдикцию над этими территориями. Это признавалось и самой Грузией.

С 1996 г. в отношении Абхазии действовали санкции, введенные решением Совета глав государств СНГ. Они предусматривали запрет военных, торгово-экономических и других связей с фактическими органами власти Абхазии. Россия признавала и соблюдала этот санкционный режим. Однако следует иметь в виду, что санкции не запрещали связей с гражданами и хозяйствующими субъектами Абхазии. Кроме того, с фактическими властями Абхазии осуществлялись контакты по вопросам процесса урегулирования.

В марте 2008 г. Россия официально объявила о выходе из режима санкций.

Практике СНГ известны случаи "выхода" государств из решений органов Содружества. Исходим из того, что эти решения (за исключением решений по внутренним организационным вопросам) носят политический характер. 6 марта 2008 г. МИД России направил Исполкому СНГ ноту, в которой сообщалось, что Российская Федерация в силу изменившихся обстоятельств не считает себя связанной положениями Решения СГГ СНГ «О

мерах по урегулированию конфликта в Абхазии, Грузия» от 19 января 1996 г. Такой шаг полностью укладывается в рамки «права СНГ».

Как известно, решение СГГ СНГ принималось в 1996 году на фоне острого противостояния сторон грузино-абхазского конфликта с целью побудить Абхазию занять более гибкую позицию в процессе урегулирования конфликта, прежде всего, по вопросу о возвращении беженцев, а также по дальнейшему укреплению доверия и безопасности в зоне конфликта. На момент «выхода» России из названного решения СНГ ситуация кардинально изменилась. В Гальский район Абхазии вернулось большинство проживавших там ранее беженцев грузинской национальности, и абхазская сторона, в отличие от грузинской, стала проявлять готовность к конструктивным шагам по дальнейшему урегулированию конфликта.

Отмена Россией санкций в отношении Абхазии идет в общем русле устоявшегося в международной практике принципа постепенного смягчения и отмены принудительных мер в случае выполнения их адресатами соответствующих требований международного сообщества. Поэтому в ноте МИД России содержалось предложение другим государствам-участникам СНГ предпринять аналогичные шаги и выйти из режима ограничений в отношении Абхазии, введенных в 1996 г.

В апреле 2008 г. Президентом Российской Федерации Правительству Российской Федерации были даны поручения, направленные на практическую реализацию решения о выходе из режима санкций и на всестороннюю защиту прав и интересов граждан России, проживающих в Абхазии и Южной Осетии. Правительству было поручено взаимодействовать с фактическими органами власти двух республик в торгово-экономической, социальной, научно-технической, культурно-образовательной областях. Предполагалось установить перечень документов, выдаваемых физическим лицам фактическими органами власти, которые признавались бы в России. Предполагалось также признание правосубъектности абхазских и югоосетинских юридических лиц. Было санкционировано сотрудничество с

Абхазией и Южной Осетией в рамках правовой помощи. Органам МИД России в Краснодарском крае и в Северной Осетии поручалось осуществление отдельных консульских функций в интересах жителей Абхазии и Южной Осетии.

Эти решения не означали признания независимости Абхазии и Южной Осетии или установления официальных связей с их органами власти. Они были обусловлены особой ситуацией в этих регионах. Она характеризуется тем, что ввиду неурегулированности вооруженных конфликтов Грузия не осуществляет свою юрисдикцию на их территории. Осуществление фактическими властями Абхазии и Южной Осетии контроля и правового регулирования на этих территориях позволяет поддерживать элементарный порядок, осуществлять борьбу с преступностью, совершать коммерческие и бытовые сделки.

В международном праве признается, что незаконность того или иного органа власти не влечет автоматически недействительности любых актов такого органа. Считается, что те его акты, которые являются неотъемлемым условием реализации основных прав человека, являются действительными. Речь идет, например, о регистрации актов гражданского состояния. Их непризнание с очевидностью влекло бы весьма негативные последствия для жителей соответствующей территории. Этот тезис подтверждается судебной практикой государств, а также международных судебных органов. Поэтому было решено признавать определенные виды личных документов граждан.

Решение о налаживании взаимодействия с фактическими органами власти непризнанных республик вытекает из тех же норм международного права. Перечень областей, в которых предполагалось осуществлять такое взаимодействие, показывает преимущественно гуманитарный характер предполагаемых связей. Он в целом соответствует направлениям сотрудничества государств с другими непризнанными или квазигосударственными образованиями. В преамбуле резолюции 1808 (2008) Совет Безопасности подчеркивает необходимость «в срочном порядке

обеспечить экономическое развитие в Абхазии, Грузия». Исходим из того, что в условиях блокады Сухуми со стороны Тбилиси это положение резолюции могло быть выполнено лишь в прямых контактах с абхазскими властями.

Указанными соображениями продиктовано также решение о признании правосубъектности абхазских и югоосетинских юридических лиц. Понятно, что сотрудничество с непризнанными республиками может находить свое конкретное наполнение в прямых связях граждан и юридических лиц. Без признания последних такое сотрудничество вряд ли могло бы осуществляться. Кстати, даже санкции 1996 г. никак не затрагивали связи с хозяйствующими субъектами.

В отношении правовой помощи следует отметить, что Россия и Грузия являются участниками ряда конвенций СНГ и СЕ по этим вопросам. Российская сторона исходила из того, что эти конвенции являются действующими в т.ч. применительно к Абхазии и Южной Осетии. Однако власти Грузии на практике были неспособны обеспечивать реализацию таких международных договоров в отношении этих регионов и при этом препятствовали предложенным Россией механизмам прямых контактов с ними. Исходя из этой неконструктивной позиции было принято решение о возможности прямого сотрудничества с фактическими органами власти непризнанных республик по вопросам правовой помощи.

Что касается консульских функций, то речь шла о деятельности российских органов власти на российской же территории.

В отношении рассматриваемых поручений Президента России следует иметь в виду, что они носили рамочный характер. Предполагалось, что по мере развития обстановки они могут найти выражение в конкретных нормативных актах. Вооруженный конфликт августа 2008 г. и признание независимости Абхазии и Южной Осетии по сути отменили апрельские решения.

Вопрос №2: *На каком основании предоставлялось российское гражданство жителям Абхазии и Южной Осетии?*

Ответ: Российское законодательство о гражданстве, несмотря на все произошедшие в нем изменения с начала 90-х г.г., всегда характеризовалось либеральным подходом в отношении граждан бывшего СССР, а также лиц, имеющих родственные связи с российскими гражданами. Российское гражданство, если имелись надлежащие правовые основания, предоставлялось жителям Абхазии и Южной Осетии исключительно на основе их добровольного волеизъявления. В этой связи мы не видим ничего предосудительного в предоставлении российского гражданства указанным лицам, имеющим на это право в соответствии с законодательством Российской Федерации.

Вопрос №4: *Пожалуйста, объясните передвижения российских войск до и во время конфликта в августе 2008 года. Как это соотносится с измененным Договором об обычных вооруженных силах в Европе и российской практикой в период времени, предшествующий конфликту? Пожалуйста, расскажите о нахождении и передвижении грузинских войск до и во время конфликта.*

Ответ: Соглашение об адаптации ДОВСЕ не вступило в силу и в этой связи не налагает каких-либо обязательств ни на российскую, ни на какую-либо иную сторону. Российская Федерация приостановила действие Договора об обычных вооруженных силах в Европе в отношениях с другими его участниками 12 декабря 2007 года на основании Указа Президента Российской Федерации от 13 июля 2007 года. Решение Президента было подтверждено Федеральным законом от 29 ноября 2007 года.

Таким образом, подтверждаем, что с 9 ноября 1992 года – с даты вступления в силу ДОВСЕ – до 12 декабря 2007 года Российская Федерация выполняла свои обязательства по этому Договору в полном объеме. Начиная с 12 декабря 2007 года Российская Федерация в соответствии со статьей 72 Венской конвенции о праве международных договоров освобождена от

обязательства выполнять ДОВСЕ и воздерживается от действий, которые могли бы помешать возобновлению его действия.

Вопрос №5: *Пожалуйста, дайте определение правовому статусу и целям договоров о дружбе, заключенных Российской Федерацией с Южной Осетией и Абхазией 17 сентября 2008 года?*

Ответ: Признание Российской Федерацией Абхазии и Южной Осетии означает, что мы рассматриваем эти республики как субъекты международного права, наделенные правоспособностью заключать международные договоры. В этой связи договоры о дружбе, сотрудничестве и взаимной помощи, подписанные 17 сентября 2008 года, мы считаем международными договорами, регулируемыми международным правом. Их цели определены в преамбулах и состоят в том, чтобы, опираясь на исторически сложившиеся прочные связи, традиции дружбы и доброго общения своих народов, подтвердить, что

- укрепление дружественных отношений, добрососедства и взаимопомощи между нашими странами отвечает коренным национальным интересам народов обоих государств, служит делу мира, безопасности и стабильности в Закавказском регионе,
- свою приверженность общепризнанным принципам и нормам международного права, прежде всего целям и принципам Устава ООН, а также соблюдению общепризнанных норм в области прав человека.

Договоры подтверждает курс Российской Федерации на развитие всестороннего, рассчитанного на перспективу сотрудничества с республиками, налаживание масштабного, многоуровневого взаимодействия. В них содержатся обязательства Сторон прилагать скоординированные усилия для содействия урегулированию региональных конфликтов.

Договоры создают правовую основу для пребывания на территории Абхазии и Южной Осетии российских воинских формирований. В них фиксируются обязательства Сторон оказывать друг другу помощь в случае,

если одна из Сторон становится объектом нападения. Договоры предусматривают совместную охрану государственных границ республик.

В Договорах содержатся положения, предусматривающие сотрудничество по широкому спектру направлений в экономической, социальной, гуманитарной сферах. Стороны также обязуются взаимодействовать в борьбе против организованной преступности, международного терроризма, незаконного оборота наркотиков.

Подтверждается, что граждане одной Стороны могут иметь гражданство другой Стороны. В целях урегулирования вопросов двойного гражданства разрабатывается отдельное соглашение.

Каждая из Сторон гарантирует лицам, проживающим на ее территории, независимо от их расы, пола, языка, религии, политических или иных убеждений, национального или социального происхождения, имущественного или иного положения, гражданские, политические, социальные, экономические и культурные права и свободы.

Стороны обязались принимать на своих территориях эффективные меры по защите лиц или групп населения, которые подвергаются или могут подвергнуться угрозам или актам насилия, дискриминации или враждебности по причинам их этнической, языковой, культурной или религиозной самобытности, а также по защите их собственности. Предусматривается, что Стороны будут обеспечивать защиту этнической, языковой, культурной и религиозной самобытности национальных меньшинств на своих территориях и создавать условия для сохранения и развития этой самобытности. Стороны обязались гарантировать право лиц, принадлежащих к национальным меньшинствам, индивидуально или совместно с другими лицами, принадлежащими к национальным меньшинствам, свободно выражать, сохранять и развивать свою культуру во всех ее аспектах, не подвергаясь каким-либо попыткам ассимиляции вопреки своей воле.

В соответствии с Договорами Стороны обеспечивают защиту прав и свобод лиц, принадлежащих к национальным меньшинствам, и гарантируют этим лицам право на равенство перед законом и равную защиту со стороны

закона без какой-либо дискриминации. Они будут создавать необходимые условия для эффективного участия лиц, принадлежащих к национальным меньшинствам, в культурной, социальной и экономической жизни, а также в ведении государственных дел, в частности в вопросах, их касающихся.

Вопрос №6: *В ходе конфликта и с точки зрения ответственности в международном праве: Как бы вы описали формальные и неформальные отношения между российскими военными и югоосетинскими и абхазскими вооруженными силами, соответственно, до 17 сентября 2008 г. И в настоящее время? Пожалуйста, особо разъясните соответствующую командную цепочку.*

До августовского конфликта речь может идти об отношениях сотрудничества между российским миротворческим контингентом и югоосетинскими и абхазскими вооруженными формированиями в пределах нормальных рамок взаимоотношений, принятых в подобных ситуациях и в других странах, на территории которых действуют миротворческие контингенты. Они определялись мандатом этих миротворческих сил.

В частности, правовой основой для пребывания российских миротворцев в Южной Осетии служило российско-грузинское Соглашение о принципах урегулирования грузино-осетинского конфликта от 24 июня 1992 г. Данный документ представляет собой международный договор Российской Федерации и Грузии. Он учредил Смешанную Контрольную комиссию (СКК) «в составе сторон, вовлеченных в конфликт», при которой создаются «смешанные силы по согласованию сторон по установлению мира и поддержанию правопорядка» (ст.3).

Нотой МИД Грузии в МИД России от 1 сентября 2008 года № 6/4141-10 Грузия уведомила о прекращении действия Соглашения 1992 г. «в связи с враждебными действиями Российской Федерации против Грузии, что проявилось в военной агрессии, оккупации части страны, этнических чистках на международно-признанных территориях Грузии – в Абхазии и Цхинвальском регионе и незаконном признании их т.н. независимости, чем Российская Федерация разрушила ранее существовавшие переговорные и

миротворческие форматы». Одновременно Грузия потребовала «немедленного вывода с территории Грузии миротворческих сил, находящихся на территории Грузии на основе указанного Соглашения».

Миротворческий контингент СНГ или Коллективные силы СНГ по поддержанию мира (КСПМ СНГ) введены на территорию Абхазии в соответствии с решением СГГ СНГ от 22 августа 1994 г., в ответ на соответствующие просьбы абхазской стороны от 15 мая 1994 г. и грузинской стороны от 16 мая 1994 г. Основу КСПМ СНГ составлял российский воинский контингент. Решением СГГ СНГ от 21 октября 1994 г. был определен Мандат на проведение операции по поддержанию мира в зоне грузино-абхазского конфликта.

Пребывание миротворцев и их мандат на территории Абхазии неоднократно продлевались решениями СГГ СНГ, а решением СГГ СНГ от 25 июля – 19 сентября 2003 г. установлено бессрочное нахождение миротворцев СНГ в Абхазии, до тех пор пока одна из сторон не обратится с просьбой о прекращении этой миротворческой миссии. В таком случае операция считается автоматически прекращенной, а Командование КСПМ на основе согласованного с грузинской стороной плана-графика обязано обеспечить вывод контингента и вооружения миротворческих сил в течение 1 месяца.

Нотой своего МИД № 7/244-10 от 1 сентября 2008 г. Грузия уведомила Исполнительный комитет СНГ о прекращении миротворческой операции и потребовала соблюдения установленных пунктом 2 Решения 2003 г. сроков.

Можем предположить, что в ходе военной операции между российской армией и югоосетинскими и абхазскими вооруженными силами осуществлялось определенное взаимодействие. Налаживалось оно, как мы понимаем, в оперативном ключе по ходу самого конфликта. Деталями такого взаимодействия не располагаем.

После признания Россией Южной Осетии и Абхазии в качестве независимых государств отношения между российскими Вооруженными

силами и вооруженными силами новых государств строятся на основе международных договоров и аналогичны отношениям, имеющимся у российских вооруженных сил с вооруженными силами других государств, с которыми Россия на основе международных договоров осуществляет военное сотрудничество.

Сейчас Вооруженные Силы России находятся на территории этих двух государств по их просьбе и с их согласия.

В соответствии с Указами Президента Российской Федерации от 26 августа 2008 г. № 1260 «О признании Республики Абхазия» и № 1261 «О признании Республики Южная Осетия» в связи с обращениями президентов Абхазии и Южной Осетии Минобороны России поручено обеспечить до заключения Россией с указанными республиками договоров о дружбе, сотрудничестве и взаимной помощи «осуществление Вооруженными Силами Российской Федерации… функций по поддержанию мира» на их территории.

Договоры о дружбе, сотрудничестве и взаимной помощи подписаны в Москве 17 сентября 2008 г. на основании распоряжений Президента Российской Федерации от 15 сентября 2008 г. Они ратифицированы федеральными законами от 24 ноября 2008 г. Договор с Абхазией вступил в силу 23 декабря 2008 г., а Договор с Южной Осетией – 20 января 2009 г.

Статьями 5 обоих договоров предусмотрено: «В целях обеспечения безопасности Договаривающихся Сторон, а также мира и стабильности в Закавказском регионе каждая из Договаривающихся Сторон будет предоставлять другой Договаривающейся Стороне право строительства, использования и совершенствования ее вооруженными силами военной инфраструктуры и военных баз (объектов) на своей территории. Условия и порядок реализации такого права в каждом конкретном случае будут определяться отдельными соглашениями».

Вопрос №7: *Какие меры вы предпринимали для защиты гражданских лиц и для предотвращения грабежей, мародерств и неподобающего обращения гражданских лиц в ходе и после боевых действий?*

Ответ: Вопрос имеет как минимум две плоскости: что делалось непосредственно в ходе боевых действий для защиты гражданского населения от угроз, возникающих в связи с ними, и что делалось вне рамок боевых действий для защиты гражданского населения от грабежей, мародерства, плохого обращения и т.д. Во втором случае, насколько мы понимаем, в большей степени имеется в виду исполнение полицейских функций.

Что касается защиты гражданского населения в ходе боевых действий, то здесь российской стороной предпринимались все устанавливаемые международным гуманитарным правом (МГП) необходимые меры для защиты гражданского населения. Российские Вооруженные силы достаточно хорошо подготовлены в области МГП.

Требования МГП и других применимых норм международного права в российских вооруженных силах сведены в Наставление по международному гуманитарному праву, утвержденное приказом Министра обороны № 360 от 08.08.2001 г. Непосредственно для военнослужащих издана карманная памятка по МГП. Уголовная ответственность за нарушение норм МГП предусматривается ст.356 российского Уголовного кодекса.

Курс по МГП преподается в высших военных учебных заведениях и в войсках. С военнослужащими проводятся практические занятия по МГП.

В соответствии с упомянутым Наставлением, при принятии решений о боевом применении тех или иных сил и средств в ситуации вооруженного конфликта командиры и начальники оценивают возможные последствия такого применения в контексте соблюдения норм МГП. Такая экспертиза на уровне войсковых соединений проводится с участием военных юристов. Российские военнослужащие хорошо осведомлены о том, какие меры ими должны приниматься для защиты гражданского населения.

Если говорить о мерах по защите гражданского населения за пределами боевых действий от мародерства, грабежей и т.д., то здесь дело обстоит следующим образом.

Войдя на территорию Грузии в ходе конфликта, Россия не являлась оккупирующей державой по смыслу МГП. Не всякое присутствие вооруженных сил на территории другого государства можно считать оккупацией. Нередко речь идет только о военном присутствии.[1]

Определяющим фактором для признания режима оккупации в международном праве считается установление вторгшимся государством эффективного контроля над территорией государства и проживающим на ней гражданским населением.

Российские вооруженные силы ни в самой Грузии, ни в Южной Осетии законные власти не подменяли. Никаких нормативных актов, обязательных для местного населения, ими не издавалось. Кроме того, численность российских войск в Южной Осетии и Абхазии (3700 чел. и 3750 чел., соответственно) не позволяет России на практике осуществлять эффективный контроль на их территории, общая площадь которой составляет 12,5 тыс.кв.км. Напомним, что эффективный контроль на значительно меньшей территории Северного Кипра (3,4 тыс.кв.км) осуществляется силами 30 тыс. турецких солдат. В период активной фазы вооруженного конфликта численность российских войск в Южной Осетии и Абхазии доходила максимум до 12 тыс. чел. Однако они все были заняты ведением военных действий, а не установлением эффективного контроля.[2]

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1 В соответствии со статьей 42 IV Гаагской конвенции о законах и обычаях сухопутной войны определяющим фактором для установления наличия режима оккупации в международном праве считается установление вторгнувшимся государством эффективного контроля над территорией государства и проживающим на ней гражданским населением. Критерии эффективного контроля излагаются, например, в деле МТБЮ «Обвинитель против Налетилича и Мартиновича» и в деле в Международном суде «Конго против Уганды». МТБЮ в упомянутом деле выделил пять основных критериев, свидетельствующих об эффективном контроле. Ключевыми являются два из них: установление оккупирующими властями временного административного управления территорией и издание на подконтрольной территории обязательных инструкций для местного населения.

Аналогично МТБЮ рассматривает вопрос оккупации и Международный суд в деле, касающемся вооруженных действий Уганды против Конго.

Если следовать логике судов, то отсутствие критерия замены вооруженными силами иностранного государства местных органов власти собственным управлением и отсутствие издаваемых оккупационными властями нормативных актов может считаться достаточным основанием для утверждений об отсутствии режима оккупации. Именно так поступил Международный Суд в угандийско-конголезском деле, признав наличие режима оккупации со стороны Уганды только в двух районах Конго, исходя из того, что угандийские военные начали издавать в этих районах нормативные акты обязательные для местного населения, подменяя тем самым законные власти Конго. В остальных районах Конго имело место лишь угандийское военное присутствие.

2 Приведенные цифры носят публичный характер и использовались российскими экспертами на слушаньях в Международном Суде по жалобе Грузии против России.

Исходя из этого, достаточных оснований утверждать, что российская сторона в ходе грузино-югоосетинского конфликта осуществляла эффективный контроль над территорией Южной Осетии или Грузии и, соответственно, был установлен режим оккупации по смыслу МГП, как представляется, нет.

Исходили и исходим из того, что в Южной Осетии имеются свои органы государственной власти и местного самоуправления, осуществляющие эффективный контроль в этой стране и призванные решать задачи по поддержанию правопорядка и соблюдению прав человека. Вместе с тем, российские вооруженные силы, выполнявшие исключительно боевые задачи на территории Южной Осетии, принимали посильные меры для того, чтобы поддерживать правопорядок и пресекать правонарушения в тех местах, где они находились, в том числе и в самой Грузии, где вследствие бегства представителей грузинских органов власти возник очевидный вакуум полицейской власти. При этом мы не могли подменить власти Южной Осетии. Российские военные не наделялись и не наделяются на территории Южной Осетии и Грузии комлетенцией обеспечения правопорядка, да и их численность для этого совершенно недостаточна. Тем не менее российскими войсками были задержаны свыше 250 лиц, подозревавшихся в совершении мародерства и иных преступлений. Все они передавались властям для дальнейшего расследования и уголовного преследования.

В целях защиты гражданского населения Вооруженными силами Российской Федерации в Южной Осетии была проведена разведка районов активных боевых действий на предмет наличия ВПВ. Впоследствии проведена очистка местности от ВПВ в г. Цхинвал и его окрестностях, Знаурском районе, в населенных пунктах Хетагурово, Авневи, Земо-Приси, Приси.

Российскими войсками также была проведена очистка местности от ВПВ и в Грузии. По заявкам местных жителей мероприятия по разминированию территории проводились в населенных пунктах Каралети,

Вариани, Шиндиси, Пхвениси, Арашенда, Ахалдаба, Земо-Хвити, Земо-Никози, Эргнети, Тквиави.

Вопрос №8: *Какие меры предпринимались с тем, чтобы обеспечить поддержку гражданскому населению в зонах, затронутых военными действиями, а также после их окончания?*

Ответ: Начиная с 1993 года, Россия по запросам Правительства Грузии неоднократно оказывала гуманитарную помощь населению этой страны, в том числе по согласованию с грузинскими властями удовлетворялись также запросы Абхазии и Южной Осетии. Субъекты Российской Федерации также оказывали гуманитарную помощь этим регионам. При этом никогда не делалось различия между этническими грузинами и представителями других национальностей.

В целях ликвидации последствий гуманитарной катастрофы, сложившейся на территории Южной Осетии в результате нападения Грузии, Правительством Российской Федерации был сформирован Федеральный оперативный штаб, который осуществлял общую координацию действий федеральных органов исполнительной власти Российской Федерации по оказанию помощи пострадавшему населению непосредственно в регионе. В период с 8 по 10 августа 2008 г. были созданы значительные запасы материальных средств, продовольствия, питьевой воды, медикаментов, установок по очистке воды, дизельных электростанций, палаток и т.д. Организована эвакуация из зоны конфликта более 25 тыс. человек, в том числе более 7 тыс. детей. Для приема беженцев на территории южного федерального округа Российской Федерации было развернуто 4 стационарных пункта временного размещения. В них оказывались необходимая медицинская и психологическая помощь, предоставлялось питание, возможность бесплатных телефонных переговоров с родственниками. 11 августа 2008 г. автомобильной колонной из 86 машин в г.Цхинвал были передислоцированы два мобильных полевых госпиталя МЧС

России, доставлено 58 тонн продовольствия, 31 электростанция, питьевая вода и более 200 спасателей для проведения поисково-спасательных работ в разрушенных зданиях.

12 августа 2008 г. вторая гуманитарная колонна доставила продовольствие и установки по очистке воды в г.Цхинвал. В этот же день была направлена дополнительная группа психологов и врачей центра (36 человек), 2 реанимобиля, а также 30 специалистов по разминированию.

По мере стабилизации гуманитарной ситуации и восстановления разрушенных объектов стали возвращаться беженцы в места своего постоянного проживания (к концу сентября возвратилось более 25 тыс. человек с территории России в Южную Осетию). Специалистами МЧС были проведены восстановительные работы газопровода. Проводились работы по разборке завалов, было восстановлено энергоснабжение ряда административных зданий и более 30 жилых домов.

Россия не обращалась за международной помощью. Тем не менее, ряд государств и международных организаций, проявив свою солидарность и приверженность к гуманитарным принципам, оказали гуманитарную помощь, которая была принята с благодарностью (Белоруссия, Казахстан, Узбекистан, Украина, Иордания, УВКБ ООН, Швейцария и др.).

Что касается проблем доступа к гуманитарной помощи, то каких-либо негативных фактов в регионе отмечено не было. Ее распределение осуществлялось с участием представителей гуманитарных НПО, краснокрестного движения, а также ведущих международных организаций (ВПП ООН).

Позитивные отзывы о гуманитарных усилиях Российской Федерации высказывались, например, Верховным Комиссаром УВКБ ООН, Президентом МККК и др.

ОТВЕТЫ НА ДОПОЛНИТЕЛЬНЫЕ ВОПРОСЫ МИССИИ ЕВРОПЕЙСКОГО СОЮЗА ПО РАССЛЕДОВАНИЮ ФАКТОВ, СВЯЗАННЫХ С СОБЫТИЯМИ НА КАВКАЗЕ В АВГУСТЕ 2008 Г. (ПРАВОВЫЕ АСПЕКТЫ)

Вопрос: *Каковы были правовые основания для применения силы Российской Федерацией в августе 2008 г.?*

Ответ: Непосредственно после начала Грузией военной операции в Южной Осетии Россия инициировала обсуждение этого вопроса в СБ ООН. Сложившееся положение рассматривалось в ночь на 8 августа 2008 г. на 5951-м и последующих заседаниях Совета.

Масштабы нападения на военнослужащих Российской Федерации, развернутых на территории Грузии на законных основаниях, и граждан Российской Федерации, количество погибших в результате этого нападения, а также заявления политического и военного руководства Грузии, продемонстрировавшие агрессивные намерения грузинской стороны, свидетельствовали о том, что мы имели дело с незаконным применением военной силы против Российской Федерации. В этих обстоятельствах российская сторона была вынуждена использовать свое неотъемлемое право на самооборону, закрепленное в статье 51 Устава ООН. Применение силы российской стороной было соразмерным масштабам нападения и преследовало единственную цель – защитить российский миротворческий контингент и граждан России от незаконных действий грузинской стороны и предотвратить вооруженные нападения на них в будущем. Российская сторона не совершала нападений на гражданское население или гражданские объекты. Российским военным подразделениям были даны соответствующие указания. Применение силы российской стороной в порядке самообороны продолжалось лишь до тех пор, пока существовали обусловившие его обстоятельства.

Соответствующее уведомление о действиях Российской Федерации в соответствии со ст.51 Устава ООН было направлено в Совет Безопасности ООН.

Вопрос: *На каком основании Россия применяла вооруженную силу за пределами Южной Осетии?*

Ответ: Вооруженные силы применялись Российской Федерацией за пределами Южной Осетии в целях надлежащей реализации возникшего у России в результате грузинского нападения права на самооборону по ст.51 Устава ООН и исключительно против грузинской военной инфраструктуры с тем, чтобы не позволить Грузии продолжать вести военные боевые действия.

Несмотря на то, что нападения с грузинской стороны на Абхазию не было, ввод дополнительных российских вооруженных сил на ее территорию был необходим, поскольку имелись веские основания полагать, что в отношении Абхазии после решения осетинского вопроса будет предпринято аналогичное по масштабу вооруженное нападение. Такие планы Грузии подтверждались информацией российских и абхазских спецслужб.

Вопрос: *Являлась ли Россия стороной вооруженного конфликта?*

Ответ: Россия являлась стороной вооруженного конфликта с Грузией в период с 7 (с момента нападения вооруженных сил Грузии на российских миротворцев) по 12 августа. Исходим из того, что 12 августа вооруженный конфликт между Россией и Грузией прекратился. Считаем, что можно говорить о том, что существовали два вооруженных конфликта: внутренний вооруженный конфликт (вооруженный конфликт немеждународного характера) на территории Грузии, стороной которого Россия не являлась, и в упомянутые выше сроки вооруженный конфликт международного характера, одной из сторон которого была Россия.

Вопрос: *Считаете ли Вы, что к действиям России применялось международное гуманитарное право?*

Ответ: Да, поскольку между Российской Федерацией и Грузией существовал вооруженный конфликт. Соответственно, обе его стороны были связаны положениями гуманитарного права, относящимися к ситуации такого рода конфликтов. Кроме того, Грузия была связана обязательствами, вытекающими из права, применимого к вооруженным конфликтам немеждународного характера.

Вопрос: *В ходе или после боевых действий в 2008 г., когда имело место задержание лиц, попавших во власть вашей стороны? На каких правовых основаниях они были задержаны? Как с ними обращались? Подвергались ли они пыткам? Когда они были освобождены?*

Ответ: На протяжении всего периода участия российских вооруженных сил в боевых действиях в Южной Осетии и Абхазии с 08 по 12 августа 2008 г. российскими вооруженными силами производилось задержание исключительно грузинских военнослужащих (после 12.08.2008 задержаний грузинских военнослужащих не было). Поскольку Россия участвовала в вооруженном конфликте международного характера, данные военнослужащие рассматривались нами как комбатанты по смыслу МГП. Соответственно, после задержания им присваивался статус военнопленных. Насколько нам известно, по окончании конфликта после проверки военнопленных на предмет возможного совершения ими военных преступлений, 19 августа все они были возвращены грузинской стороне при посредничестве Комиссара СЕ по правам человека Т.Хаммарберга в присутствии делегатов МККК.

Обращение с военнопленными с российской стороны соответствовало требованиям МГП. Пыткам они не подвергались.

Вопрос: *Каков объем юрисдикции Российской Федерации, осуществляемой ею над своими военнослужащими, направляемыми за границу*

Ответ: В соответствии с пунктом 3 статьи 12 Уголовного кодекса Российской Федерации «военнослужащие воинских частей Российской Федерации, дислоцирующихся за пределами Российской Федерации, за преступления, совершенные на территории иностранного государства, несут уголовную ответственность по настоящему Кодексу, если иное не предусмотрено международным договором Российской Федерации».

Документы, определявшие условия пребывания российских миротворцев, входивших в состав Смешанных сил в Южной Осетии и Коллективных сил по поддержанию мира, не содержат положений о распределении юрисдикции между принимающим и направляющим государством.

Таким образом, исходим из того, что если российские военнослужащие, находившиеся на территории Южной Осетии, Абхазии и Грузии, совершили преступление, предусмотренное в законодательстве Российской Федерации, то Российская Федерация осуществляет свою юрисдикцию и применяет к таким военнослужащим свое законодательство.

Насколько нам известно, в местах дислокации российских военнослужащих в составе миротворческих сил на постоянной основе находились сотрудники органов военной прокуратуры Российской Федерации.

Вопрос: *Подвергались ли лица, предположительно относящиеся к стороне противника, на завершающем этапе военных действий 2008 г. дискриминации и/или были ли допущены нарушения их прав? Какие меры были предприняты для борьбы с такими нарушениями?*

Ответ: В ходе военных действий в августе 2008 г., до них и после них, случаев дискриминации со стороны российских войск не отмечено. Российская Федерация не является оккупирующей державой и не осуществляет эффективного контроля над территорией и/или населением Южной Осетии. Обеспечение правопорядка в Южной Осетии и в Абхазии –

прерогатива властей этих государств. При этом Россия всегда подчеркивала необходимость соблюдения абхазскими и югоосетинскими властями общепризнанных принципов и норм международного права, в частности, прав и свобод человека. Соответствующие положения содержатся, например, в договорах, заключенных Россией с этими государствами.

Если российскими военными предпринимались в отдельных случаях действия, которые могут рассматриваться как ущемляющие те или иные права человека (к примеру, ограничивающие свободу передвижения), то эти действия совершались для обеспечения жизни и здоровья гражданского населения, поддержания общественной безопасности, в целях предотвращения и пресечения противоправных действий и обеспечения защиты граждан, независимо от их национальной и/или этнической принадлежности.

Кстати, в соответствии с пятым принципом договоренностей Медведева-Саркози российские миротворческие силы, пока они еще находились на территории Южной Осетии, могли предпринимать дополнительные меры безопасности до создания соответствующего международного механизма безопасности.

Вопрос: *Если силы или лица, находящиеся под вашим контролем, нарушили МГП или МППЧ, получили ли потерпевшие от этих нарушений возмещение? Были ли приняты иные меры по восстановлению их прав? Если нет, то почему? Как пострадавшие могли бы получить компенсацию?*

Ответ: Под контролем России находятся только Вооруженные Силы Российской Федерации. Россия не осуществляет какого-либо контроля (ни эффективного, ни фактического) в отношении военных или гражданских лиц Южной Осетии, а равно ее территории.

Насколько нам известно, российскими военными не были допущены нарушения МГП. Что касается возможных нарушений российскими военнослужащими прав человека, то хотели бы отметить следующее.

У пострадавших есть определенные правовые возможности для восстановления нарушенных прав. Во-первых, они могут подать иски в российские суды. О таких случаях нам, однако, не известно. Во-вторых, есть возможность обращения в Европейский суд по правам человека в соответствии с установленной процедурой. Как известно, на рассмотрении ЕСПЧ в настоящий момент находится жалоба «Грузия против Российской Федерации», по которой Судом вынесено решение о применении в отношении обеих сторон временных мер по соблюдении обязательств по ЕКПЧ. В этом контексте российская сторона намерена и далее строго соблюдать свои международные обязательства.

Россия с самого начала вооруженного противостояния предпринимала усилия по созданию условий для перемещения беженцев и доставки гуманитарной помощи жителям Южной Осетии независимо от их гражданства и национальности. Российские войска в тесном сотрудничестве с Православной церковью, НПО и объединениями граждан принимали меры для обеспечения свободного доступа к гуманитарной помощи.

Пострадавшим в результате боевых действий жителям Южной Осетии российской стороной из федерального бюджета выплачивались компенсационные выплаты. Было предусмотрено несколько видов таких выплат: 1) всем пострадавшим от боевых действий мирным жителям Южной Осетии производилась единовременная выплата в размере 1000 руб.; 2) отдельные выплаты полагались пенсионерам; 3) наконец, жителям, потерявшим в результате боевых действий имущество, выплачивалось до 50 тыс. руб.

RESPONSES TO QUESTIONS POSITED BY THE EUROPEAN UNION FACT-FINDING MISSION ON THE EVENTS THAT TOOK PLACE IN THE CAUCASUS IN AUGUST 2008 (LEGAL ASPECTS)[1]

Question No. 1: *How do you qualify in legal terms the decision taken by the Russian Federation a few months before the outbreak of the conflict to establish formal contacts between the Russian Federation and the Tskhinvali region/South Ossetia and Abkhazia respectively?*

Response: Prior to the 2008 conflict Russia recognised Abkhazia and South Ossetia as constituent entities of Georgia. At the same time, taking into consideration the consequences of the armed conflicts in the 1990s, it was obvious that in practice, Georgia did not exercise its jurisdiction over these territories. Georgia itself recognised that fact.

In 1996 the CIS Council of Heads of State (CIS CHS) imposed sanctions on Abkhazia banning any military, commercial, economic and other ties with the de facto government of Abkhazia. Russia recognised and observed this regime of sanctions. However, one should also bear in mind that that these sanctions imposed no ban on relations with Abkhaz civilian and economic entities. In addition, contacts were maintained with the official Abkhaz authorities to further the peace process.

In March 2008 Russia officially announced its withdrawal from the sanctions regime.

In the CIS, countries are known to resort to such "withdrawals" from decisions taken by bodies of the Commonwealth. We based our approach on the premise that these decisions (except those dealing with domestic administrative issues) were of a political nature. On 6 March 2008 the Russian Foreign Ministry sent a note to the CIS Executive Committee stating that due to a change in the circumstances the Russian Federation no longer considered itself bound by the provisions set out in the CIS CHS Decision "to implement conflict resolution measures in Abkhazia and Georgia" dated 19 January 1996. This step was in full accordance with the "CIS Law".

It is well known that the decision was taken by the CIS CHS in 1996 against the backdrop of an acute confrontation between the parties of the Georgian-Abkhaz conflict, to prompt Abkhazia to adopt a more flexible stance in the conflict management process, primarily vis-à-vis the return of refugees as well as to further strengthen trust and security in the conflict area. By the time Russia "withdrew" from the foregoing CIS decision, the situation had radically changed. The majority of ethnic Georgian refugees had returned to the Gali district of Abkhazia and the Abkhaz side as opposed to Georgia had started to demonstrate readiness to undertake constructive steps towards further resolving the conflict.

Russia's decision to abolish sanctions against Abkhazia dovetails with the commonly practised international principle whereby enforcement measures are gradually relaxed and lifted if the subject meets the relevant demands of the international community. Therefore, the note submitted by the Russian Foreign Ministry also contained a proposal addressed to other CIS member states to undertake similar steps and withdraw from the restrictive regime vis-à-vis Abkhazia, imposed

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[1] Unofficial translation by the Independent International Fact-Finding Mission on the Conflict in Georgia.

back in 1996.

In April 2008 the President of the Russian Federation instructed the Government of the Russian Federation to implement practical steps to withdraw from the sanctions regime and ensure comprehensive protection of rights and interests of Russia's citizens residing in Abkhazia and South Ossetia. The Government was instructed to cooperate with the de facto authorities of both republics in economic, commercial, social, scientific, technical, cultural and educational areas. A proposal was put forward to establish a list of documents to be issued to physical persons by the de facto government authorities. Such documents were to be recognised in Russia. The proposal also implied that the legal standing of Abkhaz and South Ossetia legal persons was to be recognised. Cooperation with Abkhazia and South Ossetia was authorized in the area of legal assistance. Russia's Foreign Ministry offices in the Krasnodar region and North Ossetia were instructed to provide specific consular services for the benefit of residents of Abkhazia and South Ossetia.

These decisions did not amount to recognition of Abkhazia's and South Ossetia's independence, nor did they imply that official ties were established with their respective government authorities. These decisions were predicated on the specific situation in these regions, which was characterised by the fact that Georgia was unable to exercise its jurisdiction over these territories because of the unresolved military conflicts. Control and legal regulation exercised by the de facto authorities of Abkhazia and South Ossetia enabled them to maintain basic law and order, combat crime, and carry out commercial and day-to-day transactions.

It is recognised in International Law that the unlawful nature of a specific government body does not automatically imply that acts adopted by this body would be deemed unlawful as well. It is believed that if such acts are an indispensable precondition for protecting basic human rights, they should be recognised as valid. This applies to such documents as civil registration acts, for example. Failure to recognise them would bring about obvious negative consequences for residents of this territory. This premise is validated by the judicial practice of various states and international judicial authorities. Therefore, a decision was made to recognise certain types of personal identity papers carried by citizens.

The decision to establish cooperation with the de facto authorities of both unrecognised republics was also predicated on the very same norms of international law. The list of areas envisaged for such cooperation shows that these ties were to be predominantly humanitarian in nature. By and large this approach was similar to the one used by other states when cooperating with unrecognised nations or quasi-state entities. The language of the Preamble of Security Council Resolution 1808 (2008) stresses the need to "urgently support economic development in Abkhazia and Georgia". We presumed that against the backdrop of a blockade imposed by Tbilisi against Sukhumi this provision of the Resolution could only be implemented through direct contacts with the Abkhaz authorities.

The foregoing rationale also accounted for the decision to recognise the legal standing of Abkhaz and South Ossetian legal persons. Understandably, cooperation with the unrecognised republics could manifest itself specifically in direct ties between private and legal persons. If the latter had not been recognised this cooperation would have been hardly possible. Parenthetically, even the sanctions imposed in 1996 never affected ties with economic entities.

With respect to the question of legal assistance, it should be noted that Russia and Georgia are parties to a number of CIS and Council of Europe conventions governing these issues. The Russian side acted based on the premise that these

conventions were in effect and applied specifically to Abkhazia and South Ossetia. However, in practice the government of Georgia was unable to ensure compliance with these international treaties with respect to these regions and obstructed the mechanism of direct contacts with them proposed by Russia. Because of this non-constructive position a decision was made to potentially establish direct cooperation with the de facto governments of these unrecognised republics on issues of legal assistance.

As for the consular functions, these were exercised by Russian government authorities inside the territory of Russia.

With respect to the instructions in question issued by the President of Russia, we should bear in mind that their purpose was to provide guidance. It was assumed that as the situation continued to develop these instructions could be translated into specific regulatory acts. The armed conflict that occurred in August 2008 and the subsequent recognition of Abkhazia and South Ossetia in essence invalidated the decisions taken in April.

Question No. 2: *Please explain the process and dynamics of acquiring Russian nationality by persons residing in South Ossetia and Abkhazia.*

Response: Russian citizenship laws despite all of the amendments adopted in the early 1990s have always been characterised by a liberal approach towards citizens of the former USSR as well as persons related to Russian citizens. Wherever relevant legal grounds existed, Russian nationality was granted to residents of Abkhazia and South Ossetia exclusively where they wilfully chose to apply for it. In this respect we see nothing that would warrant criticism for granting Russian citizenship to the aforementioned persons who were entitled to it in accordance with legislation of the Russian Federation.

Question No. 4: *Please explain Russian troop movements before and during the conflict of August 2008. How does this relate to the amended Treaty on Conventional Forces in Europe and the Russian practice during most of the time preceding the conflict? Please explain Georgian military posture and troop movements before and during the conflict.*

Response: The Agreement to adapt the CFE Treaty has not entered into force and in this respect does not create any obligations for the Russian side, nor for any other side. The Russian Federation suspended the Treaty on Conventional Forces in Europe in its relations with other parties thereof on 12 December 2007 following a Decree issued by the Russian Federation President dated 13 July 2007. The presidential decree was approved and translated into the Federal law dated 29 November 2007.

Thus, we hereby confirm that between 9 November 1992 – when the CFE treaty came into effect – and 12 December 2007 the Russian Federation fully met all of its obligations under this Treaty. As of 12 December 2007, pursuant to Article 72 of the Vienna Convention on the Law of Treaties, the Russian Federation has been released of its obligation to comply with the CFE Treaty and refrained from any actions that could hamper its renewed entry into force.

Question No. 5: *Please qualify the legal status and the objectives of the friendship treaties concluded between the Russian Federation and South Ossetia and with Abkhazia respectively on 17 September 2008.*

Response: The recognition of Abkhazia and South Ossetia by the Russian Federation means that we treat these republics as subjects of international law endowed with a legal capacity to enter into international treaties. Therefore, we consider the treaties on friendship, cooperation and mutual assistance signed on 17 September 2008 to be international treaties, i.e. treaties between states governed by international law. Their goals and objectives set out in the preambles reiterate the following premises rooted in historically strong ties and traditions of friendship and good relations between the respective peoples:

- Improved friendly relations, neighbourhood policies and mutual assistance between our countries meet the core national interests of all nations and their populations, foster the cause of peace, security and stability in the Transcaucasian region;
- The commonly recognised principles and norms of international law and primarily, goals and principles enshrined in the UN Charter as well as commonly recognised human rights norms must be observed and adhered to.

These treaties reiterate the policy adopted by the Russian Federation and aimed at developing comprehensive long-term cooperation and multi-level interaction with these republics. They contain obligations assumed by the Parties to use their coordinated endeavours to facilitate resolution of regional conflicts.

The treaties created a legal basis for Russian military presence in the territory of Abkhazia and South Ossetia. They also reflect the obligation assumed by the Parties to come to each other's assistance in case of an armed attack against one them. The treaties also provide for joint arrangements to protect the borders of these republics.

Provisions of these treaties envisage cooperation in a broad range of dimensions including economic, social and humanitarian aspects. The Parties also undertook the obligation to join efforts in combating organised crime, international terrorism and drugs trafficking.

It is also reiterated that citizens of one Party have the right to be simultaneously citizens of the other Party. A separate agreement is being developed to address the issue of dual nationality.

Each Party guarantees that all persons residing in its territory regardless of their race, gender, language, religion, political or other affiliations, ethnic or social background, financial or other standing shall be afforded all civil, political, social, economic and cultural rights and freedoms.

The Parties also assumed the commitment to undertake effective measures within the confines of their borders to protect persons or groups of population that may be subject to a threat or acts of violence, discrimination or hostile attitudes based on their ethnic, linguistic, cultural or religious identity as well as to protect their property. It is envisaged that the Parties shall protect the ethnic, linguistic, cultural and religious identity of ethnic minorities on their territories, as well as seek to establish conditions to preserve and develop that identity. The Parties shall furthermore guarantee persons belonging to ethnic minorities, individually or jointly with other persons qualified as ethnic minorities, the right to freely express, preserve and develop their culture and all aspects thereof without any danger of attempted forced assimilation.

In accordance with these Treaties the Parties shall protect the rights and freedoms of ethnic minorities and guarantee their equality before the law and impartial protection under the law against any discrimination. The Parties also undertook to create the necessary conditions to enable ethnic minorities to take part in the cultural, social and economic life as well as in the affairs of the state and in particular with respect to issues that directly concern them.

Question No. 6: *In the course of the conflict and in terms of responsibility under international law; How would you describe the formal and informal relationship between the Russian military and South Ossetian and Abkhaz armed forces respectively, prior to 17 September 2008 and nowadays? Please explain especially the respective command chains.*

Prior to the conflict in August one could only speak of cooperation between the Russian peacekeeping contingent and South Ossetian and Abkhaz military units wherever peacekeeping forces may be present within parameters commonly accepted in similar situations in other countries. These relations were governed by the mandate of the peacekeeping force.

In particular, the Russian-Georgian Agreement on the principles governing the resolution of the Georgian-Ossetian conflict dated 24 June 1992 provided the legal basis for the Russian peacekeeping presence in South Ossetia. This document is an international treaty entered into by the Russian Federation and Georgia. Pursuant to this document a Joint Control Commission (JCC) was set up to include representatives of the parties, engaged in the conflict. Under the auspices of the Commission "the Joint Forces" were created to "facilitate coordination between the parties with a view to building peace and maintaining law and order" (page 3).

In note No. 6/4141-10 submitted by the Foreign Ministry of Georgia to the Foreign Ministry of Russia on 1 September 2008, Georgia notified [the Russian Federation] that the Agreement reached in 1992 was terminated "due to the hostile actions of the Russian Federation against Georgia that manifested themselves in an armed aggression, partial occupation of the country, ethnic cleansing in internationally recognised territories of Georgia – Abkhazia and Tskhinvali district – and unlawful recognition of their so called independence; these actions by the Russian Federation invalidated previous negotiating and peacekeeping formats". At the same time Georgia demanded "immediate withdrawal of peacekeeping forces stationed in its territory pursuant to this Agreement".

The CIS peacekeeping contingent or the CIS Peacekeeping Forces (CIS PKF) were deployed in the territory of Abkhazia in accordance with a decision taken by the CIS CHS on 22 August 1994 in response to the relevant requests from the Abkhaz and the Georgian side dated respectively 15 and 16 May 1994. The core of the CIS PKF was made up by the Russian military contingent. In its decision taken on 21 October 1994 the CIS CHS approved the peacekeeping operation Mandate in the Georgian-Abkhaz conflict zone.

The presence of the peacekeeping force and their mandate in the territory of Abkhazia have been extended a number of times by decisions of the CIS CHS. Pursuant to another decision taken by the CIS CHS on 25 July the peacekeeping forces were to remain in Abkhazia indefinitely as of 19 September 2003 until one of the parties would file a request to terminate the peacekeeping mission. In such an event the operation would be deemed as automatically terminated and the CIS PKF Command would be mandated to ensure the withdrawal of the contingent and its arms

within 1 month pursuant to a schedule agreed upon with the Georgian side.

In note No. 7/244-10 dated 1 September 2008 Georgia acting through its Foreign Ministry notified the CIS Executive Committee that the peacekeeping operation was terminated and demanded that the timelines set out in paragraph 2 of the Decision dated 2003 be observed.

We can presume that in the course of the military operation there was a certain degree of interaction between the Russian, South Ossetian and Abkhaz armed forces. It came about as we understand in an ad-hoc fashion as the conflict evolved. We have no further detailed knowledge of this interaction.

Since Russia recognised South Ossetia and Abkhazia as independent states the relations between the Russian Armed Forces and those of the newly independent countries have been evolving based on international agreements similar to the ones in place between the Russian Armed Forces and those of other nations with which Russia cooperates pursuant to international agreements.

Currently, the Russian Armed Forces are stationed on the territory of these two countries at their request and with their consent.

Pursuant to Presidential Decrees No. 1260 "On Recognising the Republic of Abkhazia" and No. 1261 "On Recognising the Republic of South Ossetia" both dated 26 August 2008 and following the respective requests from the presidents of Abkhazia and South Ossetia, the Russian Ministry of Defence was instructed to "cause the Armed Forces of the Russian Federation to perform peacekeeping functions" in the territories of these republics until Russia enters into agreements on friendship, cooperation and mutual assistance with them.

The foregoing agreements on friendship, cooperation and mutual assistance were signed in Moscow on 17 September 2008 pursuant to executive orders issued by the President of the Russian Federation on 15 September 2008. These agreements were ratified as Federal Laws on 24 November 2008. The Agreement with Abkhazia came into effect on 23 December 2008 and that with South Ossetia – on 20 January 2009.

Article 5 of both Agreements stipulates the following: "In order to ensure the security of the Parties as well as peace and stability in the Transcaucasian region, each of the Parties to this Agreement shall extend to the other Party's armed forces the right to build, use and improve military infrastructure and military bases (facilities) in its territory. The terms and procedures governing the exercise of this right shall be determined in separate agreements in each specific case".

***Question No. 7**: Which measures did you take to protect civilians, and to prevent looting, detainment and mistreatment of civilians during and after the hostilities?*

Response: This question has at least two dimensions: measures taken during the hostilities to protect the civilian population from threats posed by these hostilities and those taken outside the scope of hostilities to protect the civilian population from looting, pillaging, abuse etc. What is meant in the second case as far as we understand is essentially a police function.

As for the efforts to protect civilians during the hostilities, the Russian side undertook all necessary measures prescribed by International Humanitarian Law (IHL) to protect the civilian population. The Russian Armed Forces received sufficient training in matters of IHL.

Requirements set out in IHL and other applicable norms of international law have been summarised in the International Humanitarian Law Guidelines approved by

Order of the Minister of Defence No. 360 dated 08.08.2001. A pocket IHL Handbook has been published specifically for the military. Article 356 of the Russian Penal Code provides for criminal liability in case of any violations of IHL norms.

A course on IHL is taught in higher military education institutions and at the grass-roots level in the Armed Forces. Practical classes on IHL are organised for servicemen.

Pursuant to the aforementioned Handbook, when confronted with the decision whether to use specific means and capabilities in an armed conflict commanders and leaders analyse potential consequences of such actions in the context of IHL norms. At the level of military formations this analysis is performed jointly with military lawyers. Russian servicemen are well aware of the measures that they are called upon to take to protect the civilian population.

As for the measures taken outside of combat to protect civilians against looting, pillaging etc., the situation appears as follows:

Despite having crossed into the territory of Georgia in the course of the conflict, Russia was not an occupying power in terms of IHL. The presence of an armed force in the territory of another state is not always construed as occupation.[2]

The determining factor in international law necessary to recognise a military presence as an occupation regime is whether the invading state has established effective control over the territory of the country in question and its population.

The Russian Armed Forces never replaced the lawful governments of Georgia or South Ossetia. No regulatory acts mandatory for the local populations have been adopted by them. Furthermore, the number of Russian troops stationed in South Ossetia and Abkhazia (3700 and 3750 servicemen respectively) does not allow Russia in practice to establish effective control over these territories that total 12.5 thousand sq. kilometres in size. To draw a parallel – effective control over a much smaller territory of Northern Cyprus (3.4 thousand sq. kilometres) requires the presence of 30 thousand Turkish troops. During the active phase of the military conflict the maximum size of the Russian contingent in South Ossetia and Abkhazia reached 12 thousand personnel. However, all of these forces were engaged in a military operation and not in establishing effective control.[3]

Based on the foregoing, there are no sufficient grounds to maintain that the Russian side exercised effective control over the territory of South Ossetia or Georgia

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[2] Pursuant to Article 42 IV of the Hague Convention governing the laws and customs of land warfare, the crucial factor in qualifying military presence as occupation is whether the invading state has established effective control over the territory of the country in question and its civilian population. Criteria of such effective control have been determined, for example, in a case tried by the International War Crimes Tribunal in former Yugoslavia "Prosecutor vs. Naletilich and Martinovich" as well as another case tried by the International Court "Congo vs. Uganda". The International War Crimes Tribunal deduced five main criteria of effective control in the aforementioned case. The two key criteria were as follows: the occupying power must establish temporary administration to govern the territory and issue within the bounds of this territory instructions deemed mandatory for the local population.

Similarly to the War Crimes Tribunal, the International Court also addressed the issue of occupation in the case dealing with the military action taken by Uganda against Congo.

If we follow the court's logic, the fact that the criteria pursuant to which the occupying force must establish a local administration is not met and no regulatory acts have been issued by the occupying power, may serve as sufficient grounds to maintain that no occupation regime took place. It was exactly the approach taken by the International Court in the case "Congo vs. Uganda" – the court recognised that a Ugandan occupation regime existed only in two areas of Congo, basing their opinion on the premise that the military of Uganda began to issue regulatory acts in these areas that were mandatory for the local population, and in so doing replaced the lawful government of Congo. In other areas of Congo the court recognised only Ugandan military presence.

[3] The data listed are publicly-accessible and were used by Russian experts at hearings of the International Court, following a claim by Georgia against Russia.

during the Georgian-South Ossetian conflict and that an occupation regime was established in the sense contemplated in IHL.

South Ossetia had and still has its own government and local authorities that exercise effective control in this country, maintain the rule of law and protect human rights. At the same time, the Russian military contingent called upon to carry out purely military tasks in the territory of South Ossetia, to the best of their abilities tried to maintain law and order and prevent any offences in the areas of their deployment, including Georgia proper, where due to the flight of Georgian government authorities an apparent vacuum of police presence ensued. The Russian military force could not substitute the government of South Ossetia. The Russian military have never been granted the jurisdiction to maintain the rule of law in the territories of Georgia and South Ossetia, not to mention that their sheer numbers are insufficient for that task. Nevertheless, the Russian troops apprehended more than 250 persons on suspicions of looting and other crimes. All of them have been handed over to the authorities of South Ossetia for further investigation and criminal prosecution.

In order to protect the civilian population, the Armed Forces of the Russian Federation in South Ossetia performed reconnaisance in areas of intense military action to search for explosive remnants of war. Subsequently, areas were cleared of explosive remnants of war in Tskhinvali and its surroundings, as well as Znaursky District, and the settlements of Hetagurovo, Avnevi, Zemo-Prisi and Prisi.

Russian servicemen also cleared areas of explosive remnants of war in other locations in Georgia. In response to information from local residents, de-mining operations were performed in the settlements Karaleti, Variani, Shindisi, Pkhvenisi, Arshenda, Akhaldaba, Zemo-Khviti, Zemo-Nikozi, Ergneti and Tkviavi.

Question No. 8: *Which measures did you take to produce relief and support to civilian populations in the areas affected by hostilities and their aftermath?*

Response: Since 1993 in response to Georgia's requests Russia provided humanitarian assistance to the population of this country on numerous occasions. Russia also responded to similar requests from Abkhazia and South Ossetia in coordination with the Georgian government. Constituent entities of the Russian Federation also provided humanitarian assistance to these regions. No distinction has ever been drawn between ethnic Georgians and other nationalities.

In order to contain the consequences of a humanitarian disaster caused by Georgia's attack against the territory of South Ossetia, the Government of the Russian Federation formed a Federal Operational Staff whose task was to coordinate the activities of Russian federal executive authorities in helping the affected population of this region. Between 8 and 10 August 2008 significant quantities of food, water, medications, water purification facilities, diesel power plants, tents and other material resources were provided. More than 25 thousand people were evacuated from the conflict area including more than 7 thousand children. Four stationary temporary camps were deployed in the Southern Federal district of the Russian Federation to accommodate the refugees and provide them with psychological and medical assistance, food and free telephone calls to their families. On 11 August 2008 a column of 86 trucks transported two mobile field hospitals provided by the EMERCOM of Russia to Tskhinvali as well as 58 tons of food supplies, 31 power generating stations, potable water and more than 200 rescue workers to conduct search and rescue operations in destroyed buildings.

On 12 August 2008 the second humanitarian column delivered food supplies

and water purification units to Tskhinvali. On the same day an additional group of psychologists and doctors (36 in total) was dispatched from the centre as well as 2 ambulance vehicles and 30 demining specialists.

As the humanitarian situation continued to stabilise and destroyed infrastructure was being rebuilt refugees started to return to their homes (by late September more than 25 thousand people returned from the territory of Russia to South Ossetia). EMERCOM specialists repaired a gas pipeline. Other efforts were taken to clear the debris and restore power supply to a number of administrative buildings and more than 30 residential buildings.

Russia never requested international assistance. Nevertheless, a number of countries and international organisations in a show of solidarity and commitment to humanitarian principles provided humanitarian assistance, which was received with gratitude (Belorussia, Kazakhstan, Uzbekistan, Ukraine, Jordan, UNHCR, Switzerland and other countries).

There have been no negative incidents or problems in terms of humanitarian assistance access. Humanitarian aid was distributed jointly with representatives of humanitarian NGOs, the Red Cross movement as well as leading international organisations (UN WFP).

Russia's humanitarian efforts received positive mention from the UN High Commissioner for Refugees, President of the ICRC and others.

RESPONSES TO ADDITIONAL QUESTIONS POSITED BY THE EUROPEAN UNION FACT-FINDING MISSION ON THE EVENTS THAT TOOK PLACE IN THE CAUCASUS IN AUGUST 2008 (LEGAL ASPECTS)

Question: *Please explain the legal grounds for the Russian Federation's use of force in August 2008?*

Response: Immediately after Georgia began its military operation in South Ossetia Russia brought the issue before the UN Security Council. The situation was discussed on the night of 8 August at the 5951st and subsequent meetings of the Security Council.

The scale of attacks directed against the Russian Federation military contingent lawfully deployed in the territory of Georgia and citizens of the Russian Federation, the number of casualties that resulted from these attacks as well as statements made by the political and military leadership of Georgia that demonstrated aggressive intentions on the part of the Georgian side, proved that we were dealing with the issue of unlawful use of military force against the Russian Federation. Under such circumstances the Russian side was forced to resort to its inalienable right to self-defence enshrined in Article 51 of the UN Charter. Russia's use of force was commensurate with the scale of attack and intended to achieve only one objective – protect the Russian military contingent and citizens of Russia against illegal actions of the Georgian side and prevent any military attacks against them in the future. The Russian side never attacked the civilian population or civilian facilities. Russian military units received pertinent instructions to that effect. Russia's use of force for purposes of self-defence continued for as long as the circumstances that mandated the

same existed.

The relevant notification detailing the actions taken by the Russian Federation in accordance with Article 51 of the UN Charter was submitted to the UN Security Council.

Question: *Please explain the legal grounds for the Russian Federation's use of force outside of South Ossetia?*

Response: The Russian Armed Forces were deployed outside of South Ossetia to properly exercise Russia's right to self-defence that arose as a result of Georgia's attack, pursuant to Article 51 of the UN Charter, exclusively against the Georgian military infrastructure to prevent Georgia from engaging in further hostilities.

Despite the fact that the Georgian side never attacked Abkhazia, the deployment of additional Russian troops in its territory was necessary since there were compelling reasons to believe that an attack similar in scale was to be launched against Abkhazia once the Ossetian issue was resolved. The assumption that Georgia harboured such plans was confirmed by the information gathered by Russian and Abkhaz intelligence services.

Question: *Was Russia a party in this military conflict?*

Response: Russia was a party in the military conflict with Georgia between 7 August (when Georgia attacked the Russian peacekeepers) and 12 August. We presume that the armed conflict between Russia and Georgia was over as of 12 August. We also believe that we should refer to two armed conflicts – a domestic one (an armed conflict that was not international in nature) in the territory of Georgia in which Russia was not a party, and an international armed conflict that occurred on the aforementioned dates in which Russia was a party.

Question: *Do you believe that Russia's actions were governed by International Humanitarian Law?*

Response: Yes, because an armed conflict existed between the Russian Federation and Georgia. By extension, both parties were bound by humanitarian law provisions governing such situations and conflicts. Furthermore, Georgia was bound by obligations arising from the law governing domestic (non-international) conflicts.

Question: *During or following hostilities in 2008 when were persons who fell into the power of your party or into the power of adverse party arrested? On what legal basis were they arrested? How were those persons treated? Were they tortured?*[4] *When were they released?*

Response: Throughout the entire period during which Russia's armed forces took part in the military operation in South Ossetia and Abkhazia between 8 and 12 August 2008, the Russian military forces detained Georgian military personnel only (as of 12.08.2008 no other Georgian military were detained). Since Russia took part in an

[4] Translator's note: the original question in English was whether these persons were tried. In the Russian rendition the term "tried" was mistranslated as "tortured".

armed conflict that was international in nature, these detainees were treated as combatants in accordance with IHL. Therefore, once detained they received the status of prisoners of war. To the best of our knowledge after the conflict ended and the prisoners of war were cleared of any potential military crimes, on 19 August all of them were handed over to the Georgian side in the presence of ICRC delegates with the Council of Europe Commissioner for Human Rights T. Hammarberg acting as a mediator.

The Russian side treated these prisoners of war in accordance with the requirements set out in IHL. They were never subjected to torture.

Question: *To what extent does the Russian Federation exercise its jurisdiction over its military personnel deployed abroad?*

Response: In accordance with paragraph 3, Article 12 of the Russian Federation Penal Code, "Russian Federation military personnel deployed outside of the Russian Federation shall be subject to criminal liability for any crimes committed on the territory of a foreign state in accordance with the present Penal Code unless otherwise provided by an international treaty that the Russian Federation is a party to".

The documents governing the presence of the Russian contingent deployed as a part of the Joint Peacekeeping Forces in South Ossetia and the CIS Peacekeeping Forces contain no provisions whereby jurisdiction would be divided between the host nation and the deploying state.

Therefore, we presume that if the Russian military personnel deployed in the territory of South Ossetia, Abkhazia and Georgia committed a crime punishable by laws of the Russian Federation, the Russian Federation shall exercise its own jurisdiction and apply its own laws with respect to such personnel.

To the best of our knowledge, representatives of the Russian Federation Military Prosecutor's Office were deployed together with the Russian peacekeeping contingent on a permanent basis.

Question: *Were persons perceived as being associated with the adverse party after the end of hostilities in 2008 discriminated against and/or deprived of the enjoyment of some human rights? What measures were taken against such practices?*

Response: During, before and after the hostilities that took place in August 2008 no instances of discrimination on the part of the Russian troops were identified. The Russian Federation is not an occupying power and does not exercise effective control over the territory and/or population of South Ossetia. Maintaining law and order in South Ossetia and Abkhazia is an exclusive right vested with the governments of these countries. Russia has always stressed the need to ensure that the governments of Abkhazia and South Ossetia observe commonly recognised principles and norms of international law and human rights and freedoms in particular. Provisions to that effect have been included in agreements reached between Russia and these states.

If in selected cases the actions of Russian military personnel may be deemed as an infringement of specific human rights (for instance, restricting the freedom of movement), these actions were taken to protect the lives and health of the civilian population, maintain public safety, prevent and preclude any unlawful actions and protect citizens regardless of their nationality and/or ethnic background.

Parenthetically, pursuant to the fifth principle of the Medvedev-Sarkozy agreements the Russian peacekeeping forces while still deployed in the territory of

South Ossetia, were entitled to take additional security precautions until a relevant international security mechanism was put in place.

Question: *If the forces or persons under your control committed any violation(s) of International Humanitarian Law or Human Rights, did the victims of those violations obtain reparation? Were other measures of restorative justice adopted? If not why? How could the victims obtain such reparations?*

Response: Russia exercises control over the Armed Forces of the Russian Federation only. Russia exercises no degree of control (effective or actual) over South Ossetian military personnel, civilians or territory.

To the best of our knowledge, Russian military personnel never committed any violations of International Humanitarian Law. As for the potential violations of human rights committed by Russian servicemen, we would like to point out the following:

Victims of such violations have specific legal options to obtain reparations for such violations. Firstly, they can file lawsuits with Russian courts. However, we are not aware of any such cases. Secondly, they have the option to resort to the European Human Rights Court pursuant to applicable procedures. We know that currently, the European Human Rights Court is reviewing the claim "Georgia vs. the Russian Federation" pursuant to which the Court ruled to apply to both parties temporary measures to ensure their compliance with their obligations under the European Human Rights Convention. In this context the Russian side intends to continue to rigidly meet its international obligations.

Since the very beginning of the armed confrontation Russia has made efforts to create conditions to facilitate refugee movements and humanitarian aid delivery to residents of South Ossetia regardless of their nationality and ethnic background. Russian troops in close cooperation with the Orthodox Church, NGOs and civic associations took measures to ensure unrestricted access to humanitarian aid.

Residents of South Ossetia who suffered as a result of the hostilities received compensation paid out of the Federal budget. Several types of such compensation were envisaged: 1) all civilian victims residing in South Ossetia received a one-time payment in the amount of 1000 roubles; 2) separate payments were earmarked for retirees; 3) finally, residents who had lost their property during the hostilities were paid up to 50 thousand roubles.

СООБЩЕНИЕ ДЛЯ СМИ

О поручениях Президента России Правительству Российской Федерации в отношении Абхазии и Южной Осетии

Президент России В.В.Путин дал поручения Правительству Российской Федерации относительно регулирования отношений России с Абхазией и Южной Осетией. Поручения направлены на реализацию заявленного курса российского руководства на оказание в соответствии с нормами международного права предметной поддержки населению двух республик, проживающих в них российских граждан, в том числе с учетом состоявшегося ранее выхода России из Решения СНГ 1996 года, ограничивавшего связи с Абхазией по государственной линии, а также рекомендаций, высказанных Государственной Думой.

Выполнение поручений Президента позволит создать механизмы всесторонней защиты прав, свобод и законных интересов российских граждан, проживающих в Абхазии и Южной Осетии. Правительству Российской Федерации поручено в этих целях взаимодействовать с фактическими органами власти Абхазии и Южной Осетии, включая организацию сотрудничества в торгово-экономической, социальной, научно-технической областях, в сфере информации, культуры и образования, в том числе с привлечением российских регионов.

Устанавливается перечень признаваемых в Российской Федерации документов, выдаваемых физическим лицам фактическими органами власти Абхазии и Южной Осетии. Признается правосубъектность юридических лиц, зарегистрированных в соответствии с законодательством Абхазии и Южной Осетии, которое рассматривается в качестве личного закона таких юридических лиц. Федеральным органам исполнительной власти поручено осуществлять сотрудничество с Абхазией и Южной Осетией в рамках правовой помощи по гражданским, семейным и уголовным делам. Территориальные органы МИД России в Краснодарском крае и в Республике Северная Осетия – Алания будут в случае необходимости осуществлять отдельные консульские функции в интересах лиц, постоянно проживающих в Абхазии и Южной Осетии.

Предусмотрена подготовка дополнительных предложений по ряду конкретных направлений дальнейшего взаимодействия с Абхазией и Южной Осетией в интересах социально-экономического развития этих республик, защиты прав проживающего в них населения, в том числе российских граждан.

Главным мотивом всех наших действий на этом направлении является забота об интересах населения Абхазии и Южной Осетии, в том числе проживающих там российских граждан. За годы затянувшихся конфликтов жители этих непризнанных республик оказались в бедственном положении. Они фактически

были лишены возможности реализовать универсальные права на достойную жизнь и устойчивое развитие. Их положение усугубляется действиями Тбилиси, который игнорирует возможности существующих механизмов для налаживания нормальных экономических отношений, решения социальных проблем в Абхазии и Южной Осетии. Руководство Грузии отказывается от заключения с Сухуми и Цхинвали обязывающих документов о неприменении силы и невозобновлении военных действий, наращивает по разным каналам свои наступательные вооружения и демонстрирует агрессивность намерений, в частности, в верхней части Кодорского ущелья, в нарушение резолюций СБ ООН. На этом фоне выдвигаемые руководством Грузии «новые мирные инициативы» не могут восприниматься серьезно.

Наше решение перейти к оказанию более предметной, практической помощи населению непризнанных республик не расходится и с настроениями международного сообщества. В этом плане показательно, что в принятой 15 апреля с.г. резолюции 1808 Совета Безопасности ООН (о продлении мандата Миссии ООН по наблюдению в Грузии) прямо указывается на неотложную необходимость экономического развития Абхазии, улучшения условий жизни пострадавшего от конфликта населения.

Наши действия в отношении Абхазии и Южной Осетии не означают, что Россия делает выбор в пользу конфронтации с Грузией. Мы – за снятие всех санкций и ограничений, мешающих социально-экономическому развитию региона. Это подтверждается возобновлением воздушного и морского сообщения с Грузией, другими шагами, которые составляют позитивную альтернативу курсу нынешнего грузинского руководства.

Реализация всех указанных мер будет способствовать укреплению безопасности и стабильности в Кавказском регионе.

16 апреля 2008 года

PRESS RELEASE[1]

on the mandate conferred by the President of the Russian Federation to the Government of the Russian Federation with regard to Abkhazia and South Ossetia

The President of Russia V. V. Putin has commissioned the Government of the Russian Federation with regard to regulating the relations of the Russian Federation with Abkhazia and South Ossetia. The assignment is directed towards implementing the course announced by the Russian leadership on providing, in accordance with the norms of International Law, objective support to the population of the two Republics and of the Russian citizens living in them, taking into account, in so doing, the earlier withdrawal of Russia from the CIS Resolution of 1996 that had limited state-level relations with Abkhazia, and also considering the recommendations expressed by the State Duma.

Fulfilling the mandate of the President shall allow for the creation of mechanisms designed for the all-round protection of rights, freedoms, and legitimate interests of the Russian citizens living in Abkhazia and South Ossetia. To attain these objectives, the Government of the Russian Federation has been mandated to collaborate with the actual organs of power in Abkhazia and South Ossetia, among other things, in the organization of cooperation in the commercial-economic, social, scientific-technical domains and in the spheres of information, culture, and education with the involvement, for instance, of the Russian regions.

A list of documents issued to the physical persons by the factual organs of power in Abkhazia and South Ossetia and recognized by the Russian Federation, is in the process of being drawn up. Recognition of their quality as legal entity has been accorded to juridical persons registered in accordance with the legislation of Abkhazia and South Ossetia, said legislation being considered as enjoying the force of private law for these juridical persons. The Federal organs of the Executive power have been commissioned to implement cooperation with Abkhazia and South Ossetia within the scope of legal assistance in terms of civil, family, and criminal affairs. In case of necessity, the territorial organs of the Russian MFA in the Krasnodari Region and in the Republic of South Ossetia – Alania shall carry out separate consular functions in the interests of those persons permanently residing in Abkhazia and South Ossetia. The preparation of additional proposals on a series of concrete issues is being planned for the continuation of collaboration with Abkhazia and South Ossetia in the interests of the socio-economic development of these Republics and the protection of the rights of the population living on this territory, including those of the Russian citizens.

All of our actions in this sense are primarily motivated by our concern for the interests of the populations of Abkhazia and South Ossetia, including those of the Russian citizens living there. After years of drawn-out conflict, the inhabitants of these unrecognized

[1] Unofficial translation by the Independent International Fact-Finding Mission on the Conflict in Georgia.

Republics have found themselves in a miserable situation. In reality, they have been deprived of the possibility of enjoying the universal rights of dignified life and sustainable development. Their situation has deteriorated due to the actions of Tbilisi with its disregard for the possibilities provided by the existing mechanisms to establish normal economic relations and to solve the social problems in Abkhazia and South Ossetia. The Government of Tbilisi refuses to conclude binding documents with Sukhumi and Tskhinvali on renouncing the use of force and the non-renewal of military actions. By various channels, it enhances its arsenal of offensive weaponry and demonstrates the aggressiveness of its intentions, in particular in the upper part of the Kodori Valley, in violation of the resolution of the UN Security Council. Against this background, the "new peace initiatives" put forward by the Government of Georgia cannot be taken seriously.

Our decision to proceed to the provision of more objective, practical assistance to the populations of the unrecognized Republics is not at odds with the dispositions of the international community. In this sense, it is indicative that Resolution 1808 adopted by the UN Security Council on 15 April of this year (on extending the mandate of the UN Observer Mission in Georgia) directly points to the urgent need of economic development in Abkhazia and the improvement of the living conditions of the population suffering from the conflict.

Our actions with respect to Abkhazia and South Ossetia do not mean that Russia is making a choice in favour of confrontation with Georgia. We stand for the lifting of all the sanctions and restrictions that are impeding the socio-economic development of the region. This is confirmed by the resumption of air and sea traffic with Georgia, along with other steps that represent a positive alternative to the course being taken by today's Georgian Government.

The realization of all of the measures indicated will enable the consolidation of security and stability in the Caucasus region.

16 April 2008

ОБРАЩЕНИЕ
СОВЕТА ФЕДЕРАЦИИ
ФЕДЕРАЛЬНОГО СОБРАНИЯ РОССИЙСКОЙ ФЕДЕРАЦИИ

к Президенту Российской Федерации Д.А.Медведеву
о признании независимости Южной Осетии и Абхазии

Уважаемый Дмитрий Анатольевич!

Совет Федерации Федерального Собрания Российской Федерации,

всецело поддерживая политику в отношении Южной Осетии и Абхазии, проводимую Президентом Российской Федерации,

подчеркивая, что на протяжении многих лет Россия участвовала в поиске мирных путей урегулирования грузино-югоосетинского и грузино-абхазского конфликтов,

отмечая, что отказ Грузии от подписания соглашения о неприменении силы и последовавшие в начале августа 2008 года ее агрессивные действия, в результате которых погибли тысячи мирных жителей Южной Осетии и обострился грузино-абхазский конфликт, окончательно лишили грузинское руководство права претендовать на то, чтобы народы Южной Осетии и Абхазии зависели от его авантюристической политики, приведшей к гуманитарной катастрофе,

приветствуя стремление народов Южной Осетии и Абхазии к независимости, миру и стабильности,

принимая во внимание неоднократные обращения Южной Осетии и Абхазии о признании их независимости, в том числе поступившие 22 и 24 августа 2008 года,

предлагает признать независимость Южной Осетии и Абхазии.

Совет Федерации
Федерального Собрания
Российской Федерации

Москва
25 августа 2008 года
№ 296-СФ

APPEAL
of the Federation Council of the Federal Assembly of the Russian Federation[1]

to the President of the Russian Federation D. A. Medvedev on recognition of the independence of South Ossetia and Abkhazia

Dear Dmitri Anatolevich!

The Federation Council of the Federal Assembly of the Russian Federation:

- fully supporting the policy conducted by the President of the Russian Federation with respect to South Ossetia and Abkhazia;
- underlining the fact that over the course of many years, Russia has been participating in the search of peaceful means to resolve the Georgia – South Ossetia and the Georgia – Abkhazia conflicts;
- making the observation that the refusal of Georgia to sign an agreement renouncing the use of force and its subsequent aggressive actions in early August 2008 resulting in the death of thousands of peaceful inhabitants of South Ossetia and the aggravation of the Georgia-Abkhazia conflict, have definitively deprived the Georgian government of the right to claim that the peoples of South Ossetia and Abkhazia should remain dependent on its policy of adventurism that has led to a humanitarian disaster;
- applauding the efforts being made by the peoples of South Ossetia and Abkhazia towards independence, peace, and stability;
- taking into consideration the repeated appeals of South Ossetia and Abkhazia for recognition of their independence, including those launched on 22 and 24 August 2008,

proposes that the independence of South Ossetia and Abkhazia be recognized.

Federation Council
of the Federal Assembly
of the Russian Federation

Moscow, 25 August 2008
N°296-FC

[1] Unofficial translation by the Independent International Fact-Finding Mission on the Conflict in Georgia.

ГОСУДАРСТВЕННАЯ ДУМА
ФЕДЕРАЛЬНОГО СОБРАНИЯ РОССИЙСКОЙ ФЕДЕРАЦИИ
ПЯТОГО СОЗЫВА

ОБРАЩЕНИЕ
ГОСУДАРСТВЕННОЙ ДУМЫ

К Президенту Российской Федерации Д.А.Медведеву о необходимости признания Республики Южная Осетия и Республики Абхазия

Уважаемый Дмитрий Анатольевич!

Государственная Дума Федерального Собрания Российской Федерации выражает однозначную и консолидированную поддержку адекватным и решительным действиям российского руководства, обеспечившим защиту Южной Осетии от вооруженного нападения Грузии.

Депутаты Государственной Думы воздают дань уважения подвигу российских военнослужащих, позволившему остановить агрессию и геноцид, защитить население Южной Осетии, в том числе граждан Российской Федерации.

В этой драматической ситуации Россия оказалась единственной защитницей мирного населения, в экстренном порядке она была вынуждена пресечь агрессора, задумавшего стереть с лица земли вместе с городами и селами детей, женщин, стариков, все население Южной Осетии.

В результате осуществленного преступным режимом Саакашвили вероломного вооруженного нападения погибли сотни мирных жителей и

российские миротворцы, десятки тысяч людей остались без крова и средств к существованию. Огромные потоки беженцев и массовые разрушения инфраструктуры Южной Осетии привели этот регион к гуманитарной катастрофе.

Депутаты Государственной Думы скорбят обо всех погибших и пострадавших в этой страшной трагедии. Родители убитых грузинскими солдатами детей никогда не смогут забыть и простить эти чудовищные злодеяния, совершенные по приказу Саакашвили.

В своем заявлении от 21 марта 2008 года Государственная Дума отмечала, что в случае возможного вооруженного нападения Грузии на Абхазию или Южную Осетию необходимо принять все меры для защиты граждан Российской Федерации, проживающих в Абхазии и Южной Осетии.

К сожалению, высказанные депутатами Государственной Думы опасения подтвердились. Только своевременное вмешательство и адекватные действия Российской Федерации позволили предотвратить развязывание широкомасштабной войны на Кавказе, включая аналогичную агрессию и геноцид в отношении Абхазии, где все последние годы в Кодорском ущелье по приказу Саакашвили осуществлялась подготовка к войне против абхазского народа.

Военная операция режима Саакашвили в отношении Южной Осетии была предпринята в нарушение международных обязательств Грузии. Эта варварская агрессия в одночасье перечеркнула пятнадцатилетние дипломатические и миротворческие усилия России и других входящих в

созданную Генеральным секретарем Организации Объединенных Наций «группу друзей Грузии» государств, направленные на обеспечение территориальной целостности Грузии. Отныне вопрос о возможности восстановления ее целостности политическим путем лишился какой-либо перспективы. Эту новую реальность должно рано или поздно признать все мировое сообщество, всегда отвергавшее так же, как и Россия, силовой сценарий постконфликтного урегулирования.

Южная Осетия и Абхазия, провозгласившие в 1992 году свою независимость в результате всенародного волеизъявления и построившие за истекшие годы демократические государства со всеми атрибутами легитимной власти, имеют гораздо больше оснований претендовать на международное признание, чем, например, Косово.

Обращения народов Абхазии и Южной Осетии, переданные через их законно избранные органы власти 20, 21 и 22 августа 2008 года, о признании их республик в качестве самостоятельных, суверенных и независимых государств депутаты Государственной Думы считают юридически обоснованными и морально оправданными. Такое признание создаст основания для обеспечения гарантий безопасности и защиты их народов от внешних угроз, укрепления международного мира и региональной стабильности в соответствии с целями и принципами Устава Организации Объединенных Наций и положит начало процессу международного признания юго-осетинского и абхазского государств.

В связи с вышеизложенным Государственная Дума обращается к Вам,

важаемый Дмитрий Анатольевич, с просьбой рассмотреть вопрос о ризнании Российской Федерацией Республики Южная Осетия и Республики Абхазия в качестве самостоятельных, суверенных и независимых государств, также вопрос о скорейшем проведении переговоров с руководством Республики Южная Осетия и Республики Абхазия в целях создания правовой основы межгосударственных отношений, обеспечивающей регулирование всех аспектов сотрудничества и взаимопомощи, включая вопросы безопасности.

Москва
25 августа 2008 года

State Duma
of the Federal Assembly of the Russian Federation
of the Fifth Convocation[1]

APPEAL

of the State Duma

to the President of the Russian Federation D. A. Medvedev on the necessity of recognizing the Republic of South Ossetia and the Republic of Abkhazia

Dear Dmitri Anatolevich!

The State Duma of the Federal Assembly of the Russian Federation expresses its unequivocal and consolidated support for the requisite and decisive measures of the Russian government that have ensured the defence of South Ossetia against the armed aggression of Georgia.

The deputies of the State Duma pay a tribute of respect to the exploit accomplished by the Russian soldiers that made it possible to put a stop to the aggression and genocide, and to defend the people living in South Ossetia, including the citizens of the Russian Federation.

In this dramatic situation, Russia turned out to be the only defender of the peaceful population. With great urgency, it was compelled to cut short the aggressor whose intent was to wipe from the face of the earth – together with the cities and villages – the children, women, the aged, the entire population of South Ossetia.

As a result of the treacherous armed attack carried out by the criminal Saakashvili regime, hundreds of peaceful inhabitants and Russian peacekeepers perished, and tens of thousands of persons were left without shelter and the means of livelihood. The huge flow of refugees and the

[1] Unofficial translation by the Independent International Fact-Finding Mission on the Conflict in Georgia.

massive destruction of infrastructure in South Ossetia have transformed this region into a humanitarian disaster.

The deputies of the State Duma mourn for all those who have perished and who have been victim to this horrible tragedy. The parents of the children killed by the Georgian troops shall never be able to forgive and forget the monstrous crimes perpetrated upon the order of Saakashvili.

In its Declaration of 21 March 2008, the State Duma pointed out that in the event of Georgia's possible armed attack on Abkhazia or South Ossetia, it would be indispensable to undertake all measures to defend the citizens of the Russian Federation living in Abkhazia and South Ossetia.

Unfortunately, the fears expressed by the deputies of the State Duma have been confirmed. Only the timely intervention and the commensurate actions of the Russian Federation made it possible to prevent the unfolding of a large-scale war in the Caucasus, including a similar aggression and genocide with respect to Abkhazia where, upon the order of Saakashvili, preparations for a war on the Abkhaz people have been going on all these past years in the Kodori Valley.

The Saakashvili regime's military operations in connection with South Ossetia were undertaken in violation of Georgia's international commitments. This barbarian aggression instantaneously nullified the fifteen years of diplomatic and peace-building efforts of Russia and of the other states belonging to the "Friends of Georgia" group created by the Secretary General of the United Nations, efforts that were aimed at safeguarding the territorial integrity of Georgia. Henceforth, the question of a possible re-establishment of its integrity by political means has become devoid of all future prospect. Sooner or later, the entire global community – that, just as Russia, has always rejected violent scenarios of post-conflict resolution - shall have to acknowledge this new reality.

South Ossetia and Abkhazia, having announced their independence in 1992 as a result of the expression of the will of the general population, and having built up during the past years democratic states with all of the attributes of legitimate power, have far more grounds to lay claim to international recognition that does, for instance, Kosovo.

The deputies of the State Duma deem that the appeals launched by the peoples of Abkhazia and South Ossetia for recognition of their republics as autonomous, sovereign, and independent states – and transmitted via their legitimately elected organs of power on 20, 21, and 22 August 2008 –are legally well-founded and morally justified. This recognition will create the bases for ensuring guarantees of the security and the protection of their peoples from external threats, and for the strengthening of international peace and regional stability in accordance with the objectives and principles of the United Nations Charter. This recognition will launch the process of international recognition of South Ossetia and Abkhazia as States.

In connection with the foregoing, the State Duma addresses its request to you, dear Dmitri Anatolevitch, to examine the issue of recognition of the Republic of South Ossetia and the Republic of Abkhazia by the Russian Federation, as autonomous, sovereign, and independent states, along with the question of most urgently holding negotiations with the government of the Republic of South Ossetia and the Republic of Abkhazia with the objective of creating the legal basis for inter-state relations that would ensure the regulation of all aspects of cooperation and mutual assistance, including issues of security.

Moscow
25 August 2008

First set of questions to the Governments of the Russian Federation and Georgia, related to humanitarian issues

1. Concerning allegations of genocide, please explain who, in your view, committed genocide, and if so, when. If so, please mention the facts permitting to conclude that the elements of the crime of genocide, in particular, the existence of a protected group and of the intent to destroy that group in whole or in part, were present.

2. Why did persons leave their places of residence between 1990 and 2008, in particular in August, September and October 2008, and what hinders them to return? How are the property rights of such persons protected? May they dispose of such property freely?

3. What targets were attacked on what day by forces not controlling the place where those targets were situated between 7 and 12 August 2008? When those targets were situated in towns and villages, what was the evaluation of expected incidental deaths of civilians, injury to civilians or damage to civilian objects? Did the actual effects correspond to the expected effects? If not, why? What precautionary measures were taken in such attacks by the attacker and by the defender to avoid or minimize incidental deaths of civilians, injury to civilians or damage to civilian objects? Did those precautionary measures succeed? If not, why?

4. What is your legal position regarding the International Humanitarian Law as to the use of Grad multiple rocket launchers and cluster munitions in armed conflict? Why were Grad Multiple rocket launchers and/or cluster munitions used and against which targets (in particular in densely populated areas)? What measures were taken to mark and clear explosive remnants of war?

5. In areas that your forces or adverse forces gained control over during the 2008 hostilities, what kind of groups or persons were summarily executed, raped, or ill-treated civilians and pillaged, burned or destroyed buildings? What measures were taken by the forces of the party controlling the area to stop and repress such violations?

6. During or following hostilities in 2008, when were persons who fell into the power of your party or into the power of the adverse party arrested? On what legal basis were they arrested? How were those persons treated? Were they tried? When were they released?

7. Were persons perceived as being associated with the adverse party after the end of hostilities in 2008 discriminated against and/or deprived of the enjoyment of some human rights? What measures were taken against such practices?

8. What steps did your party and the adverse party take to clarify the fate of persons reported missing since 1990 by the ICRC, their families, or by the party to which they belong? In which cases were those steps successful? If they were not, why?

9. What investigations and prosecutions have been launched since 1990 by your judicial authorities against members of your forces, members of adverse forces, members of local forces and against civilians in relation with crimes committed in relation to the conflict? In which cases did such prosecutions lead to convictions or acquittals? Please provide copies of the relevant decisions. If prosecutions did neither lead to convictions nor to acquittals, why did they not succeed?

10. If forces or persons under your control, committed any violation(s) of International Humanitarian Law or Human Rights, did the victims of those violations obtain reparation? Were other measures of restorative justice adopted? If not why? How could the victims obtain such reparations?

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ОТВЕТЫ НА ВОПРОСЫ МИССИИ ЕВРОПЕЙСКОГО СОЮЗА ПО РАССЛЕДОВАНИЮ ФАКТОВ, СВЯЗАННЫХ С СОБЫТИЯМИ НА КАВКАЗЕ В АВГУСТЕ 2008 Г. (ГУМАНИТАРНЫЕ АСПЕКТЫ)

Вопрос №1: *Касательно заявлений о геноциде: пожалуйста, расскажите, кто и когда, на Ваш взгляд, совершил геноцид. Приведите факты, позволяющие делать выводы о преступлениях геноцида, имевшие место, в частности, по отношению к жизни защищенных групп, а также целях их полного или частичного истребления.*

Ответ: МИД России не является правоохранительным органом, не осуществляет судебных и следственных действий. Правовая квалификация соответствующих деяний относится, прежде всего, к ведению компетентных российских правоохранительных органов.

Заявления российской стороны о геноциде осетин, совершенном грузинской стороной в августе 2008 г., следует воспринимать в контексте той предварительной информации, которая поступала в первые часы возникновения конфликта и до него. Насколько мы можем судить, действительно имелись предпосылки говорить о том, что действия грузин совершались с намерением уничтожить, полностью или частично, осетинскую национальную группу как таковую (широкомасштабное применение грузинской стороной тяжелых вооружений и военной техники неизбирательного действия по гражданскому осетинскому населению в ночь с 7 на 8 августа, активно проводившаяся до этого грузинским руководством «антиосетинская» политика). Однако вопрос о том, в какой мере удалось собрать доказательства наличия такого намерения, вправе давать лишь компетентные правоохранительные органы Российской Федерации, в частности, Следственный комитет при Прокуратуре Российской Федерации, который, насколько нам известно, завершил свое расследование по вопросу о геноциде.

Следует также отметить, что Россия передала Офису обвинителя Международного уголовного суда собранные материалы по осетинскому

сюжету. В настоящее время в Суде идет оценка этих материалов на предмет наличия оснований для возбуждения расследования, в том числе, и по факту геноцида. Ожидаем, что данный авторитетный орган международного уголовного правосудия даст соответствующую правовую оценку известных августовских событий.

В то же время необходимо отметить, что преступления грузинских вооруженных формирований на территории Южной Осетии зафиксированы в многочисленных протоколах допросов потерпевших и свидетелей, фотоматериалах. В них изложена подробная информация, подтверждающая, по сути, факты геноцида в отношении национальной группы осетин, совершение грузинской стороной военных преступлений, в том числе нарушения международных норм ведения войны, повлекшие тяжелые гуманитарные последствия, прежде всего, связанные с жертвами среди мирного населения и военнослужащих миротворческих сил, уничтожением жилых кварталов и гражданских объектов.

В частности, Следственным комитетом при прокуратуре Российской Федерации были установлены и задокументированы следующие факты:

- убийство 162 жителей Южной Осетии и причинение вреда здоровью различной степени тяжести 255 мирным гражданам республики осетинской национальности;

- убийство 48 военнослужащих воинских подразделений Вооруженных сил Российской Федерации, в том числе 10 военнослужащих из состава миротворческого батальона ССПМ, а также причинение вреда здоровью различной степени тяжести 162 военнослужащим;

- умышленное уничтожение военнослужащими грузинских вооруженных формирований населенных пунктов Южной Осетии с преимущественным проживанием осетин;

- умышленное применение военнослужащими грузинских вооруженных формирований тяжелого вооружения неизбирательного действия при обстреле жилых кварталов и объектов инфраструктуры;

В общей сложности потерпевшими в результате военных действий Грузии против Южной Осетии признаны 5143 жителей республики из числа гражданских лиц.

В протоколах осмотров мест происшествия представителями Следственного комитета при прокуратуре Российской Федерации зафиксировано, что в результате применения Грузией по г.Цхинвал и другим населенным пунктам Южной Осетии современных средств поражения было полностью разрушено и сожжено 655 жилых дома, кроме того, подверглись частичному разрушению 2139 жилых строений и помещений, в которых проживало преимущественно осетинское население республики.

Существенный ущерб был нанесен гражданской инфраструктуре республики, в результате чего были нарушены условия жизнедеятельности десятков тысяч людей. По данным МЧС России, на территории Южной Осетии было, в частности, разрушено 29 объектов образования, 17 объектов здравоохранения. 10 объектов транспорта, 68 км сетей газопровода, 160 км сетей водоснабжения, 458 км электроснабжения.

Согласно данным Федеральной службы по надзору за соблюдением законодательства в области охраны культурного наследия, Всероссийского общества охраны памятников истории и культуры и Министерства культуры Южной Осетии, в зоне грузино-югоосетинского конфликта оказались 33 объекта археологического наследия (из 62 объектов культурного наследия, расположенных на территории республики).

Выборочное обследование технического состояния памятников истории и культуры, проведенное 15-18 августа 2008 г., выявило утрату ряда уникальных объектов вследствие массированного обстрела югоосетинских населенных пунктов грузинскими войсками с применением тяжелой артиллерии. Помимо этого, со стороны грузинских вооружённых сил были зафиксированы факты вандализма и умышленного уничтожения памятников культуры, а также мест захоронений осетинского народа.

Одним их тяжелейших последствий военных действий Грузии против Южной Осетии стал массовый исход населения на территорию Российской Федерации в поисках убежища.

Подтверждением намеренного характера действий высшего политического и военного руководства Грузии и военнослужащих грузинских вооруженных формирований являются:

- Протоколы осмотров мест происшествия, допросов свидетелей и потерпевших, а также данные Генерального штаба Вооруженных Сил Российской Федерации, основанные на документах и электронных носителях информации, захваченных в ходе операции по принуждению Грузии к миру (подробные аэрофотосъемки местности и топографические карты с условными обозначениями тактической обстановки, военно-штабные планы, приказы и иные документы).

Согласно этим материалам штабом Вооруженных Сил Грузии заблаговременно были подготовлены планы вторжения на территории Южной Осетии и Абхазии. В частности, указанными документами предусматривалось уничтожение сел с преимущественным проживанием граждан осетинской национальности. В качестве артиллерийских целей, наряду с объектами силовых структур Южной Осетии, были спланированы для поражения штаб и полигон российского миротворческого батальона, Дом правительства республики и телевизионная вышка в г. Цхинвал.

При проведении наступательных действий планировалось применение средств артиллерии неизбирательного действия, в том числе реактивных систем залпового огня, использование которых в населенных пунктах влечет массовую гибель мирного населения и масштабные разрушения объектов жизнеобеспечения граждан.

- Главной военной прокуратурой Российской Федерации совместно с Генеральной прокуратурой Республики Южная Осетия (РЮО) также установлены факты использования вооруженными силами Грузии в ходе боевых действий в отношении гражданского населения кассетных

боеприпасов и 500 кг. авиационных бомб, применение которых против мирного населения запрещено Конвенцией «О запрещении или ограничении применения конкретных видов обычного оружия, которые могут считаться наносящими чрезмерные повреждения или имеющими неизбирательное действие» от 10 октября 1980 г.

- Согласно данным Управления ФМС России по Республике Северная Осетия-Алания, в период с 7 по 16 августа 2008 г. территорию Южной Осетии покинуло более 36 тыс. человек осетинской национальности, большинство из которых - престарелые, женщины и дети.

- Об этом свидетельствует, в частности, изъятый и приобщенный к материалам Следственного комитета при прокуратуре Российской Федерации План мероприятий по блокированию и отравлению водоснабжения г. Цхинвал и прилегающих к нему населенных пунктов в период боевых действий.

- Необходимо также принять во внимание заявления жителей Южной Осетии - граждан Российской Федерации (всего более 500 заявлений), пострадавших в результате грузинской агрессии, о привлечении к уголовной ответственности политического и военного руководства Грузии в Международный уголовный суд (г. Гаага) и Европейский суд по правам человека.

Вопрос №2: *Почему лица покидали места своего постоянного проживания в период с 1990 по 2008 годы, в частности, в августе, сентябре и октябре 2008 г., и что сейчас препятствует их возвращению? Как обеспечивается защита права собственности таких лиц? Могут ли они распоряжаться этой собственностью без ограничений?*

Политика руководства Грузии, а также развязанные им военные действия против Южной Осетии в августе 2008 г. привели к обострению межнациональных отношений во внутренних районах государства и, как следствие, к массовому исходу населения Грузии на территорию Российской Федерации. В первую очередь это коснулось этнических осетин, абхазов,

русских, армян, азербайджанцев и других национальных меньшинств, проживающих в Грузии.

На пике драматических событий в августе 2008 г. органами ФМС России было зарегистрировано более 36 тыс. чел., прибывших из Грузии на территорию Российской Федерации в поисках убежища. Начиная с 12 августа 2008 г., после наметившейся тенденции к стабилизации ситуации в зоне конфликта и принятия Российской Федерацией конкретных мер по оказанию помощи Южной Осетии в восстановлении разрушенного жилья и объектов социальной сферы, начался активный процесс возвращения в Южную Осетию беженцев в места постоянного проживания. ФМС России было оказано содействие в организованном выезде в Южную Осетию 33690 гражданам.

На территории Российской Федерации также находится более 2 тыс. граждан Грузии, покинувших Абхазию в период грузино-абхазского конфликта. Помимо этого, в территориальных органах ФМС России состоят на учете 12650 чел., покинувших места постоянного проживания на территории Грузии в результате межнационального конфликта 1989-1992 гг. и получивших статус вынужденного переселенца в соответствии с законодательством Российской Федерации.

С начала конфликта по настоящее время на территорию 27 субъектов Российской Федерации прибыли и обратились с ходатайствами о признании беженцами 1846 выходцев из внутренних районов Грузии. За указанный период 27 выходцев из Грузии были признаны беженцами, 530 - предоставлено временное убежище. В качестве основных причин обращений с ходатайствами о признании беженцами в Российской Федерации граждане Грузии и лица без гражданства называют: опасения преследований со стороны грузинских властей и экстремистов по национальному признаку и политическим взглядам.

Российская Федерация выступает за признание и реализацию права на возвращение на принципах добровольности и достоинства в условиях гарантированной безопасности перемещенных лиц.

Однако в связи с разрывом Грузией 29 августа 2008 г. дипломатических отношений с Российской Федерацией процесс добровольного возвращения выходцев из Грузии на родину существенно осложнился, поскольку многие из указанных лиц не имеют документов, удостоверяющих личность. Основными факторами, препятствующими началу работы по организации упорядоченного возвращения перемещенных лиц, также являются сохраняющаяся острота межэтнических отношений и имеющая тенденцию к новому обострению обстановка в «буферных зонах» в связи с наращиванием там силового присутствия Грузии, что чревато созданием новых очагов напряженности на границах Южной Осетии и Абхазии.

В сложившейся ситуации территориальные органы ФМС России вынуждены продлевать потенциальным репатриантам разрешение на пребывание на территории Российской Федерации на период, пока им не будут оформлены свидетельства на возвращение.

Защита права собственности перемещенных лиц на территории Южной Осетии обеспечивается югоосетинскими правоохранительными органами.

Вопрос №3: *Какие цели и в какие дни подвергались ударам со стороны воинских соединений, не контролировавших места расположения упомянутых целей в период 7-12 августа 2008 г.? Когда эти цели были размещены в городах и деревнях, и какова была оценка возможных последствий огневого поражения для гражданского населения и/или гражданских объектов? Соответствовал ли реальный эффект ожидавшемуся? Если нет, то почему? Какие предупредительные меры предпринимались во время таких ударов атакующими и обороняющимися силами в целях минимизации случайных смертей и ранений гражданских лиц или повреждений гражданских объектов? Были ли эти предупредительные меры успешными? Если нет, то почему?*

В ходе операции по принуждению Грузии к миру подразделения Вооруженных Сил Российской Федерации, действуя исключительно в целях

отражения агрессии, вели огонь из танков, БМП и стрелкового оружия только по реально выявленным целям в ходе всей операции, тем самым, исключая потери среди мирного населения. Целями для поражения были батареи реактивных систем залпового огня, артиллерийские и минометные батареи, живая сила и огневые средства противника в районах сосредоточения.

В целом реальный эффект соответствовал ожидаемому. Огонь артиллерии и удары авиации нанесли ощутимый урон и оказали подавляющее морально-психологическое воздействие на войска противника.

В период проведения активной фазы операции российским командованием был предпринят ряд действенных мер, направленных на исключение ущерба, который мог быть нанесен гражданскому населению и имуществу граждан. Огонь артиллерии и удары авиации планировался и осуществлялся на значительном удалении от населенных пунктов по реально выявленным целям. Основной объем огневых задач артиллерии был выполнен по наблюдаемым целям, с корректированием огня командирами общевойсковых частей и подразделений через артиллерийских корректировщиков и средства артиллерийской разведки. Огонь по местам расположения мирных жителей и гражданских объектов не открывался. После отхода грузинских подразделений с занимаемых ими позиций огонь прекращался. Российская авиация, оказывая поддержку сухопутной группировке войск, осуществляла нанесение ударов по местам скопления грузинских войск, огневым позициям и колоннам военной техники на марше. По целям, расположенным в границах и вблизи населенных пунктов, удары авиации не наносились. В ходе огневого поражения противника осуществлялся контроль стрельбы на поражение.

В результате предпринятых мер были исключены потери среди мирного населения. Кроме того, силами подразделений Вооруженных сил Российской Федерации была организована эвакуация мирных жителей из

района грузино-югоосетинского конфликта, что позволило значительно снизить количество пострадавших в ходе боевых действий гражданских лиц.

Кассетные боеприпасы, имеющиеся на вооружении российской авиации и предназначенные для поражения живой силы и бронетехники противника на открытой местности, российской стороной в ходе операции по принуждению Грузии к миру не применялись.

Вместе с тем, в качестве доказательной базы использования грузинской стороной авиационных боеприпасов кассетного типа могут быть использованы их отдельные элементы, обнаруженные на югоосетинской территории, а также фотографии элементов (составных частей) вышеуказанных авиационных боеприпасов, обнаруженных в районе н.п. Земо-Приси (Цхинвальский район РЮО). В ходе грузино-югоосетинского конфликта грузинская сторона использовала состоящие на вооружении Грузии 152-мм самоходные гаубицы "Дана" и 120-мм реактивные системы залпового огня РМ-70, поставленные Грузии Чехией в 2003-2007 гг., не являющиеся высокоточными видами вооружения (площадь поражения одним залпом РСЗО РМ-70 составляет 14,5 гектаров).

Основной причиной пожаров и разрушений в грузинских селах стал преднамеренный поджог домов отступавшими подразделениями Вооруженных Сил Грузии, как следствие - подрыв отдельных боеприпасов и дальнейшая их детонация, в том числе выстрелов к противотанковым гранатометам, которые были заблаговременно сосредоточены в домах жителей ряда грузинских сел (Кехви, Тамарашени, Хеита, Курта, Эредви, Авневи и др.) для вооружения отрядов грузинской самообороны.

Вопрос №4: *Какова в контексте международного гуманитарного права (МГП) Ваша официальная позиция по вопросу использования РСЗО «Град» и кассетно-кластерных бомб в ходе вооружённого конфликта? Почему применялись РСЗО «Град» и кассетно-кластерные бомбы и в отношении каких целей (в частности, в густонаселённых районах)? Какие меры были предприняты для выявления и ликвидации последствий применения таких видов вооружений?*

Ответ: Огонь реактивной артиллерии планировался и велся по артиллерийским, реактивным и минометным батареям противника, расположенным вне населенных пунктов, на удалении не менее 1-1,5 км от них. Ракетные удары наносились исключительно по подтвержденным районам сосредоточения живой силы, военной техники и огневых средств ВС Грузии вне населенных пунктов.

Кассетные боеприпасы, имеющиеся на вооружении ударной авиации Военно-воздушных сил России и предназначенные для поражения живой силы и бронетехники противника на открытой местности не применялись.

Повторяем, что авиационные боеприпасы кассетного типа применялись исключительно грузинской стороной, о чем свидетельствуют их отдельные элементы, обнаруженные на югоосетинской территории. В качестве доказательной базы могут использоваться фотографии элементов (составных частей) вышеуказанных авиационных боеприпасов, обнаруженных в районе н.п. Земо-Приси (Цхинвальский район РЮО).

Кроме того, состоящие на вооружении в ВС Грузии 152-мм самоходные гаубицы "Дана" и 120-мм реактивные системы залпового огня РМ-70, поставленные Грузии Чехией в 2003-2007 годах и не являющиеся высокоточными видами вооружения. Так, площадь поражения одним залпом РСЗО РМ-70 составляет 14,5 гектаров.

Последствия применения такого типа оружия грузинской стороной были ликвидированы с помощью сотрудников Минобороны и МЧС России.

Вопрос №5: *Какие лица или группы лиц в ходе боевых действий в августе 2008 г. были уличены в убийствах, насилии, негуманном обращении с гражданскими лицами, а также в грабежах, поджогах и уничтожении строений на подконтрольных Вашей или противостоящей стороне территориях? Какие меры предпринимались войсками стороны, контролирующей данную территорию, для прекращений таких нарушений?*

Ответ: Правовым основанием для введения на территорию Южной Осетии российских войск стала реализация статьи 51 Устава ООН о

праве на самооборону, о чем в установленном порядке был проинформирован Совет Безопасности ООН. В период с 8 по 12 августа 2008 г. усиленные подразделения российских миротворцев провели в Южной Осетии операцию по принуждению Грузии к миру.

В ходе операции Генеральная прокуратура Российской Федерации осуществляла свои функции на территории Южной Осетии непосредственно в связи с деятельностью российских войск. Что касается расследования российскими правоохранительными органами преступлений грузинской армии против гражданского населения, то речь шла о неотложных следственных действиях в условиях чрезвычайной ситуации. После окончания кульминационной фазы грузино-югоосетинского конфликта соответствующие полномочия в полном объеме приняли на себя правоохранительные органы Южной Осетии.

По данным Следственного комитета при прокуратуре Российской Федерации, фактов убийств, насилия, негуманного обращения с гражданскими лицами, грабежей, поджогов и уничтожений гражданских строений со стороны военнослужащих Вооруженных Сил Российской Федерации в ходе проведения операции по принуждению Грузии к миру зафиксировано не было.

С первого дня проведения операции командование российских войск предприняло исчерпывающие меры для предотвращения случаев мародерства и бесчинства по отношению к грузинскому населению. Директива Генерального штаба ВС РФ, приказ Главнокомандующего Сухопутными войсками "О поддержании общественной безопасности и обеспечении защиты граждан, проживающих на территории Республики Южная Осетия" был доведен до всего личного состава подразделений, принимавших участие в операции.

Российские войска совместно с югоосетинскими силовыми структурами вели круглосуточную охрану уцелевших домовладений и

земельных угодий в грузинских селах, обеспечивая безопасность жителей Республики Южная Осетия, независимо от их национальности.

С разрешения представителей командования Северо-Кавказского военного округа военнослужащие российских войск оказывали помощь грузинскому населению в восстановлении жилых домов, пострадавших в результате боевых действий. В частности, жителям н.п. Гори и н.п. Карели подобная помощь оказывалась 16-18 августа 2008 г. В целях обеспечения гуманитарной помощью гражданского населения г. Гори была организована доставка и выдача более 30 тонн продовольствия.

Как следует из материалов российских правоохранительных органов, в разработке и проведении операции «Чистое поле» на территории Республики Южная Осетия принимали участие высшие должностные лица Грузии: Министр обороны Д.Кезерашвили, Начальник Объединенного штаба З.Гогова, Министр внутренних дел В. Мерабишвили, Заместитель министра внутренних дел Ш.Джанашвили, Руководитель службы разведки Г. Бежуашвили, Первый заместитель министра обороны Б. Кутелия, Заместитель министра обороны Г.Мучаидзе, Начальник департамента J-5 (стратегического планирования и контроля) объединенного штаба И.Баткуашвили, Командующий сухопутными войсками З.Агладзе, Председатель департамента национальной гвардии - Д.Апциаури, Командующий миротворческими силами - М.Курашвили, Старший воинский начальник МС в зоне грузино-осетинского конфликта К.Урушадзе. В соответствии со ст. 73 Конституции Грузии, Президент Грузии является Верховным Главнокомандующим Вооруженными Силами страны.

Непосредственно на месте совершения преступления лица, причастные к совершению преступлений на территории Южной Осетии, обнаружены и задержаны не были. Вместе с тем, Российская Федерация придает большое значение тому, чтобы преступлениям в Южной Осетии была дана правовая оценка, в том числе с точки зрения международного права.

Вопросы №6,7: *Арестовывались ли в ходе боевых действий в августе 2008 г. лица, обличенные властными полномочиями Вашей или противостоящей стороной? По каким правовым основаниям они подвергались аресту? Как обращались с такими лицами и когда они были освобождены?*

Были ли лица, представляющие противостоявшую Вашей сторону, ограничены в правах после окончания боевых действий в августе 2008 г.? Какие меры предпринимались для предотвращения такой практики?

Ответ: Российскими и югоосетинскими воинскими подразделениями в ходе операции по принуждению Грузии к миру было задержано 85 грузинских граждан. Учитывая, что некоторые военнослужащие Грузии, дезертировавшие из своих подразделений, избавлялись от оружия и военного обмундирования, уничтожали личные документы, переодевались в гражданскую одежду и др., точное количество военнослужащих среди задержанных лиц установить не удалось.

Никаких противоправных мер по отношению к задержанным грузинским гражданам со стороны российских и югоосетинских военнослужащих не применялось. Все лица, как объявившие о своей принадлежности к Вооруженным Силам Грузии, так и отрицавшие свое нахождение на военной службе, содержались в равных условиях с соблюдением всех требований, определенных международным правом.

27 августа 2008 г. все задержанные граждане Грузии были переданы грузинской стороне с документальным оформлением факта передачи. Одновременно представителям российского военного командования были переданы 13 российских военнослужащих, задержанных грузинскими силовыми структурами. Обмен осуществлялся под контролем Комиссара по правам человека Совета Европы г-на Т.Хаммарберга. В ходе этой процедуры каких-либо заявлений со стороны задержанных грузин о нарушении их прав сделано не было.

Российская Федерация не располагает сведениями о фактах ограничения в правах лиц, выступавших на стороне Грузии в грузино-югоосетинском конфликте, после его окончания.

Вопрос №8: *Какие меры были предприняты Вашей или противоположной стороной для выяснения судьбы лиц, которые с 1990 г. были заявлены МККК, членами их семей или государством гражданской принадлежности как без вести пропавшие? В каких случаях эти меры были успешными? Если упомянутые меры были безрезультатными, то почему?*

Ответ: Для установления лиц без вести пропавших, а также погибших на территории Южной Осетии в результате террористических актов, организованных спецслужбами Грузии, Следственным комитетом при прокуратуре Российской Федерации был направлен запрос о правовой помощи в Генеральную прокуратуру Республики Южная Осетия.

Вопрос №9: *Какие следственные и судебные мероприятия осуществлялись правоохранительными органами Вашей стороны в отношении подконтрольных ей военнослужащих, военнослужащих противоположной стороны и членов местных вооруженных формирований, а также в отношении гражданских лиц, совершивших связанные с конфликтом преступления?*

Ответ: В связи с гибелью 13-ти и ранением 36-ти входящих в состав миротворческих формирований военнослужащих Вооруженных Сил Российской Федерации в результате неправомерного применения Грузией вооруженных сил в Республике Южная Осетия 8 августа 2008 г. военным следственным управлением Следственного комитета при прокуратуре Российской Федерации по Северо-Кавказскому военному округу возбуждено уголовное дело № 14/00/0051-08 по признакам преступления, предусмотренного п.п. «а, б, е» ч. 2 ст. 105 УК РФ (убийство двух и более лиц в связи с осуществлением ими служебной деятельности, совершенное общеопасным способом).

12 августа 2008 г. по факту гибели военнослужащих Вооруженных Сил Российской Федерации, принимавших участие в проведении миротворческой операции по принуждению Грузии к миру, военным следственным управлением Следственного комитета при прокуратуре Российской

Федерации по Северо-Кавказскому военному округу законно и обоснованно возбуждено уголовное дело № 14/00/0052-08 по признакам преступления, предусмотренного п.п. «а, б, е» ч. 2 ст. 105 УК РФ (соединено с уголовным делом № 14/00/0051-08 в одном производстве).

В настоящее время указанное уголовное дело передано для дальнейшего расследования в Главное следственное управление Следственного комитета при прокуратуре Российской Федерации.

Фактов применения российской стороной незаконных методов ведения боевых действий в ходе грузино-югоосетинского конфликта не установлено.

В период боевых действий каких-либо преступлений против мирного населения военнослужащими Вооруженных Сил Российской Федерации, других войск, воинских формирований и органов не совершалось.

Фактов совершения военнослужащими преступлений против граждан других иностранных государств, в т.ч. граждан Грузии, в органах Военной прокуратуры Российской Федерации не зарегистрировано.

Жалоб на насильственные дискриминационные меры со стороны военнослужащих Вооруженных Сил Российской Федерации, других воинских формирований России в отношении этнических грузин в зонах проведения миротворческих операций в органы российской военной прокуратуры не поступало.

В ходе прокурорских проверок фактов гибели и насильственного перемещения гражданских лиц из числа этнических грузин в результате действий российских войск военными прокурорами не получено.

Материалы надзорных мероприятий и истребованные военными прокурорами данные не подтверждают сведений об участии российских военнослужащих во внесудебных казнях граждан Грузии, разграблении их имущества, насильственном перемещении этнических грузин в лагеря для интернированных, недопущения их возвращения к местам постоянного проживания, неадекватной защиты российскими миротворцами этнических грузин, а также о нанесении авиационных, ракетных ударов и ведении огня

артиллерией по объектам социальной инфраструктуры на территории Республики Южная Осетия и Грузии.

Соответствующие следственные мероприятия в отношении членов югоосетинских вооруженных формирований, а также гражданских лиц, совершивших связанные с грузино-югоосетинским конфликтом преступления, в полном объеме осуществляются правоохранительными органами РЮО.

Командованием воинских частей, дислоцированных на территории Республики Южная Осетия в соответствии с договором от 17 сентября 2008 г. «О дружбе, сотрудничестве и взаимной помощи между Российской Федерацией и Республикой Южная Осетия» оказывается помощь правоохранительным органам Республики в поддержании правопорядка и соблюдении законности.

Кроме того, органами военного управления и воинскими должностными лицами российского воинского контингента во взаимодействии с правоохранительными органами Республики Южная Осетия на постоянной основе проводятся мероприятия по изъятию из незаконного оборота у населения огнестрельного оружия и боеприпасов (всего изъято более 50 ед. огнестрельного автоматического оружия).

В настоящее время в соответствии с договором от 17 сентября 2008 г. «О дружбе, сотрудничестве и взаимной помощи между Российской Федерацией и Республикой Южная Осетия» на территории Республики Южная Осетия дислоцируется российский воинский контингент.

Вопрос №10: *В случае нарушения подконтрольными Вашей стороне войсками или лицами норм МГП и права в области прав человека, получали ли жертвы указанных нарушений соответствующую компенсацию? Если нет, то почему?*

Фактов нарушений норм Международного гуманитарного права и права в области прав человека военнослужащими Вооруженных Сил

Российской Федерации в ходе операции по принуждению Грузии к миру не зафиксировано.

RESPONSES TO QUESTIONS POSITED BY THE EUROPEAN UNION FACT-FINDING MISSION ON THE EVENTS THAT TOOK PLACE IN THE CAUCASUS IN AUGUST 2008 (HUMANITARIAN ASPECTS)[1]

Question No. 1: *Concerning allegations of genocide, please explain who, in your view, committed genocide and if so, when. If so, please mention the facts permitting to conclude that the elements of the crime of genocide in particular, the existence of a protected group and of the intent to destroy that group in whole or in part, were present.*

Response: References made by the Russian side to acts of genocide perpetrated against the Ossetian people by the Georgian side in August 2008 should be viewed in the context of the preliminary information that was received during the first hours of the conflict and prior to it. As far as we can judge, there were indeed reasons to believe that the actions undertaken by the Georgians were aimed at exterminating fully or partially the Ossetian ethnic group as such (large-scale and indiscriminate use of heavy weapons and military equipment by the Georgian side against the civilian population of Ossetia on the night of 7 to 8 August, a proactive «anti-Ossetian» policy conducted by the Georgian government).

The Inquiry Committee appointed by the Russian Federation Prosecutor General's Office is about to finalise its investigation into the events that took place last August. Once all of the available pieces of evidence are analysed a decision will be taken with respect to a specific legal determination as well as whether it would be expedient to submit the materials of this criminal case to a court of law.

It should also be noted that Russia forwarded materials dealing with the conflict in Ossetia to the International Criminal Court Prosecutor's Office. Currently, these materials are being analysed by the ICC to ascertain whether there are any grounds to launch an inquiry, including into potential instances of

[1] Unofficial translation by the Independent International Fact-Finding Mission on the Conflict in Georgia.

genocide. We expect that this reputable international judicial body will issue an appropriate legal opinion with respect to the notorious August events.

At the same time it should also be noted that crimes committed by Georgian paramilitary forces in the territory of South Ossetia were mentioned in numerous transcripts detailing testimonies of victims and witnesses and shown on photographic materials. The foregoing materials contain detailed information proving in essence that there were instances of genocide against ethnic Ossetians and military crimes were perpetrated by the Georgian side, including violations of international norms governing the conduct of war resulting in dramatic humanitarian consequences and primarily, casualties among the civilian population and peacekeeping personnel, and destruction of residential quarters and civilian facilities.

In particular, the Inquiry Committee appointed by the Russian Federation Prosecutor General's Office established and documented the following facts:

- 162 civilian residents – nationals of South Ossetia were murdered and 255 suffered various degrees of injuries;

- 48 servicemen from the Russian Federation Armed Forces were killed including 10 who served in the Joint Peacekeeping Forces Battalion, and 162 servicemen sustained various degrees of injuries;

- The Georgian military deliberately destroyed communities in South Ossetia populated predominantly by ethnic Ossetians;

- The Georgian military deliberately and indiscriminately used heavy weapons during the shelling of residential areas and infrastructure facilities.

All in all, 5143 civilian residents were declared victims of the Georgian military action against South Ossetia.

Records of inspections conducted on location by representatives of the Inquiry Committee appointed by the Russian Federation Prosecutor General's Office show that 655 residential buildings were destroyed and torched by state-of-the-art weapons systems used by Georgia against Tskhinvali and other

communities in South Ossetia, 2139 residential buildings and facilities used predominantly by ethnic Ossetians were partially destroyed.

Significant damage was inflicted upon the Republic's civilian infrastructure – as a result, tens of thousands of lives have been disrupted. According to the EMERCOM of Russia, 29 educational institutions, 17 healthcare facilities, 10 transport infrastructure facilities, 68 km of gas pipelines, 160 km of water supply lines and 458 km of electrical power lines were destroyed.

According to the Federal Service for the Monitoring of Compliance With Legislation in the Area of Cultural Heritage Protection, the Russian National Society for the Protection of Historical and Cultural Monuments and the South Ossetian Ministry of Culture, the conflict area in Georgia and South Ossetia had 33 archaeological heritage sites (out of 62 located throughout the territory of the Republic). A random examination of historic and cultural monuments conducted on 15-18 August 2008 showed that a number of unique objects had been lost as a result of large-scale heavy-artillery shelling of South Ossetian communities by the Georgian forces. Furthermore, instances of vandalism and deliberate destruction of cultural monuments and ethnic Ossetian burial sites were attributed to the Georgian military as well.

One of the most dramatic consequences of the Georgian military operation against South Ossetia was the massive exodus of local population to the territory of the Russian Federation in search of refuge.

The premeditated nature of the action taken by the highest political and military leadership of Georgia as well as Georgian military and paramilitary units was confirmed by the following:

- Records of inspections conducted on locations, transcripts detailing testimonies of witnesses and victims as well as information made available by the General Staff of the Russian Federation Armed Forces backed by documents and electronic media captured during the peace enforcement operation in Georgia

(detailed aerial photographs of local terrain and tactical maps, military staff plans, orders and other documents).

As the foregoing materials showed, the [General] Staff of the Georgian Armed Forces had developed plans to invade the territory of South Ossetia and Abkhazia well in advance. In particular, these documents envisaged that villages populated predominantly by ethnic Ossetians were to be destroyed. Among other artillery targets such as South Ossetian law enforcement facilities and military installations, the headquarters of the Russian peacekeeping battalion and training grounds were also slated for destruction along with the Republic's House of the Government and the Tskhinvali television tower.

According to the plan, indiscriminate artillery systems were to be used during the offensive, including multiple launch rocket systems that cause massive civilian casualties when used in populated areas and inflict large-scale damage to vital civilian facilities.

The Russian Federation Chief Military Prosecutor's Office jointly with the Prosecutor General's Office of the South Ossetian Republic (SOR) also identified instances where in the course of the military operation Georgian armed forces used cluster munitions and 500 kg air-delivered bombs against the civilian population. This is prohibited by the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects dated 10 October 1980.

- According to the Russian Federal Migration Service Department in North Ossetia-Alania, more than 36 thousand ethnic Ossetians left the territory of South Ossetia between 7 and 16 August 2008 – most of them elderly people, women and children.

- An Action Plan designed to block and poison water supplies to Tskhinvali and adjacent communities during the military operation has recently been annexed to the materials of the criminal case currently under review by the Inquiry

Committee. The Plan was approved shortly before the Georgian military invasion by the alternative "Ministry of the Interior of South Ossetia" loyal to Tbilisi.

- One should also take into consideration various statements made by Russian nationals residing in South Ossetia (more than three thousand statements in total) who suffered the consequences of Georgia's unlawful use of military force, demanding that Georgia's political and military leadership be brought to justice by the International Criminal Court and the European Human Rights Court.

The foregoing facts give us reasons to believe that the Georgian side had a deliberate plan to destroy Ossetians as an ethnic group. The relatively low number of casualties is accounted for by the high degree of preparedness on the part of the Ossetian population for a potential Georgian assault, timely evacuation and the prompt military intervention by the Russian side.

Question No. 2: *Why did persons leave their places of residence between 1990 and 2008, in particular in August, September and October 2008 and what hinders them to return? How are the property rights of such persons protected? May they dispose of such property freely?*

The policies conducted by the Georgian government as well as its military operation unleashed against South Ossetia in August 2008 caused interethnic relations within its borders to deteriorate, which resulted in a massive exodus of Georgian population to the territory of the Russian Federation. Primarily, the ethnic groups in question were Ossetians, Abkhazians, Russians, Armenians, Azeris and other ethnic minorities residing in Georgia.

When these dramatic events reached a critical point in August 2008, more than 36 thousand refugees from Georgia fled to the Russian Federation where they were registered by the Russian Federal Migration Service offices. As of 12 August 2008 after the situation in the conflict area started to stabilise and the Russian Federation undertook a number of specific measures to aid South Ossetia in

reconstructing houses and social facilities destroyed during the conflict, an increasing flow of refugees has begun to return to their homes in South Ossetia. The Russian Federal Migration Service helped to organise the repatriation of 33690 South Ossetian nationals.

More than two thousand citizens of Georgia who left Abkhazia during the Georgian-Abkhazian conflict still remain in the Russian Federation.

Furthermore, territorial offices of the Russian Federal Migration Service registered 12650 persons forced to leave their homes in Georgia as a result of the ethnic conflict that took place between 1989 and 1992. They received the status of forcefully displaced persons in accordance with legislation of the Russian Federation.

Since the beginning of the conflict, 1846 persons previously residing in Georgia have arrived in the territory of 27 of the constituent entities of the Russian Federation and applied for refugee status. Throughout the foregoing period 27 Georgian nationals have been recognised as refugees and 530 have been granted temporary asylum. When applying for refugee status in the Russian Federation Georgian nationals and stateless persons cite the following reasons: fear of persecution by the Georgian authorities and extremists based on ethnic origins or political affiliations.

The Russian Federation firmly believes that the right to repatriation should be exercised voluntarily, conform to the principles of good will and human dignity and be accompanied by guarantees of security for displaced persons.

However, due to the fact that the Russian Federation severed diplomatic ties with Georgia, since 29 August 2008 the process of voluntary repatriation of Georgian nationals to their home country has become significantly more complicated since many of these people have no proof of identity. Other key factors that hamper the efforts to ensure organised repatriation of displaced persons include the remaining ethnic tensions and the situation in the "buffer zones", which continues to teeter on the brink of conflict due to the build-up of Georgian military

forces. These factors may potentially create new sources of tension along South Ossetian and Abkhazian borders.

Given the current situation, territorial offices of the Russian Federal Migration Service are forced to extend temporary residence permits for potential returnees allowing them to remain on the territory of the Russian Federation until their certificates of repatriation are duly issued.

As for predominantly ethnic Georgians who fled from South Ossetia towards Georgia, a significant number of such persons left their homes before the military operation. This fact has been recognised in particular in the report presented by the Council of Europe Commissioner for Human Rights T. Hammarberg. Our assumption is that the primary reason that drove ethnic Georgians to flee both prior to 8 August 2008 and in the following days was the initial information pointing to the fact that the Georgian side was gearing up for a military operation and then the military operation that unfolded around their places of residence. This process was not caused by any premeditated actions directed against ethnic Georgians per se.

It has been established that the return of ethnic Georgians to their homes, primarily in the Leningorsk district, has already commenced. As for their return to communities located to the North and North-East of Tskhinvali, this process has been physically hampered by the fact that a significant number of homes were destroyed during the military operation as well as by the remaining security risks.

Property rights of such displaced persons in the territory of South Ossetia are protected by South Ossetian law enforcement authorities. Russian organisations cooperating with South Ossetia have been instructed not to engage in any transactions involving real estate of dubious legal standing.

Responses provided by the Russian Federation Ministry of Defence

Question No. 3: *What targets were attacked on what day by forces not controlling the place where those targets were situated between 7 and 12 August*

2008? When those targets were situated in towns and villages, what was the evaluation of expected incidental deaths of civilians, injury to civilians or damage to civilian objects? Did the actual effects correspond to the expected effects? If not, why? What precautionary measures were taken in such attacks by the attacker and by the defender to avoid or minimise incidental deaths of civilians, injury to civilians or damage to civilian objects? Did those precautionary measures succeed? If not, why?

In the course of the entire military operation units of the Russian Federation Armed Forces acting exclusively with a view to repelling an armed attack, used tanks, APCs and small arms to fire upon clearly identified targets only, which enabled them to minimise civilian losses. These units targeted multiple launch rocket systems as well as artillery and mortar batteries, personnel and firepower of the opposing force in its staging areas.

The actual overall effect was as expected. Artillery fire and air strikes inflicted significant damage, undermined morale and brought considerable psychological pressure to bear upon the opposing forces.

During the active phase of the operation the Russian command undertook a number of effective measures aimed at minimising the damage for the civilian population and to the property of local citizens. Artillery fire and air strikes were planned and carried out in areas situated at a considerable distance from local communities against clearly identified targets only. Key artillery fire missions were completed against well-observed targets – in the process commanders of combined arms units adjusted artillery fire through spotters and artillery reconnaissance units. Local communities and civilian facilities were not fired upon. All fire would cease once Georgian units withdrew from their positions. The Russian air component acting in support of the army units on the ground delivered a number of strikes against pockets of Georgian forces, firing emplacements and columns of military

equipment en route. The Russian air component did not fly any missions in areas adjacent to or bordering on residential communities. All kill fire was monitored.

As a result of these measures civilian casualties were minimised. Furthermore, units of the Russian Federation Armed Forces helped to organise the evacuation of civilians from the conflict zone, which enabled them to significantly reduce civilian casualties in the course of the military operation.

During the operation the Russian side never used its readily available supplies of cluster munitions designed to cause casualties among enemy personnel and destroy equipment in open spaces.

At the same time, the allegations that the Georgian side used air-delivered cluster munitions are confirmed by selected fragments of such munitions found in the territory of South Ossetia as well as photographs of such fragments (and components) of the foregoing air-delivered munitions discovered near the town of Zemo-Prisi (Tskhinvali district, SOR). In the course of the Georgian-South Ossetian conflict the Georgian side used 152mm self-propelled "Dana" howitzers and RM 70 120mm multiple launch rocket systems available from its military stockpiles. These weapons systems delivered to Georgia by the Czech Republic in 2003-2007 are not classified as precision-guided (the average kill zone covered by one RM-70 MLRS salvo is 14.5 hectares).

Russian EMERCOM and MoD personnel neutralized the consequences caused by the use of such weapons by the Georgian side. Russian military units also conducted reconnaissance missions in areas of active hostilities in search of explosive remnants of war (ERW). Other sweeping missions designed to identify and eliminate ERWs were carried out at a later stage in Tskhinvali and adjacent communities, as well as in the Znaursk district and towns of Khetagurovo, Avnevi, Zemo-Prisi and Prisi.

Russian units also conducted sweeping operations to identify and eliminate ERWs in Georgia. Following a request from the local population demining operations were conducted in the following localities: Karaleti, Variani, Shindisi,

Pkhvenisi, Arashenda, Akhaldaba, Zemo-Khviti, Zemo-Nikozi, Ergneti and Tkviavi.

One of the reasons accounting for the fires and destruction in Georgian villages was the deliberate policy of arson perpetrated by the retreating Georgian Armed Forces. As a result a number of ordnances detonated including armour piercing rocket launcher rounds that had been placed and stored in advance in residential homes in a number of Georgian villages (Kekhvi, Tamarasheni, Kheita, Kurta, Eredvi, Avnevi etc.) to arm Georgian self-defence paramilitary units.

Question No 4: *What is your legal position regarding the International Humanitarian Law as to the use of Grad multiple rocket launchers and cluster munitions in armed conflict? Why were Grad Multiple rocket launchers and/or cluster munitions used and against which targets (in particular in densely populated areas)? What measures were taken to mark and clear explosive remnants of war?*

Response: Rocket artillery fire was planned and delivered against the enemy's artillery, rocket-launching and mortar batteries located away from residential communities at a distance of at least 1-1.5 km. Rocket strikes were launched exclusively outside populated communities against verified areas where Georgian army personnel, military equipment and fire power were concentrated.

Cluster munitions, though available to the strike units of the Russian Federation Air Force and designed to inflict casualties on the enemy and destroy military equipment in open spaces have never been used.

Question No 5: *In areas that your forces or adverse forces gained control over during the 2008 hostilities, what kind of groups or persons were summarily executed, raped, or ill-treated civilians and pillaged, burned or destroyed*

buildings? What measures were taken by the forces of the party controlling the area to stop and repress such violations?

Response: During the operation the Russian Federation Prosecutor General's Office closely coordinated its functions in the territory of South Ossetia with the actions of the Russian forces. As for the inquiry conducted by Russian law enforcement authorities into crimes committed by the Georgian army against the civilian population, it involved immediate investigative measures in an emergency situation. After the critical phase of the Georgian-South Ossetian conflict came to an end, law enforcement authorities of South Ossetia assumed the full range of relevant responsibilities.

According to the Inquiry Committee appointed by the Russian Federation Prosecutor General's Office no instances have been identified where servicemen of the Russian Armed Forces took part in murders, rape, inhumane treatment of civilians, looting, arson and destruction of civilian buildings.

From day one of the operation, the Russian military command undertook exhaustive measures to prevent pillaging, looting and acts of lawlessness with respect to the local Georgian population. All personnel serving in units that took part in the operation was familiarised with the Directive issued by the General Staff of the Russian Armed Forces and the order given by the Army Commander-in-Chief "to maintain public safety and ensure security and protection of citizens residing in the territory of the South Ossetian Republic".

Russian troops, jointly with South Ossetian law enforcement and military units, provided round-the-clock protection of homes and land allotments that remained undamaged in Georgian villages, at the same time ensuring safety and security of South Ossetian residents regardless of their ethnic background.

With the permission of the North-Caucasus military district command, Russian servicemen provided assistance to the Georgian population in rebuilding homes damaged as a result of hostilities. In particular, such assistance was

provided to residents of Gori and Kareli on 16-18 August 2008. In order to ensure that the civilian population of Gori received humanitarian assistance, more than 30 tons of food supplies were earmarked, delivered and distributed.

Materials collected by Russian law enforcement authorities show that the following high-ranking Georgian officials took part in developing and implementing operation "Clean field" in the territory of South Ossetia: Minister of Defence, D. Kezerashvili, Chief of Joint Staff, Z. Gogova, Minister of the Interior, V. Merabishvili, Deputy Minister of the Interior, Sh. Dzhanashvili, Head of Intelligence Service, G. Bezhuashvili, First Deputy Minister of Defence, B. Kuteliya, Deputy Minister of Defence, G. Muchaidze, Head of Joint Staff J-5 Section (strategic planning and control), I. Batkuashvili, Army Commander, Z. Agladze, Chairman of National Guard Department, D. Aptsiauri, Peacekeeping Force Commander, M. Kurashvili, Senior Military Leader of the Peacekeeping Force in the Georgian-South Ossetian conflict area, K. Urushadze. According to Article 73 of the Georgian Constitution, the President of Georgia is the Commander-in-Chief of the country's Armed Forces.

None of the persons who perpetrated crimes on the territory of South Ossetia were identified, apprehended or caught at the scene of the crime. At the same time Nevertheless, the Russian Federation believes that as a matter of paramount importance a legal opinion should be rendered with respect to crimes committed in South Ossetia, including from the perspective of International Law.

***Questions No. 6, 7**: During or following hostilities in 2008, when were persons who fell into power of your party or into the power of the adverse party arrested? On what legal basis were they arrested? How were those persons treated? Were they tried? When were they released?*

Were persons perceived as being associated with the adverse party after the end of hostilities in 2008 discriminated against and/or deprived of the enjoyment of some human rights? What measures were taken against such practices?

Response: During the operation Russian and South Ossetian military units detained 85 Georgian nationals. Taking into consideration the fact that some Georgian servicemen deserted from their units, disposed of their weapons and military uniform, destroyed their identity papers, changed into civilian clothing etc., it proved impossible to ascertain the exact number of military personnel among those detained.

No unlawful actions have been taken with respect to the detained Georgian nationals by Russian and South Ossetian military personnel. All persons including those who admitted to being members of the Georgian Armed Forces and those who denied ever having entered military service were held in detention under equal conditions in accordance with all of the requirements set out in international law.

On 27 August 2008 all Georgian nationals previously detained were handed over to the Georgian side; this process was duly documented. At the same time 13 Russian servicemen detained by Georgian military and law enforcement authorities were handed over to representatives of the Russian military command. The exchange was monitored by the Council of Europe Commissioner for Human Rights T. Hammarberg. In the course of this procedure the detained Georgian nationals lodged no complaints claiming violations of their rights.

The Russian Federation has no knowledge of any instances where rights of persons who had fought on the Georgian side were violated after the conflict ended.

***Question No. 8**: What steps did your party and the adverse party take to clarify the fate of persons reported missing since 1990 by the ICRC, their families, or by the party to which they belong? In which cases were those steps successful? If the were not, why?*

Response: To clarify the fate of missing persons as well as those who perished in the territory of South Ossetia as a result of terrorist attacks organised by Georgian intelligence services, the Inquiry Committee appointed by the Russian Federation Prosecutor General's Office submitted a request for legal assistance to the Office of Prosecutor General of the South Ossetian Republic.

Question No. 9: *What investigations and prosecutions have been launched since 1990 by your judicial authorities against members of your forces, members of adverse forces, members of local forces and against civilians in relation with crimes committed in relation to the conflict?*

Response: In relation to the death of 10 and injuries sustained by 36 servicemen of the peacekeeping contingent from the Russian Federation Armed Forces, caused by Georgia's unlawful use of military force in the South Ossetian Republic on 8 August 2008, the military crimes investigations unit in the North Caucasus military district reporting to the Inquiry Committee appointed by the Russian Federation Prosecutor General's Office, opened criminal case No. 14/00/0051-08 based on the attributes of a crime contemplated in paragraphs "a, b, e", Section 2, Article 105 of the Russian Federation Penal Code (murder of two or several persons in their line of duty using socially dangerous means).

On 12 August 2008 in relation to the death of servicemen from the Russian Federation Armed Forces who took part in the military operation, the military crimes investigation unit in the North Caucasus military district reporting to the Inquiry Committee appointed by the Russian Federation Prosecutor General's Office, acting in a lawful and reasonable manner, opened criminal case No. 14/00/0052-08 based on the attributes of a crime contemplated in paragraphs "a, b, e", Section 2, Article 105 of the Russian Federation Penal Code (integrated with criminal case No. 14/00/0051-08).

At this stage, the foregoing criminal case has been submitted for further review to the Main Investigations Directorate of the Inquiry Committee appointed by the Russian Federation Prosecutor General's Office.

No instances have been identified where the Russian side would resort to unlawful methods of conduct of war in the course of the Georgian-South Ossetian conflict.

During the hostilities, no crimes were perpetrated against civilians by any military personnel, other troops, military units or authorities of the Russian Federation.

The Russian Federation Military Prosecutor's Office identified no instances where [Russian] military personnel were involved in crimes against citizens of other countries including Georgia.

The Russian Military Prosecutor's Office received no complaints of violent discriminatory actions on the part of Russian Federation military personnel or other Russian military units directed against ethnic Georgians in the operational area.

Control and monitoring materials as well as data requested by military prosecutors did not substantiate the allegations claiming that Russian servicemen carried out extra-judicial executions of Georgian nationals, that their property had been pillaged, that ethnic Georgians had been forcefully displaced into detention camps, that they had been denied the right to return to their homes, that Russian military personnel had failed to adequately protect ethnic Georgians, as well as that air/rocket strikes and artillery fire had been directed against social infrastructure facilities in the territory of South Ossetia and Georgia.

The relevant investigative actions with respect to members of South Ossetian paramilitary units as well as civilians who committed crimes related to the military conflict, are being fully undertaken by South Ossetian law enforcement authorities.

Question 10: *If forces or persons under your control, committed any violation(s) of International Humanitarian Law or Human Rights, did the victims of those violations obtain reparation? Were other measures of restorative justice adopted? If not why? How could the victims obtain such reparations?*

During the peace enforcement operation against Georgia no instances have been identified where norms of International Humanitarian Law or Human Rights were violated by military personnel of the Russian Federation Armed Forces.

Humanitarian Law and Human Rights – additional questions

Additional Questions to the Government of the Russian Federation, related to humanitarian issues

To the representatives of the Ministry of Defence:

1. With regard to persons detained by other parties than Russia in the course of the conflict and its aftermath in South Ossetia, notably in Tskhinvali, could you please indicate whether Russian forces were present in facilities where persons were detained?

2. Could you please indicate why certain checkpoints and roadblocks set up by the Russian armed forces on 13 August 2008 in the so-called buffer zone adjacent to the administrative boundary of South Ossetia were removed a week later?

3. Could you please provide the Fact-Finding Mission with the location, time and circumstances of the alleged attacks against the "buildings of medical units and transport facilities of the Medical service" of the Russian peacekeepers (p. 23 of the Report "Ossetian Tragedy: Evidence Photography")?

4. Could you kindly provide the Fact-Finding Mission with a list of the Russian peacekeepers, who died in South Ossetia as a result of operations of the Georgian armed forces on 7-12 August 2008, including their names, date of birth, addresses as well as exact time, locations and circumstances of their demise.

5. If available, could you please provide the Fact-Finding Mission with a list of South Ossetian militiamen, including their names, dates of birth, addresses etc., who died as a result of the conflict?

To the representatives of the Prosecutor's Office:

6. According to the data provided to the Fact-Finding Mission, 162 South Ossetian civilians were killed as a result of the conflict. Could you please provide disaggregated information about this number such as the number of children, women, elderly or men among those who were killed?

7. With regard to damage caused to civilian objects, including residential buildings, houses, and apartments, given existing reports on the use by South Ossetian militiamen of certain objects as firing positions and defensive positions, could you please indicate whether the presence of militiamen was established by the Prosecutor's Office at the time those objects were fired at ?

8. Given the fact that there were reports about ongoing violations of human rights in September 2008 in South Ossetia and that some alleged crimes such as looting occurred against South Ossetians, some who may have had the Russian nationality, could you please indicate why the Investigative Committee of the Prosecutor's Office ceased its investigation in mid September 2008?

9. Among the approximately 80 criminal cases being currently pending and being dealt with by the South Ossetian authorities, as mentioned in the meeting with the Fact-Finding Mission on 29 July, could you please indicate, if available, how many cases relate to the conduct by South Ossetian forces?

10. Due to the extensive investigative means used by the Prosecutor's Office in South Ossetia that may consequently have allowed the Investigative Committee to come across information and evidence on crimes committed against non Russian nationals in the course of its work, could you please indicate what type, if any, of coordination with South Ossetian authorities was in place to

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ensure that such information is appropriately transmitted to the relevant authorities for further investigation?

To the relevant authorities:

11. Could please provide more information on the reconstruction programme for loss of property as a result of the conflict and its aftermath carried out in South Ossetia with Russian funding? Information includes who is eligible to benefit from such a programme.

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*South Osseti*a

- View on the conflict and chronology
- Military aspects – questions and answers
- Humanitarian Law and Human Rights - questions

View on the conflict and chronology

Возникновение современного грузино-осетинского конфликта, завершившегося вооруженной агрессией Грузии против Республики Южная Осетия в августе 2008 года, было обусловлено событиями конца 80-х годов XX века. В этот период, когда на фоне неспособности высшего руководства СССР остановить центробежные процессы, которые в конечном итоге привели к окончательному распаду СССР, в союзных республиках активизировались националистические движения за независимость от центральной власти. В Грузии этот процесс возглавил радикальный националист З.Гамсахурдия, который первым провозгласил лозунг «Грузия для грузин», ставший основой государственной политики Грузии в отношении ее автономий. Разумеется, в таких условиях нахождение Южной Осетии в составе «независимого грузинского государства» стало абсолютно невозможным.

Решив выйти из состава СССР, Грузия отказала Южной Осетии и Абхазии в праве выйти из Грузии, несмотря на то, что это право гарантировалось принятым в 1990 году Законом СССР «О порядке разрешения вопросов, связанных с выходом союзной республики из Союза ССР» так же и для автономных образований, находившихся в составе бывших союзных республик. В 1991 году Грузия провозгласила свою независимость, а Южная Осетия, воспользовавшись своим конституционным правом, после проведенного 17 марта 1991 года референдума осталась в составе СССР.

К этому времени политическая борьба уже переросла в открытую вооруженную агрессию Грузии против народа Южной Осетии, в результате которой с юго-осетинской стороны погибли и пропали без вести более 1 тыс. человек, около 2,5 тыс.человек получили различные ранения, в Северную Осетию прибыло около 55 тыс. беженцев из Южной Осетии, около 120 тыс. осетин, проживавших ранее в различных регионах Грузии, так же вынуждены были стать беженцами.

Государственный переворот в Грузии в начале 1992 года и начавшаяся там гражданская война несколько ослабили интенсивность военных действий против Южной Осетии, однако весной 1992 года грузино-осетинский конфликт вновь резко обострился. Город Цхинвал был полностью блокирован. В военных действиях против Южной Осетии уже участвовали не только грузинские неформальные вооруженные формирования и криминальные бандгруппы, но и подразделения МВД и регулярной армии Грузии. На территории Юной Осетии было сожжено и разрушено более 100 осетинских населенных пунктов. Под давлением России Грузия согласилась на переговоры, которые закончились 24 июня 1992 года подписанием Дагомысского соглашения о принципах урегулирования грузино-осетинского конфликта. Дагомысские соглашения предусматривали создание специального органа для урегулирования конфликта — Смешанной контрольной комиссии (СКК) из представителей четырёх сторон — Грузии, Южной Осетии, России и Северной Осетии при участии ОБСЕ. 14 июля 1992 года, после ввода в зону конфликта Смешанных сил по поддержанию мира (ССПМ) в составе трёх батальонов — российского, грузинского и осетинского, - боевые действия были прекращены.

С этого времени Республика Южная Осетия, на которую с 1990 года фактически не распространялась юрисдикция Грузии, находилась в статусе независимого и суверенного государства.

Несмотря на воинственную риторику, постоянно исходившую в адрес Южной Осетии от первых лиц официального Тбилиси, Южная Осетия продолжала участвовать в переговорном процессе в международно признанном формате СКК, а эффективность трехсторонней миротворческой операции признавалась даже грузинской стороной.

Новая эскалация грузино-осетинского конфликта и резкое ухудшение отношений между Южной Осетией и Грузией произошло в начале 2004 года и связано с приходом к власти в Грузии М.Саакашвили, объявившего о своих планах любой ценой включить территорию Республики Южная Осетия в состав Грузии. Политический курс, избранный грузинским руководством, привел к непрерывному нагнетанию грузинской стороной напряженности в зоне конфликта и, в конце концов, открытой военной агрессии Грузии против Республики Южная Осетия в июле 2004 года, в результате которой грузинские войска, пытавшиеся занять стратегические высоты вокруг Цхинвала, понесли ощутимые потери и в конце августа 2004 года отступили. Считаем необходимым отметить, что исключительно оборонительные военные действия, которые тогда вела Южная Осетия, осуществлялись без какой-либо военной помощи со стороны других государств, в том числе России. При этом российские миротворческие подразделения, присутствовавшие в зоне конфликта, в боевых действиях не участвовали, однако в соответствии с требованиями своего мандата пытались осуществить разведение сторон в военном конфликте и обеспечивали безопасность населения.

После безуспешной попытки военной агрессии против Южной Осетии летом 2004 года, к началу 2006 года в Грузии был разработан новый план по захвату территории Южной Осетии, получивший название «Бросок тигра». Этот план предусматривал проведение нескольких резонансных провокаций против грузинского населения Южной Осетии и миротворцев, многочисленные жертвы среди которых могли бы стать поводом для развязывания новой полномасштабной военной агрессии против Южной Осетии, намеченной этим планом на май 2006 года. В соответствии с этим планом на осуществление захвата всех населенных пунктов Республики Южная Осетия и полное блокирование Рокского тоннеля грузинским войскам отводилось 7 суток. Однако этот план не был приведен в действие, поскольку обученность и оснащенность грузинской армии на тот момент была признана ее высшим командованием недостаточной.

С этого времени начинается период беспрецедентной милитаризации Грузии, руководство которой провозгласило курс на скорейшее вступление в НАТО. Грузинское руководство демонстративно увеличивало военный бюджет, в котором расходы на импорт вооружений к 2008 году достигли астрономической для Грузии суммы в $1млрд. Грузия активно закупала наступательное вооружение в США и странах Европы, являющихся не только членами Европейского Союза, но и участниками ОБСЕ, миссия которой выполняла функции посредника в процессе политического урегулирования грузино-осетинского конфликта. В число поставщиков оружия в Грузию входили США, Англия, Франция, Греция, Турция, Израиль, Литва, Эстония, Украина, Сербия и др.

18 июля 2006 года Парламент Грузии принял постановление о прекращении миротворческих операций в зонах грузино-осетинского и грузино-абхазского конфликтов и выводе российских миротворческих подразделений с

территории конфликтных зон. Практическим результатом этого постановления стал выход грузинского миротворческого батальона из состава СПМ и подчинения Объединенному Командованию СПМ. Командование и управление грузинскими миротворцами было возложено непосредственно на Министерство обороны Грузии.

В Грузии перестали скрывать, что обучение и подготовка армии этого государства производились военными инструкторами из США и Израиля по методикам, разработанным в ходе военных действий в бывшей Югославии, и направлены не на оборону, а на осуществление оккупации территорий соседних государств и разрешении конфликтов силовым способом.

Необходимо отметить, что к началу 2008 года военное руководство Грузии располагало подробными спутниковыми картами территории предполагаемого театра военных действий в Южной Осетии и Абхазии, составление которых исключает его собственные возможности. В нарушение подписанных ранее договоренностей грузинская сторона в течение нескольких лет производила ротацию своего миротворческого контингента не раз в полгода, а через каждые 2-3 месяца, успев таким образом к лету 2008 года ознакомить с будущим театром военных действий практически все подразделения 4 пехотной бригады, являвшейся ударной основой военной группировки, атаковавшей Цхинвал 7 августа.

28 января 2008 года Президент Республики Южная Осетия Эдуард Кокойты направил Президенту Грузии Михаилу Саакашвили официальное предложение о встрече между сторонами в конфликте в международном формате с участием Действующего Председателя ОБСЕ с подписанием сторонами обязательств по неприменению военной силы в урегулировании грузино-осетинского конфликта. Эта инициатива и ранее неоднократно предлагалась к рассмотрению грузинскому руководству, однако демонстративно им игнорировалась. 15 марта 2008 года Президент Саакашвили официально отказался от такой встречи и заявил, что Грузия не намерена брать на себя обязательства по неприменению силы, еще раз подтвердив, что силовой вариант разрешения грузино-осетинского конфликта в пользу Грузии был для ее руководства единственно возможным. Достаточно показательно, что это заявление прозвучало в его выступлении перед военнослужащими Горийской военной базы, построенной в 30 километрах от города Цхинвал.

4 марта 2008 года грузинская сторона официально заявила о своем выходе из четырехстороннего переговорного процесса при участии ОБСЕ, и это была далеко не первая ее попытка денонсировать Дагомысские соглашения 1992 года, блокировать переговорный процесс и упразднить юридические основания для миротворческой операции. Этим целям служило и упразднение в Грузии должности государственного министра по урегулированию конфликтов и учреждение новой должности «министра по реинтеграции Грузии».

Тем временем, ситуация в зоне конфликта быстро накалялась, и к началу лета 2008 года была намеренно доведена грузинской стороной до своего пика. На фоне устраиваемых грузинскими властями политических провокаций, как, например, срыв визита аккредитованных в Грузии послов иностранных государств в Южную Осетию в апреле 2008 года, в Цхинвале и некоторых прилегающих к территории Грузии населенных пунктах Южной Осетии грузинскими спецслужбами был совершен ряд террористических актов, в результате которых погибли мирные граждане Южной Осетии и России. Грузия демонстративно

готовила военные плацдармы для нападения на Республику Южная Осетия и наращивала свое военное присутствие в зоне конфликта не только на своей территории и приграничных регионах, но и на территории Южной Осетии, в районах компактного проживания грузинского населения, перебрасывая туда вооружение и живую силу по проведенным заранее объездным дорогам.

К сожалению, неоднократные обращения Южной Осетии к мировому сообществу и международным организациям и структурам с призывами остановить эскалацию напряженности и снизить степень исходящей из Грузии угрозы остались без внимания.

Во второй половине июля 2008 года на территории Грузии были проведены совместные военные учения Грузии и США «Немедленный ответ», на которых отрабатывалась тактика военных действий против Южной Осетии. Подразделения грузинской армии, участвовавшие в учениях, после их окончания были переброшены к границам Республики Южная Осетия. Одновременно с этим власти Грузии осуществляли массовую эвакуацию грузинского населения с предполагаемой территории боевых действий.

Серьезное внимание, обращенное к дальнейшей хронологии событий, имеет принципиальное значение для установления фактов, имеющих прямое отношение к началу штурма города Цхинвал и развязыванию Грузией полномасштабной военной агрессии против Республики Южная Осетия.

Ночью 3 июля 2008 года жилые кварталы в южной части Цхинвала были подвергнуты массированному обстрелу из минометов, гранатометов и стрелкового оружия. Обстрел велся со стороны грузинского села Никози и прилегающей к Цхинвалу территории Грузии. Ранения получили несколько мирных жителей Цхинвала, имелись погибшие.

В ночь с 1 на 2 августа 2008 года со стороны Грузии из снайперского оружия было обстреляно несколько постов правоохранительных органов Южной Осетии, а жилые кварталы Цхинвала вновь подверглись обстрелу. Погибли еще 6 человек.
До 7 августа включительно приграничные с Грузией территории Южной Осетии и расположенные на них населенные пункты подвергались огневой атаке с применением не только стрелкового вооружения, но и бронетехники и артиллерийских систем большого калибра.

Намеченная на 7 августа экстренная встреча Сопредседателей СКК оказалась сорванной в результате отказа грузинской стороны от встречи с Сопредседателем СКК от России Послом Ю.Поповым, срочно прибывшим в Цхинвал.

Около 14.30 7 августа грузинские офицеры миротворческого батальона покинули расположение штаба Объединенного командования ССПМ в Городе Цхинвал, а военные наблюдатели от Грузии, находившиеся на совместных наблюдательных пунктах в зоне конфликта, без каких-либо объяснений оставили свои посты.

В 20.00 7 августа грузинские телеканалы транслировали обращение президента Саакашвили к народу Южной Осетии, в котором он объявил о безусловном

прекращении грузинской стороной огня и обязательствах неприменения военной силы для разрешения грузино-осетинского конфликта.

В 23.30 7 августа город Цхинвал подвергся массированному обстрелу из крупнокалиберной артиллерии и ракетных систем залпового огня (РСЗО) «Град». Незадолго до этого командующему ССПМ генералу Кулахметову по телефону из Тбилиси сообщили об отмене перемирия, начале армейской операции и предложении не вмешиваться в военные действия.
Первые снаряды разорвались в центре города Цхинвал и в расположении Объединенного Командования и Штаба ССПМ на ул.Миротворцев. В т.н. «Верхнем городке», в котором располагались основные подразделения российских миротворцев, погибли 11 российских военнослужащих, несколько десятков было ранено.

В 00.30 8 августа командующий грузинским миротворческим батальоном генерал Курашвили в эфире телекомпании «Рустави 2» сообщил о начале военной операции Грузии «по установлению конституционного порядка» в Южной Осетии.

В 01.40 8 августа колонна российской военной техники начала движение от города Алагир РСО-Алании в сторону пограничного пункта «Нижний Зарамаг» и Рокского тоннеля.

В 02.15 8 августа после интенсивной артиллерийской подготовки на территорию Южной Осетии вошли грузинские бронетанковые подразделения, двинувшиеся в направлении Цхинвала и населенных пунктов Знаурского и Цхинвальского районов Южной Осетии. Их продвижение транслировалось корреспондентами грузинских телеканалов в прямом эфире.

В 03.40 8 августа Грузия предприняла первый штурм Цхинвала, осуществленный бронетанковыми подразделениями и пехотой.

К 6 часам утра 8 августа МВД Грузии по телевидению распространило информацию о взятии под полный контроль осетинских сел Мугут, Дидмуха и Дменис, а также южных окраин города Цхинвал.

В 08.20 8 августа грузинская авиация нанесла ракетно-бомбовый удар по городу Цхинвал и населенному пункту Дзау, в котором находилось большое количество покинувших Цхинвал беженцев. В городе Цхинвал в это время шли уличные бои, грузинская сторона понесла первые серьезные потери в бронетехнике и живой силе. Тем не менее, грузинские телеканалы транслировали кадры, на которых грузинская бронетехника и пехота передвигались по улицам Цхинвала, а официальные лица Грузии, в числе которых министр по реинтеграции Т.Якобашвили и министр внутренних дел В.Мерабишвили заявляли, что «грузинская армия контролирует в Цхинвале каждый куст».

В 11.40 8 августа президент Грузии М.Саакашвили обвинил Россию в широкомасштабной военной агрессии и призвал мировое сообщество «спасти Грузию».

05.30 9 августа к окраинам Цхинвала прорвались первые подразделения российской 58-й армии и 76-й Псковской воздушно-десантной дивизии. Днем 9 августа подразделения 135-го мотострелкового полка предприняли попытку вывести из-под огня заблокированных в военном городке российских миротворцев, однако натолкнулись на грузинскую танковую и пехотную группировку. В этом бою были ранены командующий 58-й армией генерал Хрулев и несколько российских журналистов.

Дальнейшая хронология событий хорошо известна, в том числе и из грузинских источников. Однако считаем настоятельно необходимым обратить внимание на два документально подтвержденных факта:

1. Подразделения Вооруженных Сил России вошли на территорию Республики Южная Осетия после того, как город Цхинвал и окружающие его стратегические высоты подверглись массированному артиллерийскому удару с территории Грузии, а грузинские войска вошли на южные окраины Цхинвала.

2. Первые заявления грузинской стороны о «российской военной агрессии в отношении Грузии» прозвучали не до начала армейской операции против Южной Осетии, а после того, как грузинская армия предприняла несколько неудачных попыток штурма города Цхинвал, заняла и уничтожила несколько населенных пунктов на территории Южной Осетии.

3. В военно-стратегическом плане артиллерийский удар по Цхинвалу, последующий за ним штурм города и близлежащих населенных пунктов Южной Осетии, которые Грузия осуществила первой, а также множество жертв среди мирного осетинского населения никоим образом не могут быть оправданы какой-либо угрозой для Грузии со стороны Российской армии, подразделения которой могли войти в зону боевых действий только по ТрансКавказской автомагистрали со стороны Республики Северная Осетия-Алания .

The evolution of the modern-day Georgian-Ossetian conflict, which culminated in Georgia's armed aggression against the Republic of South Ossetia in August 2008, was predicated on a number of events that took place in the late 1980s[1]. During that period, characterised by the Soviet highest leadership's inability to put an end to a number of centrifugal processes that ultimately brought about the irrevocable collapse of the former Soviet Union, various nationalist movements striving for independence from the central government gained traction in selected republics of the Union. In Georgia this process was heralded by the emergence of a radical nationalist named Z. Gamsakhurdia who was the first to proclaim the "Georgia for Georgians" agenda, which became the cornerstone of Georgia's subsequent state policy vis-à-vis its autonomous regions. It goes without saying that it was absolutely impossible for South Ossetia to remain a constituent entity of the "independent Georgian state" against such a backdrop.

Having decided to pursue the course of secession from the USSR, Georgia rejected South Ossetia's and Abkhazia's right to secede from Georgia despite the fact that this right was guaranteed in accordance with the Law adopted by the USSR in 1990 on "Procedures governing the resolution of disputes related to secession of republics from the Union of Soviet Socialist Republics", which also applied to autonomous entities that used to form part of the former Soviet republics. In 1991 Georgia proclaimed its independence and South Ossetia resorted to its constitutional right following a referendum held on 17 March 1991 and chose to remain a part of the Soviet Union.

By this time political struggle gave way to Georgia's unabashed military aggression against the population of South Ossetia. As a result more than one thousand people were declared missing or dead, around 2.5 thousand were wounded, 55 thousand refugees fled from South Ossetia to North Ossetia, and around 120 thousand ethnic Ossetians who had been residing in different regions of Georgia were forced to leave their homes.

The coup d'état that took place in Georgia in early 1992 and the ensuing civil war somewhat diminished the intensity of military operations against South Ossetia, however, in spring 1992 the Georgian-Ossetian conflict rapidly deteriorated. The city of Tskhinvali found itself completely blockaded. At this stage it was not only the informal Georgian paramilitary units and criminal gangs who took part in the hostilities directed against South Ossetia but also troops from the Georgian Ministry of the Interior and regular military forces. More than 100 ethnic Ossetian settlements were razed and destroyed in the territory of South Ossetia. Yielding to the pressure from Russia Georgia agreed to engage in negotiations, which resulted in the signing of the Dagomys agreements governing the principles of Georgian-Ossetian conflict resolution on 24 June 1994. These agreements stipulated that a Joint Control Commission (JCC) – a special body called upon to settle the Georgian-Ossetian conflict – be set up by the four parties, namely Georgia, South Ossetia, Russia and North Ossetia with the participation of the OSCE. On 14 July 1992 after the Joint Peacekeeping Forces (JPKF) consisting of three battalions from Russia, Georgia and Ossetia respectively, were deployed in the conflict area, hostilities came to an end.

Since that point in time the Republic of South Ossetia, which as of 1990 de facto seceded from the Georgian jurisdiction, obtained the status of an independent and sovereign state.

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[1] Unofficial translation by the Independent International Fact-Finding Mission on the Conflict in Georgia.

Despite the belligerent rhetoric constantly resorted to by high-ranking Tbilisi officials and directed at South Ossetia, the Republic continued to take part in the negotiations held in the internationally recognised format of JCC and the efficient efforts of the trilateral peacekeeping operation were acknowledged even by Georgia.

In early 2004 the Georgian-Ossetian conflict escalated again and the relations between South Ossetia and Georgia deteriorated further after M. Saakashvili came to power in Georgia and declared that he planned to integrate the territory of South Ossetia into Georgia at any cost. The political course chosen by the Georgian government brought about increased tensions in the conflict area and ultimately culminated in Georgia's military aggression against the Republic of South Ossetia in July 2004. During this campaign Georgian troops attempted to occupy elevations strategically located around Tskhinvali, sustained significant casualties and retreated in late August 2004. We believe it should also be noted that the exclusively defensive campaign was conducted at that time by South Ossetia without any outside military assistance, not even from Russia. The Russian peacekeeping units that maintained presence in the conflict area never took part in the military operation, however, they tried to separate the parties engaged in the conflict and ensure safety and security of the local population in accordance with their mandate.

After the failed military attack of 2004 directed against South Ossetia in early 2006 Georgia developed a new plan entitled "Tiger's Leap" designed to recapture the territory of South Ossetia. This plan envisaged a number of large-scale provocations against the Georgian population of South Ossetia and the peacekeepers - the potentially high casualties among them would provide the excuse to unleash a new full-scale military aggression against South Ossetia, slated to take place in May 2006. According to the plan, Georgian forces were given seven days to capture all cities and towns in the Republic of South Ossetia and to complete their blockade of the Roki tunnel. However, this plan never materialised since the Georgian army's level of preparedness as well as its equipment were deemed insufficient by the country's high command.

This turn of events heralded a period of Georgia's unprecedented militarisation. The country's government proclaimed its aspirations to join NATO within shortest possible timelines. Georgian authorities demonstratively augmented the military budget – by 2008 the imports of weapons reached 1 billion dollars – an astronomical amount by Georgia's standards. The country continued to proactively procure offensive weapons in the United States and other EU and OSCE member countries. Ironically, it was the OSCE mission that acted as a mediator during the Georgian-Ossetian conflict resolution. The list of countries that shipped weapons systems to Georgia included the United States, United Kingdom, France, Greece, Turkey, Israel, Lithuania, Estonia, Ukraine, Serbia and others.

On 18 July 2006 Georgia's Parliament adopted a resolution terminating the peacekeeping operations underway in the Georgian-Ossetian and Georgian-Abkhazian conflict areas and mandating the withdrawal of the Russian peacekeeping units from the respective conflict areas. In practice, this resolution resulted in the Georgian battalion's withdrawal from the JPKF and the relevant JPKF Command structures. The Georgian Ministry of Defence was tasked to exercise command and control of the Georgian peacekeepers.

In Georgia it was no longer a secret that the country's armed forces were being trained by military instructors from the United States and Israel based on methodologies developed during the military operation in the former Yugoslavia, which were not

defensive in nature but rather envisaged occupation of territories in neighbouring states and resolution of conflicts through the use of military force.

It should also be noted that by early 2008 the military leadership of Georgia was in the possession of detailed satellite maps depicting the territory of the proposed theatre of operations in South Ossetia and Abkhazia. Georgia was unable to produce such maps using its own limited resources. In violation of previous agreements the Georgian side continued several years in a row to rotate its peacekeeping contingent every 2-3 months instead of twice a year. In so doing, by summer 2008 they managed to familiarise virtually all units from the 4th infantry brigade with the future theatre of operations. Later on this brigade spearheaded the attack launched against Tskhinvali on 7 August.

On 28 January 2008 President Kokoity of South Ossetia sent an official letter to President Saakashvili of Georgia proposing that a joint meeting be organised between the conflict parties in an international format with the Acting OSCE Chairman in attendance with a view to ensuring that both parties would sign an agreement banning any use of force and paving a way to resolving the Georgian-Ossetian conflict. This initiative had been proposed on a number of occasions prior to that however, the Georgian government chose to demonstratively ignore it. On 15 March 2008 President Saakashvili officially rejected the idea of holding such a meeting. He stated that Georgia had no intention of assuming any obligations that would rule out the use of force and reiterated that the military solution to the Georgian-Ossetian conflict in favour of Georgia was viewed by its government as the only viable option. The fact that this statement was made during his address delivered in front of the personnel stationed at the military base in Gori built some 30 kilometres from Tskhinvali, speaks for itself.

On 4 March 2008 the Georgian side officially announced their withdrawal from the quadrilateral negotiations process brokered by the OSCE. This was in no way the first time when Georgia attempted to denounce the Dagomys agreements of 1992, block the negotiations process and eliminate the legal basis for the peacekeeping operation. The fact that Georgia abolished the office of the state minister responsible for conflict resolution and introduced the new office of "Minister of Georgia's Reintegration" also served the same purpose.

In the meantime the situation in the conflict area continued to rapidly deteriorate and by early summer 2008 it was deliberately brought to the boiling point by the Georgian side. Against the backdrop of political provocations orchestrated by Georgian authorities, for example a visit by foreign ambassadors accredited in Georgia to South Ossetia slated to take place in April 2008 was disrupted. Georgian intelligence services committed a number of terrorist attacks in Tskhinvali and several South Ossetian settlements adjacent to the Georgian territory that resulted in civilian casualties – mostly citizens of South Ossetia and Russia. Georgia demonstratively continued to prepare military bridgeheads to facilitate an attack against the Republic of South Ossetia and build up its military presence in the conflict area not only inside its own border areas but also in the territory of South Ossetia and in areas predominantly populated by ethnic Georgians by redeploying weapons and personnel via previously laid bypass roads.

Regrettably, South Ossetia's frequent appeals addressed to the international community as well as international organisations and structures to put an end to the escalation of tensions and reduce the level of threat emanating from Georgia, would fall on deaf ears.

In late July a joint US-Georgian military exercise entitled "Immediate Response" was held in the territory of Georgia. The exercise was designed to test the tactics of

running a military operation against South Ossetia. The Georgian army units that took part in the exercise were redeployed towards the South Ossetia border following the completion of the exercise. At the same time the Georgian government continued to evacuate ethnic Georgian population on a massive scale from the future area of hostilities.

The following chronological sequence of events merits special attention since it plays a key role in ascertaining the facts directly related to the beginning of a military operation launched to take the city of Tskhinvali by force and the full-scale military aggression unleashed by Georgia against the Republic of South Ossetia.

On 3 July 2008 residential areas located in the southern part of Tskhinvali encountered fire from mortars, grenade launchers and small arms. The fire was opened from the Georgian village of Nikosi and the Georgian territory adjacent to Tskhinvali. Several civilians in Tskhinvali were wounded, some were killed.

On the night of 1 to 2 August 2008 the Georgian side opened sniper fire targeting several law enforcement checkpoints in South Ossetia. Several residential quarters in Tskhinvali were again fired upon resulting in six more deaths. Prior to and on August the 7th territories of South Ossetia located near the border and several local settlements situated in this area were again fire upon. This time in addition to small arms the other side also employed armoured vehicles and large-calibre artillery systems.

The extraordinary meeting of JCC Co-Chairmen slated to take place on 7 August was ultimately disrupted by the refusal of the Georgian side to meet the JCC Co-Chairman from Russia Ambassador Yu. Popov, who had to urgently travel to Tskhinvali.

On 7 August at around 14:30 officers from the Georgian peacekeeping battalion left the JPKF Command Headquarters in Tskhinvali and military observers from Georgia stationed at the joint monitoring points in the conflict area left their posts without any explanation.

On 7 August at 20:00 Georgian television stations broadcasted President Saakashvili's address to the people of South Ossetia during which he declared that the Georgian side would unconditionally cease fire and assume the obligation not to resort to military force to resolve the Georgian-Ossetian conflict.

On 7 August at 23:00 a massive artillery strike and "Grad"[2] fire were unleashed against Tskhinvali. Shortly before the JPKF Commander General Kulakhmetov had received a telephone call from Tbilisi informing him that the previously brokered truce was suspended and that an army operation would ensue immediately. He was also advised not to interfere with the hostilities.

The first shells exploded in the centre of Tskhinvali and near the Joint Command and JPKF Headquarters located along Mirotvortsev Street. As a result 11 Russian servicemen

[2] Multiple launch rocket systems «Grad»

were killed and several dozens wounded in the so-called "Upper town" hosting the bulk of Russian peacekeeping units.

On 8 August at 00:30 the commander of the Georgian peacekeeping battalion general Kurashvili stated in an interview aired by the TV station "Rustavi 2" that a military operation had been launched by Georgia to "restore constitutional order" in South Ossetia.

On 8 August at 01:40 a convoy of Russian military vehicles moved out from the town of Alagir located in the Republic of North Ossetia-Alania and proceeded towards the "Lower Zaramag" border checkpoint and then to the Roki tunnel.

On 8 August at 02:15 following intensive artillery shelling Georgian armour units entered the territory of South Ossetia and headed in the direction of Tskhinvali and other settlements located in the Znaur and Tskhinvali districts of South Ossetia. Their movements were covered live on Georgian television.

On 8 August at 03:40 Georgia undertook the first attempt to take Tskhinvali by storm sending in armour and infantry units.

By six o'clock in the morning on 8 August the Georgian Ministry of the Interior reported on television that the Ossetian villages of Mugut, Didmukha and Dmenis as well as southern outskirts of Tskhinvali were under their total control.

On 8 August at 8:20 the Georgian air force launched a rocket strike and bombarded Tskhinvali and Dzau – a locality that hosted a large number of refugees fleeing from Tskhinvali. In the meantime street fighting ensued in Tskhinvali. The Georgian side sustained its first serious losses in military equipment and personnel. Regardless of that, Georgian television channels continued to broadcast pictures of Georgian armoured vehicles and infantry marching through the streets of Tskhinvali and Georgian officials including the Minister for Reintegration T. Yakobashvili and Minister of the Interior V. Merabishvili stated that "the Georgian army was in control of every single bush in Tskhinvali".

On 8 August at 11:30 president M. Saakashvili of Georgia accused Russia of perpetrating a large-scale military aggression and called upon the international community to "save Georgia".

On 9 August at 05:30 the first units of the 58th Russian army and the 76th Pskov-based airborne division fought through to reach the outskirts of Tskhinvali. In the afternoon of the same day units of the 135th motorised rifle regiment attempted to extract the Russian peacekeepers from the military base, which was at the time under fire, however, they ran into a group of Georgian armour and infantry units. General Khrulev who was in command of the 58th Army and a number of Russian journalists were wounded in this battle.

The subsequent chain of events and their chronological sequence have been covered at length by various sources including those in Georgia. However, we believe it imperative to draw your attention to two well-documented facts:

1. Units of the Russian Armed Forces entered the territory of the South Ossetian Republic after the city of Tskhinvali and the adjacent strategic elevations were subjected to a massive artillery fire launched from the Georgian territory and after the Georgian troops entered the southern outskirts of Tskhinvali.

2. The initial statements as to the "Russian military aggression against Georgia" were made by the Georgian side not before the military operation against South Ossetia but rather after the Georgian armed forces undertook several failed attempts to take Tskhinvali by storm and proceeded to occupy and destroy several residential settlements in the territory of South Ossetia.

3. Militarily and strategically, the artillery strike against Tskhinvali and the subsequent operation to storm the city and the neighbouring villages in South Ossetia, which Georgia launched the first, as well as numerous ethnic Ossetian civilian casualties cannot be justified by any threat to Georgia from the Russian Armed Forces whose units could only enter the area of hostilities through the Transcaucasian arterial highway from the Republic of North Ossetia-Alania.

Military aspects – questions and answers

First set of questions to the South Ossetian authorities, related to military issues

1. There have been various accounts of the chronology of the conflict in August 2008. What is your understanding of the order in which events took place in the zone of conflict?
2. Did the South Ossetian side respect in August 2008 provisions of the Sochi Agreement of 1992 and other relevant documents/protocols? If not, why?
3. In August 2008, did the South Ossetian forces cross the existing cease-fire lines with the Georgian side, established by the Sochi Agreement of 1992 and other relevant documents/protocols? Did the South Ossetian forces cross at any point the administrative boundaries of the territory into the Georgian side? If so, where, when and why?
4. What type of combat missions did the South Ossetian forces and militia undertake against the Georgian side during the conflict?
5. What types of units were used and how many troops were deployed in general and for particular operations?
6. What were the organization and the chain of command and control of the South Ossetian forces?
7. What were the levels of decision-making for the choice of targets and assets engaged?
8. What was the level of cooperation and means of command and control between the South Ossetian forces and the Joint Peacekeeping Forces and the armed forces of the Russian Federation? In such cooperation, how were orders prepared and issued?
9. What training on the International Law of Armed Conflict had been given to troops involved in the operations? What plans were made for the protection of civilians before military operations began? What did the South Ossetian forces do in order to prevent human rights violations, including looting, burning of houses etc., during the hostilities of August 2008 and afterwards?
10. What military preparations were made prior to August 2008? What were the organization, composition and equipment of the South Ossetian forces and militia before the conflict?
11. What plans were made for a withdrawal and redeployment of any South Ossetian forces, which may have crossed the administrative boundary of South Ossetia? What was the sequence and timing of any such withdrawal or redeployment?

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1. Последовательность августовских событий и существующий фактический материал являются прямыми доказательствами того, что 7 августа 2008 года Грузия приступила к осуществлению заранее разработанного плана по разрешению грузино-осетинского конфликта силовым путем.

Это утверждение подтверждено соответствующими фактами, позволяющими без сомнения квалифицировать произошедшее как хорошо подготовленную полномасштабную вооруженную агрессию против Республики Южная Осетия и отвергающие возможность любой другой интерпретации событий августа 2008 года.

Несомненно, что для Грузии никогда не существовало военной угрозы ни со стороны Российской Федерации, ни со стороны Республики Южная Осетия. Внешняя угроза никак не могла стать для руководства Грузии причиной для развязывания агрессии против Южной Осетии. Последовавшие события показали, что Грузия ставила себе целью не защиту собственной территории от внешней угрозы, а полное уничтожение Республики Южная Осетия как политико-государственного образования. Это была военная операция, спланированная при активном содействии и прямой военной помощи Грузии со стороны третьих стран и имеющая целью изгнание мирного осетинского населения с территории Южной Осетии и истребление той его части, которая будет в состоянии оказывать сопротивление агрессору.

Следует особо обратить внимание на то, что Грузия начала военные действия накануне открытия Олимпийских игр в Пекине и через несколько часов после телевизионного обращения М.Саакашвили к осетинскому народу, транслировавшегося в 20.00 (Мск) 7 августа 2008 года по всем грузинским телеканалам. В этом обращении президент Грузии призывал Южную Осетию к мирному разрешению всех противоречий и заверял, что с грузинской стороны по отношению к ней ни в коем случае не будет применена военная сила.

В 23.35 город Цхинвал был подвергнут ракетно-артиллерийскому обстрелу, при котором Грузией были использованы минометы, РСЗО «Град», 155мм и 203мм артиллерийские установки. Первый удар был нанесен по расположениям Смешанных сил по поддержанию мира в зоне грузино-осетинского конфликта, объектам жизнеобеспечения и городской инфраструктуры и жилым кварталам города. Одновременно артиллерийский удар был нанесен и по другим объектам, имеющим стратегическое значение в плане обороны территории Южной Осетии. Интенсивному обстрелу подвергалась Зарская объездная дорога, являющаяся единственной транспортной возможностью для эвакуации мирного населения. На рассвете 8 августа грузинская штурмовая авиация нанесла по городу Цхинвал и другим населенным пунктам на территории Южной Осетии бомбовый удар с использованием кассетных боеприпасов. Следом за этим границу Южной Осетии пересекла грузинская бронетанковая группировка и армейские пехотные соединения, сопоставимые по численности со всем населением Южной Осетии.

2. До 8 августа 2008 года Республика Южная Осетия неукоснительно придерживалась положений Соглашения о принципах урегулирования грузино-осетинского конфликта, подписанного в Дагомысе в 1992 году. Подтверждением этому служит тот факт, что на территории зоны грузино-осетинского конфликта, которая была определена международными соглашениями, даже к моменту

начала грузинской агрессии не находилось ни одной единицы бронетехники и запрещенного в зоне конфликта тяжелого вооружения юго-осетинской стороны. Периметр границы Южной Осетии и объекты, подлежащие охране на ее территории, патрулировались и охранялись в основном подразделениями Министерства внутренних дел РЮО и подразделениями Министерства обороны РЮО, имеющими при себе легкое стрелковое вооружение и положенную штатную амуницию. Тяжелое вооружение и основные армейские части и подразделения Юго-осетинской стороны с 1992 года находились за пределами зоны конфликта.

В то же время грузинская сторона к августу 2008 года, в нарушение всех подписанных ее руководством соглашений и договоренностей, в течение короткого промежутка времени создала в зоне конфликта у границ Южной Осетии и собственно на ее территории военные плацдармы нападения, оборудованные капитальными фортификационными сооружениями, и сконцентрировала на них огромное количество тяжелой бронетехники, артиллерию больших калибров и многочисленные армейские группировки.

Следует также добавить, что через год после спровоцированного грузинской стороной вооруженного противостояния в июле 2004 года грузинские власти приняли решение вывести свой контингент из состава трехсторонних (Российская Федерация, Республика Северная Осетия-Алания, Грузия) Смешанных сил по поддержанию мира из-под управления Объединенного командования ССПМ и Объединенного штаба ССПМ и напрямую подчинили его Министерству Обороны Грузии, положив начало разрушению миротворческого формата и формата урегулирования конфликта. С этого момента напряженность в зоне конфликта существенно возросла. Имеются неопровержимые доказательства непосредственного участия т.н. «грузинских миротворцев», не подчинявшихся Командованию ССПМ, но имевших право нахождения и передвижения в зоне конфликта, в вооруженных провокациях и обстрелах города Цхинвал и осетинских населенных пунктов.

Нарушения сторонами режима зоны конфликта и договоренностей о неприменении силы фиксировались ССПМ, после чего данные о таких фактах передавались для обсуждения в рамках СКК. Однако, Грузия, заявив, что четырехсторонний формат СКК с участием ОБСЕ перестал соответствовать и отвечать ее интересам, фактически денонсировала Дагомысские соглашения 1992 года и блокировала работу Комиссии, разрушив единственный международно признанный формат урегулирования конфликта.

Все попытки юго-осетинской стороны и других участников переговорного процесса вернуть Грузию за стол переговоров в рамках Смешанной контрольной комиссии не возымели действия. Точно так же остались без должной реакции обращения Южной Осетии к международному сообществу с призывами обратить внимание на активную подготовку Грузии к военным действиям против Южной Осетии.

3. Подразделения силовых ведомств Республики Южная Осетия никогда не вели какие-либо боевые действия и военные операции за пределами территории Республики Южная Осетия и никогда не пересекали Государственную границу с Грузией ни на одном из ее участков. Более того, во время и после отражения

грузинской агрессии передвижение военных колонн, техники и личного состава в отдаленные районы РЮО (Лениигорский район) осуществлялось по труднопроходимым транспортным коммуникациям, проходящим исключительно по территории Южной Осетии, несмотря на то, что это сопровождалось значительными материально-техническими и временными затратами.

4. С ночи 7 августа до утра 10 августа 2008 года юго-осетинские войска вели ожесточенные оборонительные уличные бои против грузинской тяжелой бронетехники и пехоты в городе Цхинвал и в прилегающих к территории Грузии населенных пунктах (Хетагурово, Мугут, Дменис, Знаур, Сатикар, Сарабук и т.д.), а также осуществляли защиту и оборону жизненно важных стратегических объектов (места скопления мирного населения, жилые кварталы, объекты жизнеобеспечения, транспортные коммуникации, инженерные сооружения) на всей территории Южной Осетии. Позднее юго-осетинской стороной велись наступательные боевые действия и локальные операции, направленные на преследование и полное вытеснение грузинских войск с территории Южной Осетии.

5. Во время августовских событий общая численность противостоящих грузинской группировке подразделений всех силовых ведомств и правоохранительных структур Республики Южная Осетия, включая подразделения мобилизационного резерва, не превышала 3,5 тыс. человек. Вооруженные Силы РЮО в основном состояли из легковооруженных стрелковых батальонов, которым были приданы артиллерийские подразделения и устаревшая бронетехника советского производства. В боевых действиях по отражению грузинской агрессии также участвовали добровольцы, прибывшие из РСО-Алании.

6,7. В первые сутки августовских событий грузинской стороне средствами радиоэлектронного подавления удалось существенно нарушить работу средств связи и управления сил обороны Южной Осетии. В этот период общее военное руководство были сведено к минимуму, и управление подразделениями сил обороны Южной Осетии осуществлялось локально. Выбор целей и средств диктовался необходимостью остановить дальнейшее продвижение грузинских войск вглубь территории Южной Осетии и максимально защитить мирное население. Общее руководство подразделениями, осуществлявшими боевые действия, осуществлялось высшим военным командованием Вооруженных сил РЮО.

8. Необходимо подчеркнуть, что Смешанные Силы по поддержанию мира в зоне конфликта (ССПМ) одними из первых подверглись удару со стороны грузинских войск и понесли ощутимые потери. Тем не менее, военнослужащие ССПМ действовали в соответствии с мандатом миротворцев, не

предусматривающим боевое взаимодействие с вооруженными силами одной из сторон.

Вооруженные Силы РЮО не проводили совместных военных операций во взаимодействии с ССПМ и Вооруженными Силами РФ и действовали в соответствии с приказами, исходящими от собственного командования. Разумеется, выполнение задач, обусловленных необходимостью скоординированного противодействия общему противнику, стали фактором, при котором действия одних подразделений, вне зависимости от их подчинения, не противоречили действиям других.

9. Учебный процесс и подготовка военнослужащих Вооруженных сил Республики Южная Осетия предусматривают дополнительное обучение в области основ международного права и норм международного гуманитарного права. При этом следует учитывать, что значительную часть подразделений, оборонявших территорию Южной Осетии, составляли подразделения, укомплектованные служащими Министерства внутренних дел и других правоохранительных структур РЮО, деятельность которых по определению направлена на защиту мирного населения, обеспечение законности и правопорядка.

В связи с резким обострением ситуации в целях защиты мирного населения власти Южной Осетии в начале августа 2008 года приступили к частичной эвакуации жителей (женщины, пожилые люди, дети) из города Цхинвал и некоторых сопредельных с Грузией населенных пунктов по Зарской объездной дороге. В период начала боевых действий грузинская сторона ввела на Зарскую дорогу большое количество бронетехники и живой силы, которые в упор расстреляли несколько автомобилей с беженцами, отрезав остальным единственный путь к выходу из зоны боевых действий. Для многочисленных беженцев, сумевших покинуть зону боевых действий, были организованы палаточные лагеря в Джавском районе Южной Осетии и на территории Северной Осетии

Примером безукоризненного соблюдения гражданских прав населения может послужить Ленингорский район РЮО с компактным проживанием грузинского населения, где во время боевых действий по вытеснению с этой территории грузинских формирований не зарегистрировано ни одной жертвы среди мирных жителей, а гражданские объекты и жилые дома остались в целости и сохранности. Следует подчеркнуть, что правовые нормы соблюдались по отношению ко всему гражданскому населению Южной Осетии, независимо от его национальной принадлежности. Активное содействие в этом было оказано Международным Красным Крестом и его офисом в городе Цхинвал.

После окончания военных действий властями Республики Южная Осетия был разработан и осуществлен отдельный план мероприятий, которые были направлены на жесткое пресечение мародерства, поджогов и захватов земельных участков на освобожденных от грузинской оккупации территориях. Решением Правительства РЮО 8 апреля 2009 года приступила к работе специальная Комиссия и разработаны мероприятия по послевоенной реабилитации освобожденных территорий.

Что касается серьезно пострадавших во время августовских событий населенных пунктов, расположенных вдоль 7-километрового участка

Транскавказской магистрали к северу от Цхинвала, то это, действительно, представляет собой повод для сожаления, однако причины произошедшего заслуживают специального серьезного расследования.

Тем не менее, уже сейчас существуют достаточные доказательства того, что эта территория Южной Осетии представляла собой реальную угрозу безопасности населения Южной Осетии. После событий грузино-осетинского конфликта 1989-1992 гг. эта территория оказалась под военной оккупацией Грузии, в результате чего осетинское население было полностью изгнано, а расположенные там населенные пункты стали моноэтническими грузинскими.

Жители этих сел принимали непосредственное участие в расстреле колонны беженцев на Зарской дороге в мае 1992 года. Возможность контроля этой территории неоднократно использовалась грузинскими властями в целях политического шантажа и осуществления транспортной, а позднее и водной блокады Цхинвала. На этом участке ТрансКАМа, находящемся в зоне конфликта и контролировавшемся грузинской полицией, за прошедшее с 1990 года время произошло несколько десятков похищений, убийств и показательных казней граждан осетинской национальности, совершенных по причине их национальной принадлежности. Эта территория стала прибежищем для криминала, изгнанного с остальной территории Южной Осетии и до настоящего времени выдаваемого грузинскими властями в качестве представителей осетинского народа, выступающих от его имени.

К моменту начала событий августа 2008 года грузинское руководство практически полностью эвакуировало все гражданское население и превратило эту территорию в хорошо оборудованный военный объект и укрепленный фортификационными сооружениями армейский плацдарм, в котором численность введенных Грузией вооруженных формирований на порядок превосходила количество местных жителей. Разумеется, в условиях боевых действий по отражению грузинской агрессии возникла необходимость нейтрализовать угрозу, исходящую из этого военного объекта в направлении Цхинвала и Джавы, поэтому с военной точки зрения уничтожение вражеского плацдарма на территории Южной Осетии полностью оправдано. Тем не менее, следует вновь особо подчеркнуть, что грузинские власти задолго до августовских событий вывезли с этой территории все местное гражданское население, ставшее, к сожалению, заложником авантюризма грузинского руководства, которое и сегодня предпринимает попытки представить исход населения из этих грузинских сел как результат этнической чистки со стороны осетин.

10. В течение достаточно длительного периода в Грузии проводилась подготовка к вооруженному вторжению в Южную Осетию и разрешению грузино-осетинского конфликта силовым способом. Некоторыми странами-членами Европейского Союза и НАТО осуществлялись поставки в Грузию крупных партий новейшего наступательного вооружения и огромного количества боеприпасов. К началу лета 2008 года проводившаяся руководством Грузии непомерная милитаризация страны достигла своего максимума. В то же время, когда ситуация в зоне грузино-осетинского конфликта была накалена до предела, обращения политического руководства Южной Осетии к мировому сообществу с

призывами обратить внимание на военные приготовления Грузии услышаны не были.

3 июля 2008 года, во время концерта на центральной площади, город Цхинвал был подвернут массированному обстрелу из минометов и стрелкового оружия, несколько жителей получили тяжелые ранения. В ночь с 1 на 2 августа 2008 года в результате снайперского обстрела погибли 6 гражданских лиц, а жилые кварталы города Цхинвал вновь подверглись обстрелу, вследствие которого список жертв среди мирного населения вновь увеличился. Следует добавить, что принимавшие участие в этих акциях грузинские военнослужащие были награждены государственными наградами Грузии.

В начале августа 2008 года все части и подразделения Вооруженных сил РЮО, а также подразделения правоохранительных структур были приведены в состояние высшей степени боевой готовности. Отдельного призыва мобилизационного резерва не проводилось.

1. The sequence of events that took place in August and existing factual materials serve as a direct evidence pointing to the fact that on 7 August 2008 Georgia began to carry out a pre-conceived plan designed to resolve the Georgian-Ossetian conflict through the use of force.[1]

This allegation has been substantiated by the relevant facts, which beyond any doubt qualify the events in question as a well-prepared full-scale military aggression against the Republic of South Ossetia, thus leaving no room for any alternative interpretation of the events that took place in August 2008.

There is equally no doubt as to the fact that neither the Russian Federation nor the Republic of South Ossetia ever posed any military threat to Georgia. Under no circumstances could Georgia's leaders have used military threat as a pretext for unleashing their aggression against South Ossetia. The events that ensued demonstrated that Georgia's primary objective did not amount to defending its territory against an external threat but rather envisaged full annihilation of the South Ossetian Republic as a political and state entity. This was a military operation planned by Georgia with the assistance and direct military aid provided by third parties with a view to driving peaceful Ossetian population from the territory of South Ossetia and destroying those representatives thereof who were in a position to resist the aggressor.

Special attention should be paid to the fact that Georgia began its military campaign on the eve of the Beijing Olympic Games opening ceremony as well as Mr. Saakashvili's televised address to the people of Ossetia broadcasted at 20:00 hours (Moscow time) on 7 August 2008 by all Georgian television stations. In this address Georgia's president called upon South Ossetia to look for a peaceful solution to all disputes and reiterated his assurances that under no circumstances would Georgia resort to a military option.

At 23:35 a rocket artillery strike was launched against the city of Tskhinvali during which Georgia employed mortars, MLRS "Grad", as well as 155 mm and 203 mm artillery systems. The first strike targeted the Joint Peacekeeping Forces deployment location in the area of Georgian-Ossetian conflict as well as vital facilities, municipal infrastructure and residential areas of the city. At the same time artillery strikes were launched against other targets that played a strategic role for the defence of the South Ossetian territory.

The Zar bypass road being the only available transportation route for the evacuation of the civilian population was also heavily shelled. On 8 August at dawn Georgian assault aircraft launched a strike against Tskhinvali and other residential communities located in the territory of South Ossetia using cluster munitions. Shortly thereafter a Georgian armour group and army infantry units crossed the South Ossetian border in numbers comparable to the entire population of South Ossetia.

2. Prior to the events that took place on 8 August 2008 the Republic of South Ossetia had been in full compliance with the provisions of the Agreement detailing the principles of Georgian-Ossetian conflict resolution signed in Dagomys in 1992. The foregoing statement is substantiated by the fact that even by the time when Georgia launched its aggression South Ossetia had no armour vehicles or heavy weapons within the Georgian-Ossetian conflict zone prohibited pursuant to the foregoing international agreements. The South Ossetian border and protected facilities within the Republic's territory were patrolled and secured primarily by units from the RSO Ministry of the Interior and Ministry of Defence; they were carrying light

[1] Unofficial translation by the Independent International Fact-Finding Mission on the Conflict in Georgia.

weapons, small arms as well as permitted standard-issue ammunitions. Since 1992 all South Ossetian heavy weapons and core army units had been redeployed outside of the conflict area.

By August 2008, the Georgian side, on the other hand, in violation of all agreements and arrangements signed by its government, established within a short period of time a bridgehead near the South Ossetian border and even in the Republic's territory to facilitate the imminent attack. The bridgehead was complete with robust fortifications and accommodated large numbers of heavy armoured vehicles, heavy artillery and numerous army units.

It should also be noted that one year after the military stand-off provoked by the Georgian side in July 2004, the Georgian government decided to withdraw their contingent from the trilateral (Russian Federation, Republic of South Ossetia-Alania, and Georgia) Joint Peacekeeping Forces under the JPKF Headquarters' command, and subordinated it directly to the Georgian Ministry of Defence, signalling a departure from the previous peacekeeping and conflict resolution formats. As of this moment tensions in the conflict area started to grow. There is irrefutable evidence pointing to the fact that the so called "Georgian peacekeepers" who refused to report to the JPKF Command but still retained the right to deploy and move through the conflict area, directly participated in the armed provocations and the shelling of Tskhinvali as well as other residential communities in Ossetia.

All violations of the conflict area arrangements and cease fire agreements have been duly identified by the JPKF and relevant information has been submitted to the Joint Control Commission for Georgian-Ossetian Conflict Resolution (JCC) for further discussion. However, Georgia claimed that the quadripartite JCC format, which included OSCE, no longer served its interests and essentially denounced the Dagomys agreements of 1992. In so doing, it blocked any further efforts of the Commission and eliminated the only internationally recognised conflict resolution format.

All attempts on the part of the South Ossetian side and other stakeholders in the negotiation process to bring Georgia back to the table in the framework of the Joint Control Commission failed. By the same token, South Ossetia's appeal addressed to the international community to pay closer attention to Georgia's proactive preparations to wage war against South Ossetia yielded no tangible results.

3. South Ossetian law enforcement and military units never engaged in any hostilities or military operations outside of the territory of the South Ossetian Republic and never crossed any part of the Georgian state border. Moreover, during the Georgian aggression and after it was successfully repelled, all movements of military convoys, vehicles and personnel took place in the remote areas of the South Ossetian Republic (Leningorsk district) where all lines of communications characterised by rough terrain laid exclusively within the boundaries of South Ossetia, despite having to sustain loss of time and considerable material and technical costs.

4. From the night of August the 7th and until the morning of August the 10th South Ossetian forces were engaged in fierce street fighting defending against Georgian heavy armoured vehicles and infantry in Tskhinvali and other localities adjacent to the territory of Georgia (Khetagurovo, Mugut, Dmenis, Znaur, Satikar, Sarabuk etc.), protected and defended vital strategic locations (areas of civilian concentration, residential blocks, critical infrastructure facilities, transport communications and engineering facilities) throughout the entire territory of South

Ossetia. At a later stage the South Ossetian side engaged in offensive hostilities and local operations aimed at pursuing and driving the Georgian forces out of the territory of South Ossetia.

5. During the events that took place in August the total strength of the personnel provided by all of the Republic's law enforcement and military agencies, including the mobilisation reserve units fighting against the Georgian forces, never exceeded 3.5 thousand. The Armed Forces of South Ossetia primarily consisted of light rifle battalions with seconded artillery units and obsolete Soviet-made armoured vehicles. Volunteers arriving from RNO-Alania also took part in the hostilities in an attempt to repel the Georgian aggression.

6.7. During the first 24 hours of the events in August the Georgian side managed to disrupt South Ossetian communications and command and control systems using electronic countermeasures. During this period general military control was at its minimum level and command of South Ossetian defensive forces was delegated to the local level. The choice of targets and assets was predicated on the need to stop any further advances of the Georgian forces into the territory of South Ossetia and to protect the civilian population. The High Command of the RSO Armed Forces exercised general control over the units engaged in hostilities.

8. It should be stressed that the Joint Peacekeeping Forces deployed in the conflict area were among the first to be fired upon by the Georgian troops. Despite sustaining significant casualties, JPKF servicemen continued to act in accordance with their peacekeeping mandate, which did not provide for any combat coordination with the armed forces of either side.

The Armed Forces of the South Ossetian Republic never conducted any joint military operations with the JPKF or the Armed Forces of the Russian Federation and acted in accordance with instructions issued by their own command. It goes without saying that the need to organise a coordinated response against a common enemy was a factor and actions taken by selected units in carrying out specific missions regardless of their chain of command did not run contrary to those undertaken by other units.

9. The RSO Armed Forces training curriculum provides for additional studies of basic tenets of international law and norms of international humanitarian law. It should also be noted that a significant number of units defending the territory of South Ossetia were manned by personnel from the Ministry of the Interior and other law enforcement agencies of the South Ossetian Republic. Their primary objective was to protect the civilian population and maintain law and order.

After the situation began to sharply deteriorate in early August 2008 South Ossetian authorities began partial evacuation from Tskhinvali and several other localities adjacent to the Georgian border along the Zar bypass road to protect the civilian population (women, elderly people and children). During the early stage of hostilities the Georgian side deployed armoured vehicles and personnel in large numbers along the Zar bypass road. These forces opened fire at point blank range upon several vehicles carrying civilians and cut off all escape routes from the area of hostilities for all other civilians. Tent camps were organised in the Djava district in South Ossetia as well as in North Ossetia for the numerous refugees who managed to escape from the combat zone.

The Leningori district of the South Ossetian Republic densely populated by ethnic Georgians demonstrated exemplary efforts in protecting human rights of local civilians. During the operation designed to drive the Georgian forces from this territory not a single casualty has been identified among the local civilians and all civilian facilities and residential houses remained unscathed. It should also be stressed that no legal norms have been violated with respect to the entire population of South Ossetia regardless of their ethnic background. The International Red Cross and its office in the city of Tskhinvali provided valuable assistance in this respect.

Following the cessation of hostilities the government of South Ossetia developed and implemented a specific action plan designed to prevent and preclude any instances of looting, arsons and illegal takeovers of land allotments in the territories liberated from Georgian occupation. In accordance with a decision taken by the RSO government on 8 April 2009 a special Commission was set up and a number of measures have been developed to ensure post-war reconstruction of the liberated territories.

The plight of the civilian population residing in several localities along the 7 kilometre stretch of the Transcaucasian arterial highway located north of Tskhinvali who suffered as a result of the events in August, is truly regrettable, however, the root causes of this tragedy must be thoroughly investigated.

Still, already at this stage ample evidence exists pointing to the fact that this territory of South Ossetia posed a real threat to the safety and security of the South Ossetian population. Following the Georgian-Ossetian conflict between 1989 and 1992, this territory came under Georgian military occupation. As a result all ethnic Ossetians were driven away from the area and Georgians remained the only ethnic group in these communities.

Residents of these villages were among those who opened fire upon the convoy of refugees on the Zar road in May 1992. Control over these territories was often used by the Georgian government as a ploy to engage in political blackmail as well as to blockade transportation lines to Tskhinvali and later on cut off sea access. This segment of the Transcaucasian arterial highway located in the area of hostilities that had been controlled by the Georgian police since 1990 became the scene of dozens of kidnappings, murders and showcase executions of ethnic Ossetians singled out purely based on their ethnic background. This territory became a safe haven for criminals ousted from the rest of the South Ossetian territory and portrayed to this day by the Georgian authorities as representatives of the Ossetian people acting on its behalf.

By the time when hostilities commenced in 2008 the Georgian government almost fully evacuated all civilian population and turned this territory into a secure military site as well as created a bridgehead complete with robust military fortifications. The personnel deployed within this military site far outnumbered the local population. Naturally, during the military operation launched to repel the Georgian aggression the need arose to neutralise the threat emanating from this military site against Tskhinvali and Djava, therefore, from the military point of view, there were ample justifications to engage and destroy this enemy bridgehead in the territory of South Ossetia. Nevertheless, it should be stressed time and again that shortly before the events that took place in August the Georgian government had evacuated all local civilian population who, regrettably, became hostage to reckless policies conducted by the Georgian government. Parenthetically, the latter is attempting to this day to portray the exodus of the local population from these

Georgian villages as a result of an ethnic cleansing campaign conducted by the Ossetians.

10. For a relatively long period of time Georgia had been preparing for a military incursion into South Ossetia with a view to resolving the conflict through the use of force. Selected European Union and NATO member countries sent to Georgia large shipments of state-of-the-art offensive weapons and vast quantities of ammunitions. In the early summer of 2008 the policy of unbridled militarisation conducted by the Georgian government reached its peak. However, at the time when tensions in the Georgian-Ossetian conflict area reached the boiling point, all appeals by the South Ossetian government addressed to the international community to pay closer attention to the military preparations underway in Georgia fell on deaf ears.

On 3 July during a concert held in the central square of Tskhinvali concentrated mortar and small arms fire was unleashed against the city heavily wounding several civilians. On the night of 1 to 2 August 2008 sniper fire took the lives of 6 civilians and selected residential areas in Tskhinvali were again fired upon. All of these events contributed to the growing list of civilian casualties. It should also be noted that the Georgian personnel who took part in this action received Georgian government awards.

In early August 2008 all units of the RSO Armed Forces and law enforcement agencies were put on highest alert. No additional personnel was conscripted from the mobilisation reserve.

Humanitarian Law and Human Rights - questions

Questions to the authorities of South Ossetia on legal issues including international humanitarian law and human rights law issues

1. Please explain the formal and informal relationship between the Russian Federation and Georgia and South Ossetia respectively before the outbreak of the conflict in August 2008 in all levels. Would you call the developments in legal, political, economic space, including infrastructure, energy and social welfare in the recent years between the Russian Federation and South Ossetia as an integration process? How do you qualify in legal terms the decision taken by the Russian Federation a few months before the outbreak of the conflict to establish formal contacts between the Russian Federation and South Ossetia?

2. Please explain the process and dynamics of acquiring Russian nationality by persons residing in South Ossetia, and explain the reasons for the conferral of Russian citizenship.

3. What was the composition of the regular South Ossetian forces and were there volunteers integrated into those forces prior to or during the hostilities in 2008? What was the relationship between the regular South Ossetian forces on one hand and the forces of the Russian Federation on the other hand?

4. In the course of the conflict and in terms of responsibility under international law: How would you describe the formal and informal relationship between the Russian military and South Ossetian armed forces, prior to 17 September 2008 and nowadays? Please explain especially the respective command chains.

5. What was the nationality of individuals and/or composition of armed groups not integrated in the regular South Ossetian forces and who participated in hostilities and who were still present in South Ossetia and in the undisputed territory of Georgia following the cessation of hostilities, in particular in the so called "buffer zones" adjacent to the territory of South Ossetia? What was the relationship between those individuals/groups on one hand and the authorities of South Ossetia and the forces of the Russian Federation on the other hand?

6. Concerning allegations of genocide, please explain who, in your view, committed genocide, and if so, when. If so, please mention the facts permitting to conclude that the elements of the crime of genocide, in particular, the existence of a protected group and of the intent to destroy that group in whole or in part, were present.

7. What targets were attacked on what day by which forces, in particular before 7 August and between 7 and 12 August 2008? When those targets were situated in towns and villages, what was the evaluation of expected incidental deaths of civilians, injury to civilians or damage to civilian objects? Did the actual effects correspond to the expected effects? If not, why? What precautionary measures were taken in such attacks by the attacker and by the defender to avoid or minimize incidental deaths of civilians, injury to civilians or damage to civilian objects? Did those precautionary measures succeed? If not, why?

8. According to your information, how many persons were killed during the 2008 hostilities and after? Among those persons how many persons were killed while participating in hostilities?

9. In areas that your forces or adverse forces gained control over during the 2008 hostilities, were persons summarily executed, raped, or ill-treated and were buildings pillaged, burned or destroyed? If so by what kind of persons or groups? What measures were taken by the forces of the party controlling the area to prevent, stop and repress such violations?

10. During or following hostilities in 2008, when were persons who fell into the power of your party or into the power of the adverse party arrested? On what legal basis were they arrested? How were those persons treated? Were they tried? When were they released?

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11. Why did persons leave their places of residence between 1990 and 2008, in particular in August, September and October 2008, and what hinders them to return, including regarding the Akhalgori district? How are the property rights of such persons protected? May they dispose of such property freely? In particular what measures were taken to ensure that legal titles and registry documents regarding those properties are safeguarded, including vis-à-vis burned and destroyed buildings and houses? How do you respond to allegations of ethnic cleansing of ethnic Georgians?

12. Were persons perceived as being associated with the adverse party after the end of hostilities in 2008 discriminated against and/or deprived of the enjoyment of some human rights? What measures were taken against such practices? What are the measures taken to ensure that regulations and practice of acquiring Ossetian citizenship for ethnic Georgians and other nationalities do not amount to discrimination? The enjoyment of what civil, political, social or economic rights in South Ossetia depends on Ossetian citizenship? What measures are taken to ensure language of education for ethnic groups including the Georgian and other ethnic groups? What measures are taken to ensure language of education for ethnic groups including the Georgian and other ethnic groups?

13. What steps did your party and the adverse party take to clarify the fate of persons reported missing since 1990 by the ICRC, their families, or by the party to which they belong? In which cases were those steps successful? If they were not, why? What measures did your party or the adverse party take to search for, collect and evacuate the dead and to facilitate the returns of the remains to the party to which they belong or to their families?

14. What investigations and prosecutions have been launched since 1990 by your judicial authorities against members of your forces, members of adverse forces, and against civilians in relation with crimes committed in relation to the conflict? In which cases did such prosecutions lead to convictions or acquittals? Please provide copies of the relevant decisions. If prosecutions did neither lead to convictions nor to acquittals, why did they not succeed?

15. If forces or persons under your control, committed any violation(s) of International Humanitarian Law or Human Rights, did the victims of those violations obtain reparation? Were other measures of restorative justice adopted? If not why? How could the victims obtain such reparations?

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Abkhazia

- View on the conflict
- Chronology and military aspects – questions and answers
- Humanitarian Law and Human Rights – questions and answers

View on the conflict

Резюме событий августа 2008 года

Предпосылки возможной военной агрессии Грузии против Абхазии начали формироваться задолго до августа 2008 года. Уже в начала 2008 г. в приингурской зоне активизировалась разведывательная деятельность спецслужб Грузии, уточнялись маршруты выдвижения войск, состояние бродов на реке Ингур, степень готовности оборонительного рубежа абхазских Вооруженных сил по правому берегу реки Ингур. Регулярно фиксировались полеты грузинских многоцелевых беспилотных аппаратов над территорией Абхазии. Было очевидно, что Грузия методично проводит разведывательную работу с целью слежения за основными стратегическими объектами и для сбора информации по дислокации вооруженных формирований Абхазии.

В этой связи абхазская сторона неоднократно обращала внимание руководства МООНГ и КСПМ СНГ на недопустимость использования Грузией воздушного пространства Республики Абхазия, что является нарушением Московское соглашение от 1994 года, в пункте 1 которого говорится: *«Стороны будут неукоснительно соблюдать прекращение огня на суше, море и в воздушном пространстве...»*.

Тбилиси открыто проводило военную подготовку - в страну приглашались международные специалисты по военному делу, проводились тренинги и совместные военные учения, закупались современные средства наступательного вооружения, способные привести к массовым жертвам и разрушениям, в том числе и запрещенные международными конвенциями. (Ни для кого сегодня не секрет, что правительство Грузии закупало вооружение и в ряде европейских стран. Известно, что на 2008-й грузинский парламент утвердил военные расходы в 800 млн долл., в июле их увеличили до 1 млрд.).

Нагнетанию ситуации способствовали серьезные высказывания радикально настроенных парламентариев Грузии, которые открыто заявляют о возможности применения военной силы для восстановления территориальной целостности своей страны. По словам экс посла Грузии в Российской Федерации Эроси Кицмаришвили, в апреле 2008 г. в узком кругу грузинской власти обсуждалась возможность наступления на Абхазию. По его словам, *"некоторые лидеры Грузии заявляли, что президент США поддерживает силовую акцию против Сухуми... Саакашвили обещал, что в августе столицей Грузии станет Сухуми"*.

Некоторые влиятельные лица, в том числе из окружения Саакашвили открыто заявляли, что военная операция не просто возможна, но и необходима. Складывалось впечатление, что единственный вопрос, который волнует политиков Грузии - это вопрос статуса республик Абхазия и Южная Осетия, а не вопросы возвращения доверия или мирное урегулирование конфликтов. Основной целью Грузии являлось восстановление территориальной целостности страны, пусть и любой ценой. Косвенным подтверждением тому является и Доклад Генерального Секретаря ООН от 23 января 2008 года, в котором говорится: *«Широко распространенное чувство неопределенности и тревоги подпитывалось практически ежедневным потоком недостоверных сообщений, источником которых были грузинские средства массовой информации и грузинские власти. Подобные сообщения привели к росту недоверия и ослаблению безопасности, что в конечном счете повысило вероятность конфронтации. Также увеличилось число подобных заявлений, конкретно направленных против миротворческих сил СНГ. Эти заявления в большинстве случаев, были беспочвенны»*.

Декларируемый Грузией курс на возможность силового решения вопроса с Абхазией и наращивание военного потенциала в Кодорском ущелье оказывали дестабилизирующее воздействие на военно-политическую ситуацию в регионе в целом.

В то же время, любые инициативы абхазской стороны по подписанию соглашения о неприменении силы между Тбилиси и Сухумом проваливались из-за нежелания грузинской стороны.

Подготовлено международным отделом МИД РА для предоставления Международной комиссии по расследованию августовских событий

Что касается ситуации в Кодорском ущелье, то она была источником постоянных провокации против Абхазии с 2006 года, с момента захвата этого, по словам президента Грузии М. Саакашвили *«чрезвычайно важного стратегического плацдарма... над местом, с которого можно достичь Сухуми по воздуху всего за пять минут».* Следует подчеркнуть, что абхазская сторона неоднократно пыталась мирным, дипломатическим путем решить вопрос с выводом военных подразделений из Кодорского ущелья и только после начала военной операции Грузии против Южной Осетии было принято решение по освобождению плацдарма, который в любой момент мог быть использован против Абхазии.

Операция в ущелье была проведена Вооруженными силами РА самостоятельно и только на территории Республики Абхазия. Власти Абхазии предоставили населению верхней части Кодорского ущелья коридор для того, чтобы жители могли покинуть район боевых действий. Непосредственно перед началом боевых действий население Верхнего Кодора многократно предупреждалось о подготовке и проведении операции по освобождению Верхнего Кодора, был представлен гуманитарный коридор, как для мирного населения, так и для военнослужащих. Все удары авиации, огонь артиллерии проводились с учетом недопущения повреждения населенных пунктов, потерь среди мирного населения. После освобождения Верхнего Кодора, оттуда были выведены все резервные подразделения. Указом Президента организован комендантский район, назначен представитель Президента Республики Абхазия, комендант района.

Таким образом, операция в Кодорском ущелье была проведена без жертв и ущерба для мирного населения района, не были нарушены международные правые нормы, исключено мародерство и поджог домов.

Подготовлено международным отделом МИД РА для предоставления Международной комиссии по расследованию августовских событий

A Brief Account of August 2008 Events[1]

The preconditions for Georgia's potential military aggression against Abkhazia began to take shape long before the events that took place in August 2008. However, it was in 2008 that Georgian intelligence services stepped up their activities in the area adjacent to the Ingur river – they searched for possible troops deployment routes, fording sites across the Ingur river, and tried to ascertain the level of preparedness amongst the Abkhaz Armed Forces deployed along the right bank of the Ingur river. Georgia's multi-purpose UAVs were regularly sighted flying over Abkhazia's territory. It was obvious that Georgia tried to methodically collect intelligence data, monitor key strategic facilities and obtain information pertaining to the deployment of the Abkhaz Armed Forces.

In this regard, the Abkhaz side on numerous occasions attempted to draw the attention of the UN Mission in Georgia and the CIS peacekeeping force to these facts reiterating that Georgia's use of the Abkhaz airspace was unacceptable and that these flights were carried out in violation of the Agreement reached in Moscow in 1994. Paragraph 1 of this Agreement stipulates that "*the Parties shall strictly observe the terms and conditions of the ceasefire agreement be it on land, at sea and in the airspace...*"

Meanwhile Tbilisi openly engaged in war preparations – international military advisors were invited to the country, training sessions and joint exercises were held; Georgia purchased state-of-the-art offensive weapons systems capable of inflicting casualties and causing destruction on a massive scale, including systems banned under international conventions. (It is common knowledge at this stage that the government of Georgia purchased armament from a number of European countries. It is also known that the Georgian parliament had approved the 2008 military budget totalling 800 million US dollars and then, in July, increased the military spending up to one billion US dollars).

Tensions in the area were exacerbated by a number of serious statements made by radical Georgian parliament members who spoke openly of the possibility to resort to military force to restore their country's territorial integrity. According to Erosi Kitsimarishvili, the former Ambassador of Georgia to the Russian Federation, in April 2008 a close-knit circle of Georgian leaders discussed a possible offensive against Abkhazia. According to him, «*selected Georgian leaders stated that the US President supported the idea of launching a military action against Sukhumi... Saakashvili promised that as of August Sukhumi would become the new capital of Georgia.*»

Several influential politicians including those closely linked to Saakashvili himself openly stated that the military operation was not only possible but also necessary. One could get the impression that the only issue of concern for Georgian politicians was the status of Abkhazia and South Ossetia and not the issue of rebuilding trust or finding a peaceful solution to these conflicts. Georgia's primary goal was to restore its territorial integrity, if necessary, at any price. Indirectly the latter premise was substantiated by the Report of the UN Secretary General presented on 23 January 2008, which pointed out in particular that "*a widespread sense of uncertainty and alarm was fuelled throughout the period by an almost daily flow of inaccurate reports originating in the Georgian media and the Georgian authorities themselves. Such allegations have led to a growth in distrust and undermined security, ultimately increasing the chances of confrontation. There were also a growing number of such allegations levelled specifically at the CIS peacekeeping force. Those allegations proved mostly groundless.*"

The political course admittedly chosen by Georgia with a view to finding a possible military solution to the Abkhaz issue and increasing the military presence in the Kodori Valley proved to be a destabilising force affecting the military and political situation in the region as a whole. At the same time any initiatives taken by the Abkhaz side vis-à-vis signing an agreement banning any use of force between Tbilisi and Sukhumi failed in the face of Georgia's reluctance.

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[1] Unofficial translation by the Independent International Fact-Finding Mission on the Conflict in Georgia.

As for the situation in the Kodori Valley, since 2006 it has continued to remain a source of constant provocations aimed against Abkhazia ever since this area referred to by the Georgian President M. Saakashvili as *"an exceedingly important strategic bridgehead...rendering us capable of reaching Sukhumi by air within a mere five minutes"*, had been captured. It should be emphasised that the Abkhaz side has undertaken multiple attempts to find a peaceful and diplomatic solution that would allow for a withdrawal of military units from the Kodori Valley and that it was only after Georgia's military operation against South Ossetia that the decision was taken to liberate this bridgehead that could at any moment be used against Abkhazia.

The operation in the Valley was carried out by the Armed Forces of the Abkhaz Republic independently and was confined strictly to the territory of the Republic of Abkhazia. The Abkhaz authorities organised a corridor for the local population residing in the upper part of the Kodori Valley so that the residents could leave the area of hostilities. Immediately before the military operation began the population of the upper Kodori Valley received many warnings as to the preparations and execution of the military operation to liberate the upper Kodori and were provided with a humanitarian corridor made available both for the local civilian residents and military personnel. During the air strikes and artillery fire specific measures were taken to prevent any damage to local communities and avoid any civilian casualties. After upper Kodori Valley was liberated all reserve units were redeployed from this area. Following a Decree issued by the President of the Abkhaz Republic an military administrative district was set up in this area, while a representative of the President of Abkhazia and an administrative commandant were appointed.

Thus, the operation in the Kodori Valley was conducted without any casualties among the civilian population residing in this area. There was no damage or any violations of norms of international law during the operation, nor were there any instances of looting or arson.

Chronology and military aspects – questions and answers

First set of questions to the Abkhaz authorities, related to military issues

1. There have been various accounts of the chronology of the conflict in August 2008. What is your understanding of the order in which events took place particularly in the Georgian-Abkhaz conflict zone?
2. Did the Abkhaz side respect in August 2008 provisions of the Moscow Agreement on a Cease-fire and Separation of Forces of 14 May 1994, including the status of the Security Zone and the Restricted Weapons Zone? If not, why?
3. Did the Abkhaz forces cross the existing cease-fire lines with the Georgian side, in August 2008 established by the Moscow Agreement on a Cease-fire and Separation of Forces of 14 May 1994? If so, where, when and why?
4. What type of combat missions, if any, did the Abkhaz forces and militia undertake against the Georgian side during the conflict?
5. What types of units were used and how many troops were deployed in general and for particular operations?
6. What were the organization and the chain of command and control of the Abkhaz forces?
7. What were the levels of decisions for the choice of targets and assets engaged?
8. What was the level of cooperation, if any, between the Abkhaz forces and the CIS Peacekeeping Force and the armed forces of the Russian Federation and did cooperative operations extend beyond the cease-fire lines established by the Moscow Agreement?
9. What training had been given to troops involved in the operations on the International Law of Armed Conflict? What plans were made for the protection of civilians before military operations began? What did the regular forces do in order to prevent human rights violations, including looting, burning of houses etc., during the hostilities of August 2008 and afterwards?
10. What military preparations were made prior to August 2008? What was the organization, composition and equipment of the Abkhaz forces and militia before the conflict?
11. What plans were made for a withdrawal and redeployment of forces from the zone of conflict? What was the sequence and timing of any such withdrawal or redeployment ?
12. What was the timing of deployments/operations, in the Upper Kodori Valley and which forces were involved?

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Истоки и причины августовских событий 2008 года. Видение абхазской стороны.
(политическая и военная составляющие)

Хронология событий:

- **25 июля 2006 года** – дата ввода грузинских военных подразделений и тяжелой бронетехники в Кодорское ущелье является отправной точкой в эскалации ситуации вокруг Абхазии, достигшей кульминации в августе 2008 года. В этот момент, когда грузинские войска под видом полицейской операции, в нарушение всех достигнутых ранее договоренностей, вторглись в Кодорское ущелье, правительство Грузии открыто подтвердило свою приверженность силовому решению конфликта с Абхазией, и готовности восстановить территориальную целостность любой ценой.

25 июля миротворцами СНГ и наблюдателями МООНГ был зафиксирован факт грубейшего нарушения Московского соглашения о прекращении огня и разъединении сил от 14 мая 1994г. Напомним, что в пункте 4 Соглашения говорится: *«...из Кодорского ущелья будет осуществлен отвод войск Республики Грузия в места их дислокации за пределами Абхазии»*, а в Протоколе о прекращении огня, разведении вооруженных формирований и гарантиях по недопущению силовых действий, подписанном сторонами 25 мая 1998 года в г. Гагра сказано: *«...Грузинская сторона обязуется принять эффективные меры по пресечению проникновения в Абхазию ...вооруженных формирований и лиц»*.

Оккупировав Кодорское ущелье, Грузия по сути создаст форпост для военной операции против Абхазии. На территорию Верхнего Кодора Республики Абхазия вводятся части и подразделения Министерства Обороны, Внутренних Дел, Государственной Безопасности, Департамента охраны государственной границы и другие специальные службы Грузии. Группировка войск состояла из одной легкой пехотной бригады, батальона Национальной гвардии, специальных подразделений Министерства внутренних дел и Департамента охраны государственной границы, на вооружении которой состояло: минометов – до 24 ед., боевых машин пехоты (БМП) – до 10 ед., БМ-21 «ГРАД» – до 2 ед., орудий Д-30 – 6 ед., зенитных установок 23-2 – до 6 ед., С-60 – 1 ед., противотанковых средств (СПГ-9, ПТРК) – до 20 ед.

Общая численность группировки войск в разные периоды составляла от 1500 до 3000 человек. В подразделение усиления и обеспечения входили подразделения специального назначения, разведывательные, инженерные, связи, гаубичной и минометной артиллерии, подразделения тыла.

Складированные в Верхнем Кодоре запасы оружия, боеприпасов, продовольствия, ГСМ, прочего имущества, а также военная инфраструктура позволяли одновременно размещать и готовить к боевым действиям более 6000 военнослужащих, сформировать из них до двух пехотных бригад, способных совместно с Гальской и Ткуарчальской группировками вести активные наступательные действия на направлении Земо-Лата, Цабал, Сухум.

Основными целями ввода вооруженной группировки являлись:

- создание плацдарма для нанесения удара на Кодорском оперативном направлении и выхода к городу Сухум, захват аэропорта Бабушара, обеспечение условий для успешного продвижения сухопутной группировки войск Грузии на направлении Гал - Сухум;

- обеспечение ввода основной группировки грузинских войск на территорию Республики Абхазия и развязывание крупномасштабных боевых действий с целью разгрома Вооруженных сил Абхазии, устранения действующего президента и правительства, ликвидации независимости Абхазии и насильственного присоединения её к своей территории.

Оккупация Кодорского ущелья означала, что Грузия окончательно вышла из Московского соглашения, проигнорировав все предыдущие договоренности.

В своем Докладе (S/2006/771) от 28 сентября 2006 года Генеральный Секретарь ООН заметил, что *«Обстановка в зоне конфликта оставалась стабильной до 24 июля, однако стала напряженной после начала грузинской спецоперации в верхней части Кодорского ущелья... Получив первые сообщения о предстоящей грузинской спецоперации, ночью 24 июля МООНГ*

направила специальный патруль на контрольно пропускной пункт миротворческих сил СНГ на северной границе зоны безопасности по пути в Кодорское ущелье. Этот патруль заметил в зоне безопасности две грузинские бронированные военные спасательные машины с пятью военнослужащими и уведомил грузинскую сторону о том, что она нарушила Московское соглашение 1994 года. Несколько часов спустя, утром 25 июля, миротворческие силы СНГ заметили движение грузинской военной автоколонны, состоявшей примерно из 30 грузовиков, 4 джипов и 18 автомобилей с четырьмя ведущими колесами, на которых находилось примерно 600–1000 военнослужащих. Эта автоколонна двигалась в сторону верхней части Кодорского ущелья. 26 июля МООННГ заметила семь грузинских вертолетов, включая три ударных вертолета, летевших в Кодорское ущелье, и уведомила грузинскую сторону о том, что она совершила еще одно нарушение... Грузинская сторона признала присутствие в этом районе сотрудников министерства внутренних дел, а также примерно 30– 40 военных инженеров, участвующих в ремонте мостов. Присутствие военных инженеров, а также использование военных сил и средств противоречат положениям пункта 2(d) Московского соглашения 1994 года о выводе войск из Кодорского ущелья (см. S/1994/583, приложение I)".

В целом, в своем докладе от 28 сентября 2006 года Генсек ООН уведомил о 13 нарушениях грузинской стороной Московского соглашения 1994 года. При этом действия абхазской стороны не были признаны МООНГ противоправными и нарушающими Московское соглашение. *«В ответ на грузинскую операцию абхазская сторона развернула свои силы к востоку от Сухума в направлении нижней части Кодорского ущелья, в том числе перебросила дополнительные подразделения в зону ограничения вооружений, с тем чтобы восстановить свои оборонительные позиции вдоль Гальского канала и укрепить свои позиции в зоне конфликта. Однако эти действия абхазской стороны не являются нарушением Московского соглашения 1994 года»* - Доклад (S/2006/771, пункт 16).

В Резолюции Совбеза ООН 1716 от 13 октября 2006 года выражается: *«озабоченность в связи с действиями грузинской стороны в Кодорском ущелье в июле 2006 года и в связи со всеми нарушениями Московского соглашения о прекращении огня и разъединении сил от 14 мая 1994 года, а также других грузино-абхазских договоренностей в отношении Кодорского ущелья»*. Совбез ООН *«настоятельно призывает грузинскую сторону обеспечить, чтобы ситуация в верхней части Кодорского ущелья находилась в соответствии с Московским соглашением и чтобы там не находилось никаких войск, которые не предусмотрены этим соглашением...»*. В своей Резолюции Совбез рекомендовал грузинской стороне *«серьезно отнестись к обоснованной озабоченности абхазской стороны по поводу безопасности, избегать шагов, которые могли бы быть восприняты как угрожающие, и воздерживаться от воинственной риторики и провокационных действий, особенно в верхней части Кодорского ущелья». (пункты 3,4,8)* Совбез также не раз обращался к грузинской стороне с призывом воздержаться от воинственной риторики и провокационных действий по отношению к Абхазии. Заметим, что за все время проведения так называемой «полицейской спецоперации», руководство Грузии, практически каждые сутки озвучивало противоречивые цели и задачи своего вторжения в верхнюю часть Кодорского ущелья. По словам некоторых известных грузинских политиков, так называемая «полицейская операция», на самом деле являлась крупномасштабной военной акцией на территории Республики Абхазия, целью которой был *«захват стратегически важного плацдарма»*, для дальнейшего наращивания военного присутствия Грузии. В частности, председатель Комитета по Обороне и Безопасности парламента Грузии публично заявил, что операция в Кодорском ущелье приведет также к установлению контроля над *«чрезвычайно важной стратегической базой... над местом, с которого можно достичь Сухуми по воздуху всего за пять минут»*, а президент Грузии Михаил Саакашвили открыто обозначил стремление усилить военизированные структуры в верхней части Кодорского ущелья. На пресс-конференции в Тбилиси он заявил: *«Грузия не намерена уступать ни один сантиметр территории Верхней Абхазии... Наоборот, мы намерены продолжить процесс возвращения территорий. Сейчас мы контролируем 30 % территории Абхазии и путём мирных переговоров восстановим здесь полный контроль».*

Безусловно, подобное развитие ситуации было расценено как однозначное свидетельство агрессивных намерений Грузии в отношении Абхазии.

Ситуация еще более усугублялась полной поддержкой Запада на самом высоком уровне. В частности, второй заместитель госсекретаря США по вопросам Европы и Евразии Мэтью Брайза заявил, что *"правительство Грузии имеет право с целью защиты интересов своих граждан использовать любые законные меры..."*, заметив при этом, что ситуация там разрешается мирно *"если правительство Грузии не выйдет за рамки международных требований при осуществлении мероприятий в Кодорском ущелье"*. Однако провокации и обстрелы в Верхней части Кодорского ущелья не прекращались, в 2007 г. в северной Зоне безопасности количество диверсионных актов совершенных как против представителей силовых структур, так и против мирных граждан увеличилось в несколько раз, ситуация все более усложнялась. Доверие между сторонами было окончательно подорвано.

Абхазская сторона неоднократно заявляла свой решительный протест и обращалась к ООН, Российской Федерации, Группе Друзей Генерального Секретаря ООН и ОБСЕ с просьбой осудить действия грузинской стороны и призвать ее к незамедлительному выполнению подписанных в процессе переговоров документов, однако обращениям дипломатов Абхазии не было уделено должного внимания, и грузинская сторона продолжала вопиюще игнорировать резолюции Совбеза ООН, в частности Резолюцию 1716 (2006).

- 5 января 2008 года прошли досрочные президентские выборы в Грузии, после чего агрессивные действия Грузинского руководства, снискав поддержку всех рубежа, начинают принимать еще более враждебные очертания. В ходе своей избирательной кампании Михаил Саакашвили не раз обещал решить абхазский вопрос. По сути это и стало основным лозунгом его кампании. Международные аналитики указывали, что таким образом Саакашвили пытался отвлечь внимание избирателей от внутренних проблем.

Одновременно с выборами, прошел референдум о вступлении Грузии в НАТО, на который 72,5% граждан Грузии, проголосовало за присоединение страны к Североатлантическому альянсу. Однако всем было очевидно что без решения внутренних вопросов, путь в альянс для Грузии останется не таким простым. Накануне саммита НАТО в Бухаресте министр иностранных дел Германии Франк-Вальтер Штайнмайер указал на *"большие сомнения"* в Европе по поводу принятия в НАТО Украины и Грузии. Президентские выборы Грузии показали, что страна все еще не встала на путь стабильного демократического развития, заявил Штайнмайер в интервью газете Leipziger Volkszeitung. Канцлер ФРГ Ангела Меркель четко сформулировала свою позицию этого вопроса: *"Я сомневаюсь, что государство, которое в данный момент занимается внутренними и региональными конфликтами, не могло претендовать на членство в НАТО, заявила она на встрече с канцлером Австрии в Берлине. - НАТО - это союз государств, объединенных общими интересами безопасности, а не государств, занятых своими внутренними проблемами"*. Очевидно, что Грузия была заинтересована в скорейшем решении своих территориальных вопросов. Признавая право любого государства вступать в международные альянсы, мы не можем, тем не менее, не подчеркнуть, что именно ориентация на НАТО и пропагандные акции со стороны некоторых членов данной организации, которые были неверно интерпретированы в Грузии, явились еще одним катализатором, подтолкнувшим Грузию к войне.

- 17 февраля 2008 года край Косово объявил себя суверенным государством и получил признание США и большинства Европейских стран. Был создан прецедент, опасный для Грузии пример, который теперь не мог не подтолкнуть руководство Грузии к более решительным шагам по решению вопроса с Абхазией и Южной Осетией. Таким образом, Грузия, раздираемая желанием скорейшего вступления в НАТО, и опасающаяся за territorial целостности своего государства в связи с признанием странами Запада независимости Косово, оказалась в непростой ситуации, тем более, что объективно у Абхазии было больше моральных, исторических и правовых оснований для признания. Признание Косово окончательно

определило решение Грузии о начале скорейшей подготовки к крупномасштабной, военной операции против Абхазии.

- **февраль – май 2008 года** – С начала 2008 г. в приингурской зоне активизировалась разведывательная деятельность спецслужб Грузии, уточнялись маршруты выдвижения войск, состояние бродов на реке Ингур, степень готовности оборонительного рубежа абхазских Вооруженных сил по правому берегу реки Ингур. Министерство Обороны Республики Абхазия регулярно фиксирует полеты грузинских многоцелевых беспилотных аппаратов над территорией Абхазии. Грузия методично проводит разведывательную работу с целью слежения за основными стратегическими объектами и для сбора информации по дислокации вооруженных формирований Абхазии. Министерство Обороны Республики Абхазия неоднократно обращает внимание руководства МООНГ и КСПМ СНГ на недопустимость использования Грузией воздушного пространства Республики Абхазия, что является нарушением Московское соглашение от 1994 года, в пункте 1 которого говорится: *«Стороны будут неукоснительно соблюдать прекращение огня на суше, море и в воздушном пространстве…»*. Однако грузинская сторона не прекращает провокационные действия, что приводит к эскалации напряженности. Более того, в сообщении минобороны Грузии говорится: "грузинская сторона заявляет, что оставляет за собой право осуществлять полеты в суверенном воздушном пространстве Грузии с использованием того количества беспилотных самолетов и с той периодичностью, какой считает нужным ради обеспечения национальной безопасности страны". Таким образом, грузинская сторона дает понять, что она готова нарушить любые договоренности и соглашения, если это не соответствует интересам Грузии.

После многократных устных предупреждений, силы ВВС Республики Абхазии начинают сбивать беспилотные летательные аппараты израильского производства, состоявшие на вооружении Грузии.

18 марта 2008 года в 12 часов 05 минут, в районе села Набакеви, на высоте около 4,5 тысяч метров над уровнем моря был сбит БПЛА грузинских ВВС, с серийным номером 551.

20 апреля в 9 часов 57 минут, над населенным пунктом Гагида Гальского района, на высоте около 6 тысяч метров над уровнем моря реактивный самолет Л-39 ВВС МО РА сбивает БПЛА грузинских ВВС с серийным номером 553.

4 мая наземными силами ПВО РА в небе над Очамчырским районом, в 16 часов 06 минут и в 16 часов 51 минут местного времени были ликвидированы еще два грузинских БПЛА.

8 мая с.г. над населенным пунктом Гудава Очамчырского района, в 17 часов 05 минут, на высоте около 1,5 тысяч метров был уничтожен еще один БПЛА принадлежавший грузинским ВВС.

12 мая с.г. наземными средствами ПВО Абхазии над населенными пунктами Ачигвара и Шешелети Очамчырского района в 14 часов 16 минут и 15 часов 07 минут, на высоте более 5 тысяч метров были сбиты еще два грузинских беспилотных разведчика.

Все сбитые в воздушном пространстве РА беспилотные летательные аппараты, а именно 7 штук, изготовлены израильской компанией «Elbit Systems Ltd» и имеют модификацию Hermes 450. Власти Грузии официально признали, что только один из этих самолетов находился на вооружении ВВС Грузии, а именно сбитый 20 апреля БПЛА с серийным номером 553. Таким образом, последовательность серийных номеров несостоятельность заявлений грузинской стороны о непричастности к полетам БЛА над территорией Абхазии.

Летательные аппараты были оснащены электрооптическими, инфракрасным и лазерными датчиками, а также системой обмена данными, которая способна передавать изображение в режиме реального времени на наземные пункты управления. Данные аппараты предназначены для ведения наблюдения, патрулирования, разведки и корректировки огневой

поддержки, могут обнаружить движение с расстояния около 25 км, считать номерной знак на автомашине, передать снимки пассажиров транспортного средства и даже идентифицировать оружие. Снимки, сделанные беспилотными летательными аппаратами были в дальнейшем использованы для составления карт нападения на Абхазию. Существуют документальные свидетельства, включая фотографии, карты, схемы и планы нападения, подтверждающие, что Грузия готовилась к вооруженному вторжению в Абхазию. Они могут быть предоставлены Комиссии для дальнейшего ознакомления. Как видно из детальных планов захвата Абхазии, действия военных и разработка наступлений прорабатывались как минимум два последних года. Причем грузинские военные разыгрывали не только различные варианты своих действий, но и изучали возможности ответных ударов. Очевидно, что самостоятельно спланировать операции вторжения грузинским военным было не под силу. Это делалось с помощью иностранных инструкторов. Имеется достаточное количество материалов, подтверждающих участие в подготовке грузинской агрессии военных специалистов из-за рубежа. Более 120 представителей Пентагона, до тысячи израильских военных, а также "помощники" из других государств, обучавших грузинских солдат и офицеров, длительное время занимались этой работой в Тбилиси. Мин Обороны РА располагает подробными данными по этим вопросам, которые могут быть предоставлены Комиссии для более детального ознакомления.

- **5 марта 2008 года** состоялось внеочередное заседание Парламента Республики Абхазия, на котором докладывалось о нападениях на жителей приграничного с Грузией Гальского района Абхазии, похищениях людей, погромах, деятельности грузинских террористических и диверсионных отрядов и т.д. Парламент потребовал прекратить существование в верхней части Кодорского ущелья грузинского криминально-террористического анклава. Абхазские парламентарии призвали руководство России, ООН, ОБСЕ и другие международные организации дать принципиальную оценку действиям грузинских властей, воздействовать на них с тем, чтобы они отказались от применения военной силы против Абхазии и террористической деятельности, подрывающей хрупкий мир и безопасность в регионе.
Кроме того, парламент Абхазии призывает Президента Багапш принять меры для отражения возможной агрессии со стороны Грузии.

- **апрель 2008 года.** Нагнетанию ситуации способствуют серьезные высказывания радикально настроенных парламентариев Грузии, которые открыто заявляют о возможности применения военной силы для восстановления территориальной целостности своей страны. По словам экс посла Грузии в Российской Федерации Эроси Кицмаришвили, в апреле 2008 г. в узком кругу грузинской власти обсуждалась возможность наступления на Абхазию. По его словам, *"некоторые лидеры Грузии заявляли, что президент США поддерживает силовую акцию против Сухуми... Саакашвили обещал, что в августе столицей Грузии станет Сухуми".*

Правительство Грузии не настроено на выработку нового подхода в отношениях с Абхазией, способного привести к установлению взаимного доверия. Напротив, грузинские лидеры и даже дипломаты выбирают линию нагнетания напряженности во взаимоотношениях с соседями. Некоторые влиятельные лица, в том числе из окружения Саакашвили открыто говорят о том, что убеждены, что военная операция не просто возможна, но и необходима. Единственный вопрос, который волнует политиков Грузии - это вопрос статуса республик Абхазия и Южная Осетия, а не вопросы возвращения доверия или мирное урегулирование конфликтов. Основная цель Грузии – восстановление территориальной целостности страны, пусть и любой ценой, - такова риторика агрессивных высказываний, поступающих из Тбилиси. В Докладе Генерального Секретаря ООН от 23 января 2008 года говорится: *«Широко распространенное чувство неопределенности и тревоги подпитывалось практически ежедневным потоком недостоверных сообщений, источником которых были грузинские средства массовой информации и грузинские власти. Подобные сообщения привели к росту недоверия и ослаблению безопасности, что в конечном счете повысило вероятность конфронтации. Также увеличилось число подобных заявлений, конкретно направленных против*

миротворческих сил СНГ. Эти заявления в большинстве случаев, были беспочвенны». В своем выступлении, Генеральный Секретарь ООН выразил озабоченность подобной тенденцией с грузинской стороны, угрожающей безопасности и провоцирующей эскалацию напряженности в регионе.

Декларируемый Грузией курс на возможность силового решения вопроса с Абхазией и наращивание военного потенциала в Кодорском ущелье оказывали дестабилизирующее воздействие на военно-политическую ситуацию в регионе в целом.

Тбилиси открыто ведет военные приготовления – в страну приглашаются международные специалисты по военному делу, проводятся тренинги и совместные военные учения, закупаются современные средства наступательного вооружения, способные привести к массовым жертвам и разрушениям, в том числе и запрещенные международными конвенциями. (Ни для кого сегодня не секрет, что правительство Грузии закупало вооружение и в ряде европейских стран. Известно, что на 2008-й грузинский парламент утвердил военные расходы в 800 млн долл., в июле их увеличили до 1 млрд.). Идет скрытое укрепление военных подразделений в Западной Грузии и в Кодорском ущелье, о чем свидетельствуют регулярные отчеты спецслужб Республики Абхазия. С начала весны 2008 года подразделениями вооруженных сил Грузии был проведен ряд тактических учений, в том числе, в районах, примыкающих к Зоне безопасности. В апреле проведены учебные и разведывательные полеты самолетов-штурмовиков Су-25 в непосредственной близости грузино-абхазской административной границы. Все это откровенно говорило о возможности проведения Грузией военной операции против Абхазии.

По данным спец. служб Абхазии в конце апреля происходит форсированная концентрация грузинских войсковых подразделений в Кодорском ущелье. Речь идет о переброске грузинской стороной в верхнюю часть Кодорского ущелья вооружения, горюче-смазочных материалов, продовольствия и личного состав вооруженных сил. Общая численность грузинских армейских и полицейских в регионе, по данным Мин. Обороны РА составляет около 7 тысяч человек. В ущелье расквартированы подразделения грузинского спецназа, полиции, контрразведки и вооруженных сил. Кроме того, в регион переброшены артиллерийские расчеты, в частности, 122-миллиметровые орудия и минометы. Все данные свидетельствуют о том, что Грузия создает плацдарм для военного вторжения в Абхазию. По данным абхазских спецслужб Грузия готовилась напасть на Абхазию 9 мая 2008 года, о чем свидетельствовала переброска военной техники и вооруженных сил в Зугдидский район.

- Май - июль 2008 года - возникает новый виток напряженности. Грузия продолжает активную диверсионно-террористическую деятельность против Абхазии. За сравнительно небольшой период времени был проведен ряд террористических диверсионных актов:
18.06.08 - 18 час.00мин. в районе Келасур, на железнодорожном полотне произошло 2 взрыва, жертв нет.

27.06.08 - 11 час.30 мин. В районе Турбазы (напротив МО РА), рядом с железной дорогой произошел мощный взрыв безоболочного взрывного устройства неустановленного образца. По счастливой случайности жертв и разрушений нет.

28.06.08 – между 8 час.10мин. и 8 час.15 мин. В г. Гагра произошло 2 взрыва. Ранение получили 6 чел. Все – жители Абхазии.

30.06.08 – 12 час.00 мин. На Центральном рынке г. Сухум произошло 2 взрыва. Жертв нет, легкие ранения получили 9 чел.

02.07.08 - произошел взрыв между постом МГБ Грузии и КПП миротворцев.

09.07.08 – обстрелян пост МО в с.Лата. В результате перестрелки двое военнослужащих МО РА были ранены, один из них тяжело.

Также было зафиксированы взрывы и перестрелки в приграничном с Грузией Гальском районе Абхазии, повлекшие ранение и гибель нескольких мирных граждан, включая местных сотрудников МООНГ.

Из выступления президента РА Сергея Багапш от 6 июля 2008 года: *«Серия последних провокаций в отношении российских миротворцев, взрывы на железнодорожной магистрали и в городах республики, организованные спецслужбами Грузии, - звенья все той же цепи. Они направлены на дестабилизацию обстановки в зоне конфликта в целях информационной подготовки международной общественности к возможной агрессии Грузии против Абхазии».* В этот момент стало ясно, что события перешли в открытую конфронтационную фазу, о чем неоднократно предупреждают ведущие российские и западные политологи, различные издания и организации. В частности, в своем докладе №193 от 5 июня 2008 года известная независимая экспертная организация по расследованию причин конфликтов «International Crisis Group» открыто заявляет о военной подготовке Тбилиси и предупреждает о возможности военной эскалации в регионе. В частности в докладе говорится: *«Тбилиси скрытно ведет военные приготовления, особенно в Западной Грузии и в верхней части Кодорского ущелья. Некоторые влиятельные советники и структуры в окружении президента Саакашвили, по-видимому, все больше убеждены, что военная операция в Абхазии возможна и необходима».* Однако все эти экспертные оценки так и останутся без должного внимания, и возможности со стороны международного сообщества по предотвращению конфликта будут упущены.

Абхазская сторона регулярно обращается в международные инстанции, в Совбез ООН, к Группе друзей Генерального Секретаря, с призывом обратить внимание на непрекращающиеся поставки вооружения в Грузию, выражает озабоченность по поводу наращивания Грузией наступательного военного потенциала на границе с Абхазией, а также высказывает опасения по поводу возможности применения Грузией силы против Абхазии. В своем обращении к участникам грузино-абхазского переговорного процесса МИД РА заявляет: *«В условиях, когда между Грузией и Абхазией отсутствует мирный договор, а военные расходы Грузии непропорционально велики, абхазская сторона в очередной раз обращает внимание международного сообщества на тот факт, что дальнейшее развитие событий в таком русле, станет угрозой для всего Кавказского региона и повлечет за собой многочисленные жертвы и потоки беженцев, создав гуманитарную катастрофу. Ответственность за осложнение ситуации безопасности целиком и полностью ложится не только на грузинскую сторону, но и на тех участников переговорного процесса, которые своим бездействием поощряют Грузию».* МИД РА подчеркивает, что Грузия продолжает предпринимать провокационные действия, которые лишают Абхазию возможности участвовать в переговорном процессе.

- **В мае** в Абхазию один за другим приезжают заместитель помощника госсекретаря США Мэтью Брайза, курирующий в госдепе отношения с Грузией, послы некоторых стран Евросоюза в Тбилиси, а также Верховный представитель Евросоюза по внешней политике и безопасности Хавьер Солана. Международные посредники выказывают готовность играть более активную роль в урегулировании грузино-абхазского конфликта. На встречах с дипломатами США, Германии, послами стран Евросоюза абхазская сторона настоятельно требовала содействовать выполнению всех имеющихся с грузинской стороной договоренностей. Это, прежде всего, касалось Кодорского ущелья и заключения с Грузией соглашения о невозобновлении военных действий. Однако призывы абхазских дипломатов решать вопросы мирными средствами не имели успеха.

- **18 июля** состоялся приезд в республику министра иностранных дел Германии Франк-Вальтера Штайнмайера, который обсудил с президентом республики Абхазия Сергеем Багапш план по урегулированию грузино-абхазской проблемы. Главным условием для абхазской стороны было положение о выводе грузинских войск из верхней части Кодорского

ущелья и подписание соглашения о невозобновлении военных действий. Однако подобные условия не устроили грузинскую сторону, считавшей, что вопрос о ситуации в Кодорском ущелье не может быть предметом для обсуждения. Более того, президент Грузии Михаил Саакашвили назвал *"бессмысленной инициативой"* предложение российского министра иностранных дел Сергея Лаврова подписать соглашение между Тбилиси и Сухуми о неприменении силы. В результате план не был принят сторонами.

Таким образом, кропотливые усилия международных посредников в деле урегулирования конфликта в очередной раз были сведены на нет, из-за откровенного нежелания Грузии решать вопросы мирным путем.

- 7 - 8 августа 2008 года – Грузия начала военную агрессию против Южной Осетии. Массированным бомбардировкам подвергся город Цхинвал и прилегающие деревни. Поступают первые сообщения о погибших и раненых. Войска Грузии расстреливают пост и убивают Российских миротворцев.

Оживилась деятельность грузинских подразделений и в Приингурской зоне и Верхнем Кодоре. Группировка грузинских войск в Верхнем Кодоре была приведена в «ВЫСШУЮ» степень боевой готовности, начала проводить мероприятия по подготовке наступательной операции. Состав группировки:

- в Верхнем Кодоре: до одной легкой пехотной бригады, батальона национальной гвардии, отдельные подразделения Министерства внутренних дел и Департамента охраны государственной границы, всего личного состава до 3000 человек, орудии Д-30 – 6 ед., минометов – до 24 ед., зенитных установок 23-2 – до 6 ед. С-60 – 1 ед., противотанковых средств (СПГ-9, ПТРК) – до 20., реактивной установки залпового огня LAR-160 - 1 установка, снабженная кассетными бомбами, запрещенными к использования международными конвенциями.

- в Южной Зоне Безопасности действовали 20 постов 2–го Управления специального назначения (УпрСпН) Министерства внутренних дел, пограничные заставы, полицейские участки и их органы управления. Была проведена скрытая мобилизация, доукомплектованы до штатов военного времени Кутаисская бригада, Сенакская база, общая численность группировки войск на этом направлении достигала до 10 000 человек.

Складывающаяся обстановка, потребовало от руководства Абхазии провести ряд мероприятий по повышению боевой готовности Вооруженных Сил, недопущению военной агрессии Грузии в отношении Абхазии. Вооруженными силами РА были проведены мероприятия по наращиванию боевой готовности:

8 августа 2008 г 2 отдельный батальон морской пехоты и 1 отдельный танковый батальон Восточной группы войск (ВГВ) Вооруженных сил Республики Абхазия по приказу Главнокомандующего выдвинулись к границе по р. Ингур, однако по требованию Командующего миротворческими силами были остановлены у границ Северной Зоны безопасности. В дальнейшем в условиях непрекращающейся агрессии Грузии в Южной Осетии и концентрации группировки ВС Республики Грузия в Кодорском ущелье и приингурской зоне, возникала угроза их вторжения на территорию Абхазии. В Зоне Безопасности Гальского района находились небольшие подразделения пограничного отряда, и Министерства внутренних дел Республики Абхазия которые самостоятельно не могли бы справиться с возникшей угрозой вторжения войск Грузии на территорию Абхазия. Было принято решения войскам ВГВ ВС РА выдвинуться и закрепиться по реке Ингур.

Решением Совета безопасности, приказами МО РА ставилась задача ввести в действие План локализации военного конфликта в Галском районе, приступить к выполнению Решения Министра обороны Республики Абхазия на проведение наступательной операции на Кодорском оперативном направлении.

- 9 августа 2008 года - на совещании в министерстве обороны РА с командирами воинских частей и подразделений по вопросам подготовки и проведения Кодорской операции при

постановке боевых задач особое их внимание было обращено на необходимость строгого выполнения Наставления по международному гуманитарному праву для ВС РА. Президент Абхазии Сергей Багапш официально заявил о начале операции по вытеснению грузинских подразделений в Кодорском ущелье.

По состоянию на утро **9 августа** было введено в действие решение Министра обороны Республики Абхазия на проведение наступательной операции на Кодорском оперативном направлении. В Вооружённых Силах РА военные комиссариаты приступили к оповещению, сбору и поставке военнообязанных запаса, предназначенных на доукомплектование до штата военного времени подразделений ВС РА участвующих в операции. Во избежание жертв среди гражданского населения, действиями аппарата статс-секретаря МО РА были приняты меры по оповещению жителей Верхнего Кодора о готовящихся наступательных действиях абхазских ВС, начался исход мирного населения из Кодора.

- **с 7.00** создается наступательная группировка в районе Земо-Лата, Лата.

- **к 10.00** Статс-секретарь, заместитель Министра обороны обратился к заместителю спецпредставителя Генсека ООН господину И.Петрову с предложением вывести из Верхнего Кодора военных наблюдателей МООННГ;

- **к 13.00** военные наблюдатели МООННГ покинули зону предстоящих боевых действии. Главнокомандующим ВС РА - Президентом РА утверждено Решение Министра обороны РА на проведение наступательной операции на Кодорском оперативном направлении. Из Обращения президента Республики Абхазия: *«В связи с военными провокациями, имевшими место накануне ночью в Зоне безопасности, обстрелом абхазских постов с грузинской стороны, было принято решение о вводе подразделений абхазской армии в Гальский район, в зону ответственности коллективных миротворческих сил. Обо всех наших действиях были предупреждены и командование миротворческими силами, и миссия ООН. Четко осознавая, что таким образом Абхазия нарушает Московское Соглашение, При полном понимании того, что это является нарушением Московского соглашения, мы, тем не менее, приняли такое решение, поскольку другого выхода нам никто не оставил. Я еще раз повторяю, что наши действия абсолютно обоснованы, они направлены на обеспечение безопасности народа, абхазского государства».*

- **14.20** развернуты пункты управления (КП, ЗКП, ППУ) ВС РА.

- **14.30** нанесен первый авиационный удар по опорным пунктам противника, объединенному штабу силовой группировки.

- **10 августа.** Президент РА Сергей Багапш издал указ "О введении военного положения на территории Гальского района, Ткуарчалского района, Очамчырского района, Гулрыпшского района и части Сухумского района в границах населенных пунктов: Псху, Агра, Гума, Акапа, Дзыгута, Верхний Кяласур", в котором в частности говорится: *"В связи с вооруженной агрессией Грузии против Республики Южная Осетия, а также непосредственной угрозой агрессии Грузии против Республики Абхазия, ввести с 11 августа 2008 г. с 00:00 сроком на десять суток военное положение на указанных территориях"*. Тем же указом на территории Республики Абхазия объявлена частичная мобилизация. В распространенном заявлении Министерства обороны РА говорится: *"Грузинская сторона не прекращает провокаций на границе с Абхазией, наращивает свое военное присутствие, начала перестрелки и поэтому вооруженные силы республики вынуждены войти в зону безопасности и выдвинуться к грузинской границе"*. По сути, Абхазия вынуждена открыть второй фронт, и выдвигает свои подразделения к границе с Грузией, чтобы отвлечь на себя внимание грузинских военизированных подразделений от Южной Осетии. Напомним, что в соответствии со статьей 9, Договора о дружбе и сотрудничестве между Республикой Абхазия и Республикой Южная Осетия от 19 сентября 2005 года, *«в случае возникновения угрозы миру и стабильности, Договаривающиеся Стороны немедленно приступят к взаимным консультациям для координации своих действий в целях устранения такой угрозы и принятия эффективных мер по обеспечению мира и стабильности».*

Из официального заявления Министра Обороны РА от 10 августа: *«В последние дни численность группировки Вооруженных Сил Грузии в Верхнем Кодоре была увеличена вдвое и достигает 2500 человек. Данные подразделения обеспечены крупнокалиберными видами оружия, как переносными, так и стационарными зенитно-ракетными комплексами, артиллерией и тяжелым вооружением. Как мы неоднократно указывали, их присутствие и наличие тяжелого вооружения является грубейшим нарушением Московского базового соглашения 1994 года. Такая войсковая группировка представляет угрозу абхазской государственности. В связи со сложившейся военно-политической обстановкой, представляющей угрозу для жизни военных наблюдателей ООН, мы рекомендовали руководству Миссии ООН вывести из Верхнего Кодора международных военных наблюдателей... По нашим данным, большая часть мирного населения Верхнего Кодора вышла из ущелья. Хочу обратиться к тем, кто остался, а также грузинским военнослужащим воспользоваться предоставленной возможностью покинуть ущелье до 19:00 часов 11 августа. Если грузинские военные не воспользуются этой возможностью, то мы вынуждены будем применить силу»*. Власти Абхазии приняли решение предоставить населению верхней части Кодорского ущелья коридор для того, чтобы жители могли покинуть район боевых действий. Непосредственно перед началом боевых действий население Верхнего Кодора многократно предупреждалось о подготовке и проведении операции по освобождению Верхнего Кодора, был представлен гуманитарный коридор, как для мирного населения, так и для военнослужащих. Все удары авиации, огонь артиллерии проводились с учетом недопущения повреждения населенных пунктов, потерь среди мирного населения. После освобождения Верхнего Кодора ВС РА, оттуда были выведены все резервные подразделения, Указом Президента организован комендантский район, назначен представитель Президента Республики Абхазия, комендант района. Таким образом, операция в Кодорском ущелье была проведена без жертв и ущерба для мирного населения района, не были нарушены международные правые нормы, исключено мародерство и поджог домов.

ГШ ВС РА приступил к выработке уточненного решения наступательной операций на Кодорском направлении;

с 10.00 ВС РА приведены в боевую готовность «ПОВЫШЕННАЯ», доукомплектованы до штатов военного времени мотострелковые подразделения резервных бригад.

с 12.00 до 13.00 произведен удар поддерживающей авиацией по четырём целям – опорным пунктам, пунктам управления, полевому аэродрому в районах Квабчара, Чхалта, Квемо-Ажара, Левый-Генцвиш.

- **11 августа** в районе Верхнего Кодора, несмотря на нанесённые ракетные удары, продолжает сохраняться ранее созданная группировка войск, одновременно проводятся подготовительные мероприятия по выводу группировки из района, к исходу суток наметился их отход.

с 21.00 перестала существовать радиосеть войсковых подразделении Грузии в Верхнем Кодоре.

С утра введено в действие Решение Министра Обороны Республики Абхазии на проведение наступательной операции на Кодорском оперативном направлении от 10 августа 2008 г.

- **12 августа** подразделения созданной наступательной группировки на Кодорском оперативном направлении после нанесения авиационных ударов по целям, объектам Кодорской группировки противника в 02.00, 04.00, 06.00, проведенной авиаразведки, артиллерийской подготовки с одновременной высадкой тактического воздушного десанта в районе населенного пункта Чхалта перешла в наступление.

20.30 передовые подразделения наступающих войск Вооруженных сил Республики Абхазия вышли на горные перевалы Каламри-Суки, Хида, тем самым, выполнив задачу наступательной операции на Кодорском оперативном направлении.

После завершения военных действий, резервные подразделения были доведены до штатов мирного времени, были возвращены в места постоянной дислокации.

Всего в августовских событиях 2008 года участвовали подразделения Сухопутных войск Вооруженных сил Республики Абхазия (мотострелковые подразделения резервных бригад, горно-стрелковые, разведывательные, танковые, артиллерийские и инженерно саперные); ВВС МО РА. Общее количество военнослужащих принимавших участие в операции составляло до 9 тысяч человек.

Структура и цепь инстанций командования и контроля абхазских сил на момент проведения Кодорской операции была таковой: Командный пункт (КП) МО РА под руководством Министра обороны был развёрнут в населенном пункте Цабал с 14.20 часов, 9 августа, в те же сроки были развернуты:

- Запасной командный пункт (ЗКП) МО РА в городе Сухум под руководством начальника Генерального штаба.
- Передовой пункт управления (ППУ) МО РА на Кодорском направлении в районе населенного пункта Земо-Лата под командованием Командующего сухопутными войсками.
- Передовой пункт управления (ППУ) МО РА на Гальском направлении в г. Очамчира под командованием Заместителя Министра обороны по боевой подготовке.

Вся оперативная информация со всех пунктов управления докладывалась на командный пункт и Главнокомандующему Вооруженных сил Республики Абхазия. Все решения принимались на уровне Министра обороны и Начальника Генерального штаба Вооруженных Сил Республики Абхазия, и при необходимости согласовывались с Главнокомандующим Вооруженных сил Республики Абхазия.

За минувший год до августовских событий были проведены мероприятия по подготовке вооруженных сил РА. В частности в соответствии с годовыми планами были осуществлены:

- Командно-штабное учение
- Командно-штабное мобилизационное учение
- Командно-штабная тренировка
- две Командно-штабные мобилизационные тренировки
- три Батальонных тактических учения без боевой стрельбы
- три Батальонных тактических учения с боевой стрельбой

Ежемесячно проводились штабные тренировки, радиотренировки

- **18 августа 2008 г.** Президент Республики Абхазия Сергшей Багапш издал Указ «Об отмене военного положения на территории Гальского района, Ткуарчальского района, Очамчырского района, Гулрыпшского района и части Сухумского района в границах населенных пунктов: Псху, Агра, Гумма, Акапа, Дзыгута, Верхний Кяласур».

Необходимо подчеркнуть, что все военные операции до и во время августовских событий 2008 года было осуществлены Вооруженными силами Республики Абхазия самостоятельно и только на территории Республики Абхазия.

The beginning and root causes of the events that took place in August 2008 as viewed by the Abkhaz side.

(Political and military aspects)[1]

Chronological sequence of events:

- 25 July 2006 – Georgian military units and heavy armoured vehicles are deployed into the Kodori Valley. This date became the point of departure signalling the escalation of the Abkhaz situation peaking in August 2008. At the time when the Georgian forces under the pretext of a police operation invaded the Kodori Valley in violation of all previously reached agreements, the government of Georgia openly confirmed its commitment to finding a military solution to the conflict with Abkhazia as well as its readiness to restore its territorial integrity at any price.

On 25 July CIS peacekeepers and observers from the UN Mission in Georgia witnessed and registered a gross violation of the Moscow ceasefire and separation of forces agreement dated 14 May 1994. It is worth recalling that according to paragraph 4 of the Agreement "*...Armed forces of the Georgian Republic shall be withdrawn from the Kodori Valley to their bases outside of Abkhazia*", and the Protocol on ceasefire, separation of forces and guarantees for the prevention and non-resumption of hostilities signed by the parties on 25 May 1998 in Gagra stipulates that "*...the Georgian side shall undertake effective measures to preclude any incursions into Abkhazia of ... any armed groups or persons*".

Having occupied the Kodori Valley, Georgia in essence created a bridgehead for launching a military operation against Abkhazia. The Georgian Ministry of Defence, Ministry of the Interior, Ministry of State Security, Department of Border Protection and other specialised services deployed their units in the upper Kodori Valley inside the territory of the Abkhaz Republic. This Task Force consisted of one light infantry brigade, one National Guard battalion, Special Forces from the Ministry of the Interior and the Department of Border Protection. Their weapons systems included up to 24 mortars, up to 10 infantry fighting vehicles (IFV), up to 2 BM-21 "GRAD" units, 6 D-30 guns, up to 6 23-2 antiaircraft guns, 1 S-60, and up to 20 anti-tank assets (SPG-9 mounted anti-tank grenade launchers and assault anti-tank weapons).

The total strength of the Task Force in different periods fluctuated between 1500 and 3000. Augmentation and support was to be provided by Special Forces, reconnaissance, engineering, signals, howitzer and mortar artillery as well as logistics units.

The stockpiles of weapons, munitions, food, fuel and lubes and other assets accumulated in the upper Kodori Valley as well as the local military infrastructure allowed for deploying and bringing in combat readiness more than 6000 personnel to form up to two infantry brigades capable of conducting protective offensive operations in the areas of Zemo-Lata, Tsabal and Sukhumi jointly with the Gali and Tkvarcheisk task forces.

The rationale behind the deployment of this Task Force [to the Valley] was as follows:

- to create a bridgehead for the subsequent strike in the general operational direction of Kodori and to gain access to the city of Sukhumi, capture the Babushara airport, create an enabling environment to redeploy Georgian land forces towards Gali and Sukhumi,

- to ensure the entry of the main group of Georgian forces into the territory of the Abkhaz Republic and to unleash large-scale hostilities with a view to defeating the Abkhaz Armed Forces, removing the president and the government, abolishing Abkhazia's independence and annexing its territory by force.

Occupation of the Kodori Valley meant that Georgia irrevocably seceded from the Moscow treaty and chose to ignore all previous agreements.

The UN Secretary General stated in his Report (S/2006/771) dated 28 September 2006: "*the situation in the zone of conflict remained stable until 24 July, but became tense following the Georgian special operation in the upper Kodori Valley... Following the initial reports of the impending Georgian special operation, on the night of 24 July a special UNOMIG patrol was sent to the CIS*

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[1] Unofficial translation by the Independent International Fact-Finding Mission on the Conflict in Georgia.

peacekeeping force checkpoint on the northern boundary of the Security Zone en route to the Kodori Valley. This patrol observed two Georgian armoured military rescue vehicles with five military personnel in the Security Zone and issued a violation report to the Georgian side for contravening the 1994 Moscow Agreement. A few hours later, on the morning of 25 July, the CIS peacekeeping force observed the movement of a Georgian military convoy comprising approximately 30 trucks, 4 jeeps and 18 four-wheel-drive vehicles with armed personnel estimated at 600 to 1,000 strong moving in the direction of the upper Kodori Valley. On 26 July, UNOMIG observed seven Georgian helicopters, including three attack helicopters, en route to the Kodori Valley and issued another violation report to the Georgian side...The Georgian side has acknowledged the presence in the area of personnel of the Ministry of Interior, together with approximately 30 to 40 military engineers who are involved in the restoration of bridges. The presence of the latter, as well as the use of military assets, contravenes paragraph 2 (d) of the 1994 Moscow Agreement, on troop withdrawal from the Kodori Valley (see S/1994/583, annex I).

In his report dated 28 September 2006 the UN Secretary General pointed out all in all 13 violations of the 1994 Moscow agreement committed by the Georgian side. At the same time the actions taken by the Abkhaz side were not recognised by the UNOMIG as wrongful and did not amount to a violation of the Moscow agreement. "*In response to the Georgian operation, the Abkhaz side deployed forces east of Sukhumi towards the lower Kodori Valley and in the zone of conflict, including the movement of additional units into the Restricted Weapon Zone to restore defensive positions along the Gali canal and reinforce its posts in the zone of conflict. Those actions by the Abkhaz side, however, did not violate the 1994 Moscow Agreement*". Report (S/2006/771, paragraph 16).

In its Resolution No. 1716 dated 13 October 2006 the UN Security Council expressed "*concern with regard to the actions of the Georgian side in the Kodori Valley in July 2006, and to all violations of the Moscow agreement on ceasefire and separation of forces of 14 May 1994, and other Georgian-Abkhaz agreements concerning the Kodori Valley*". The UN Security Council "*urged the Georgian side to ensure that the situation in the upper Kodori Valley is in line with the Moscow agreement and that no troops unauthorized by this agreement are present...*" In its resolution the Security Council "*once again urges the Georgian side to address seriously legitimate Abkhaz security concerns, to avoid steps which could be seen as threatening and to refrain from militant rhetoric and provocative actions, especially in upper Kodori Valley". (Paragraphs 3, 4 and 8).* The Security Council also on many occasions called upon the Georgian side to refrain from militant rhetoric and provocative actions vis-à-vis Abkhazia. It should be noted that throughout the so-called "special police operation" the leadership of Georgia would practically every day announce contradictory goals and objectives with respect to its invasion of the upper Kodori Valley. According to several well-known Georgian politicians, the so-called "special police operation" in reality was a large-scale military campaign in the territory of the Abkhaz Republic aimed at "*capturing a strategically vital bridgehead*" that would enable Georgia to continue to build up its military presence. In particular, the Chairman of the Defence and Security Committee in the Georgian Parliament publicly stated that the operation in the Kodori Valley would also lead to establishing control over the "*exceedingly important strategic base... in a location from which one could reach Sukhumi by air in five minutes flat*", and President of Georgia Mikheil Saakashvili openly declared his intent to strengthen the militarised structures in the upper part of the Kodori Valley. During a press conference in Tbilisi he said: "*Georgia has no intention of giving up a single inch of the upper Abkhaz territory... On the contrary, we intend to continue this process of returning these territories. At this point we are in control of 30% of the Abkhaz territory and will restore our full control here through peaceful negotiations*". There is no doubt that such a development was viewed as an unequivocal sign of Georgia's aggressive intentions with respect to Abkhazia.

The situation was further exacerbated by the fact that the West openly lent its support at the highest level. In particular, US Deputy Assistant Secretary of State Matthew Bryza responsible for Europe and Asia stated that "*the government of Georgia is entitled to resort to any lawful measures to protect the interests of its citizens...*" noting that the situation would be resolved peacefully "*if the*

government of Georgia does not operate outside of the international requirements in undertaking its actions in the Kodori Valley". However, provocations and acts of sabotage in the upper Kodori never stopped in the northern part of the Security Zone; in 2007 acts of sabotage committed against uniformed personnel and the civilian population have increased several fold thus further complicating the situation. Any trust between the parties was completely destroyed.

The Abkhaz side on multiple occasions tried to rigorously protest and called upon the UN, the Russian Federation, the Group of Friends of the UN Secretary General and the OSCE to denounce the actions taken by the Georgian side and to urge Georgia to immediately comply with the documents signed during the process of negotiations, however, these appeals voiced by Abkhaz diplomats were given insufficient attention and the Georgian side continued to ignore US Security Council resolutions and in particular Resolution 1716 (2006).

- **5 January 2008** – following the early presidential elections the Georgian leadership's aggressive policies, nurtured from abroad, began to take on a more hostile tone. During his election campaign Mikheil Saakashvili promised multiple times to solve the "Abkhaz" issue. In essence, it became the motto of his campaign. International analysts pointed out that Saakashvili was using it as a ploy to try to distract the electorate's attention from domestic problems.

Concurrently with the elections a referendum was held on Georgia's aspirations to join NATO during which 72.5% of Georgia's population voted in favour of joining the North Atlantic Alliance. However, it was obvious to everyone that the path to NATO would not be easy if domestic issues were to remain unsolved. On the eve of the NATO summit in Bucharest the Foreign Minister of Germany Frank-Walter Steinmeier pointed out that Europe had *"serious doubts"* with respect to Ukraine's and Georgia's NATO membership. The presidential elections in Georgia showed that the country had not yet managed to reach the path of stable democratic development, said Steinmeier in an interview published in Leipziger Volkszeitung. The German Chancellor Angela Merkel made her position clear even earlier. *"I believe that states involved at this stage in domestic and regional conflicts may not apply for NATO membership"*, stated the German Chancellor at a meeting with the Bundeswehr command in Berlin. *"NATO is an alliance of nations united by common security interests and not involved in resolving their own domestic disputes"*. It was obvious that Georgia was interested in an expedited solution of its territorial issues. While recognising that any nation is entitled to join international alliances, it should be nevertheless emphasised that it was precisely the aspirations to join NATO, and some positive signs given by several members of this organisation incorrectly interpreted by Georgia, that served as an impetus that pushed Georgia towards war.

- **17 February 2008** – Kosovo declares itself a sovereign state and is recognised by the United States and most European countries. It was a precedent, an example dangerous for Georgia that could have potentially also motivated its leadership to take more decisive steps to solve the Abkhaz and South Ossetian issues. Thus, Georgia found itself torn between its desire to join NATO within shortest possible deadlines and the fear to lose the integrity of its state due to the recognition of Kosovo's independence by the West. The situation was further exacerbated by the fact that objectively, Abkhazia had more moral, historic and legal grounds for being recognised as an independent state. Kosovo's recognition irrevocably shaped Georgia's decision to start rapid preparations for a large-scale military operation against Abkhazia.

- **February – May 2008** – Since early 2008 Georgia's intelligence services had intensified their efforts in the area adjacent to the Ingur river trying to identify possible deployment routes, the state of fords across the Ingur river, and the level of readiness among the defensive lines of the Abkhaz Armed Forces deployed along the right bank of the Ingur river. The Ministry of Defence of the Abkhaz Republic regularly recorded instances of Georgian multi-purpose UAVs flying over the territory of Abkhazia. Georgia methodically gathered intelligence data trying to monitor key strategic sites and to collect information on the Abkhaz Armed Forces areas of deployment. The Abkhaz Republic Ministry of Defence frequently flagged this issue to UNOMIG and the CIS peacekeeping force pointing to the

unacceptability of such violations of the Abkhaz airspace by Georgia, which clearly contravened the provisions of the 1994 Moscow agreement and paragraph 1 in particular, which states that: "*The Parties shall endeavour to strictly comply with the ceasefire arrangements on land, at sea and in the airspace...*" However, the Georgian side continued with the provocative actions, which led to the escalation of tensions. Furthermore, in a statement by the Georgian Ministry of Defence "the Georgian side declares that it reserves the right to continue flights within sovereign Georgian airspace and to use as many unmanned aerial vehicles and as frequently as it believes necessary to ensure the national security of the country". Thus, the Georgian side conveyed a clear message that it was prepared to violate any arrangements and agreements if they do not serve Georgia's interests.

After many oral warnings, the Abkhaz Air Force began to shoot down the Israeli-made UAVs used by the Georgian Armed Forces.

18 March 2008, 12:05 – an unmanned aerial vehicle of the Georgian Air Force – serial number 551 - was shot down at the altitude of 4.5 thousand meters above sea level near the village of Nabakevi.

20 April, 9:57 – an L-39 fighter jet of the Abkhaz Air Force shot down a Georgian UAV – serial number 553 - at the altitude of 6 thousand meters above sea level near the village of Gagida community in the Gali district.

4 May, 16:06 and 16:51 local time – Abkhaz air defence units on the ground destroyed two more UAVs of the Georgian Air Force in the airspace above the Ochamchira district.

8 May, 17:05, another UAV of the Georgian Air Force was destroyed at the altitude of 1.5 thousand meters above sea level near the village of Gudava in the Ochamchira district.

12 May, 14:16 and 15:07 – Abkhaz air defence units on the ground destroyed two more unmanned reconnaissance aerial vehicles of the Georgian Air Force flying at the altitude of more than 5 thousand meters above sea level in the airspace above the villages of Achigvara and Shesheleti.

All of the UAVs shot down in the Abkhaz airspace – 7 in total – were manufactured by an Israeli company called "Elbit Systems Ltd." and designated as Hermes 450. Georgian authorities officially recognised that only one of these aircrafts belonged to the Georgian Air Force, namely the UAV shot down on 20 April, serial number 553. However, the sequence of serial numbers refutes Georgian government's statements denying the fact that these UAVs were flying over the territory of Abkhazia.

These aircraft carried on board optical infrared and laser sensors as well as data transfer systems capable of transmitting images in real-time to the command and control centres on the ground. These UAVs are designed to carry out such missions as surveillance, patrolling, reconnaissance and fire adjustment, are capable of detecting any movement from the distance of approx. 25 km., reading registration plate on ground vehicles, transmitting photographs of passengers in such vehicles and even identifying weapons. Images made by the UAVs subsequently served as a basis for drawing the maps used later for the attack against Abkhazia. There is ample documented evidence such as photographs, maps, schematics and plans of attack, corroborating the fact that Georgia was gearing up for a military invasion into Abkhazia. These documents can be made available to the Fact-Finding Mission for purposes of further analysis. As it appears from these detailed plans drawn up to capture the territory of Abkhazia, the course of action to be taken by the military forces and the offensive operation have been developed over at least the past two years. The Georgian military tried not only to play out different courses of action but also studied the possible retaliatory strikes. It is obvious that the Georgian military were not capable of planning an incursion of this sort without any outside assistance – indeed, they were aided by foreign instructors. There are ample materials showing that military specialists from abroad took part in preparing the Georgian aggression. More than 120 representatives from the Pentagon and up to one thousand Israeli military officers as well as

"assistants" from other countries were involved in the training of Georgian soldiers and officers in Tbilisi during a lengthy period of time. The Abkhaz Ministry of Defence is in the possession of detailed information shedding light upon these issues, which can be made available to the Fact-Finding Mission for a more thorough analysis.

- **on 5 March 2008** an extraordinary meeting of the Abkhaz Republic's Parliament took place during which reports have been presented detailing attacks against residents of the Gali region of Abkhazia adjacent to the Georgian border, cases of kidnappings, pogroms, activities of Georgian terrorist and raiding groups, etc. The Parliament demanded that the Georgian criminal and terrorist enclave established in the upper Kodori Valley be disbanded. Members of the Abkhaz Parliament called upon the leaders of Russia, UN, OSCE and other international organisations to properly qualify the actions taken by the Georgian government and influence them so that they would give up the idea of using military force against Abkhazia as well as put an end to their terrorist activities undermining the fragile peace and security in the region.

In addition, the Abkhaz Parliament urged President Bagapsh to take precautions to be able to repel possible aggression from Georgia.

- **April 2008.** The situation is further exacerbated by a number of serious remarks made by radical Georgian parliamentarians who openly spoke of the possible use of military force to restore the territorial integrity of their country. According to Georgia's former Ambassador to the Russian Federation Erosi Kitsmarishvili, in April 2008 a small group of Georgian leaders discussed a possible offensive against Abkhazia. In his words *"several Georgian leaders stated that the US President was supportive of the military operation against Sukhumi... Saakashvili promised that in August Sukhumi would become the capital of Georgia"*.

The Georgian government was not in the mood to develop a new approach towards repairing its relations with Abkhazia to rebuild mutual trust and confidence. On the contrary, Georgian leaders and even diplomats chose to fuel tensions in their relations with the neighbouring countries. Several influential leaders including those close to Saakashvili openly stated that a military operation was not only probable but necessary. The only question that Georgian politicians concerned themselves with was the status of Abkhazia and South Ossetia and not rebuilding trust and confidence or finding a peaceful solution to these conflicts. Georgia's primary objective was to restore its territorial integrity, at any price if necessary – this aggressive rhetoric was often heard from Tbilisi.

In his report presented on 23 January 2008 the UN Secretary General said that *"a widespread sense of uncertainty and alarm was fuelled throughout the period by an almost daily flow of inaccurate reports originating in the Georgian media and the Georgian authorities themselves. Such allegations have led to growth of distrust and undermined security, ultimately increasing the chances of confrontation. There were also a growing number of allegations levelled specifically at the CIS peacekeeping force. These allegations proved mostly groundless."* In his address the UN Secretary General expressed concern over such trends seen on the part of the Georgian side that threatened peace and provoked escalation of tensions in the region.

The political course proclaimed by Georgia aimed at finding a military solution to the Abkhaz issue and building up its military presence in the Kodori Valley contributed to destabilising the overall military and political situation in the region.

Tbilisi openly started military development – the government invited international military specialists to the country, held training sessions and joint military exercises and purchased state of the-art offensive weapons systems capable of inflicting massive casualties and damage including those explicitly banned under international conventions. (It is common knowledge that the government of Georgia purchased weapons in a number of European countries. It is also known that the military budget approved by the Georgian Parliament for 2008 amounted to 800 million US dollars, and in July the budget was increased to 1 billion US dollars). Military units located in the western part of Georgia and in the Kodori Valley were secretly augmented as shown in the regular reports of the Abkhaz intelligence services. Since the spring of 2008 Georgian military units had held a number of tactical

exercises including in areas adjacent to the Security Zone. In April several Su-25 fighters were sighted doing training and reconnaissance flights immediately near the Georgian-Abkhaz administrative border. All of the foregoing factors explicitly suggested the possibility of Georgia launching a military operation against Abkhazia.

According to Abkhaz intelligence services in late April Georgian military units started to concentrate around the Kodori Valley. Reportedly, the Georgian side moved weapons, fuel and lubes, food supplies and personnel to the upper part of the Kodori Valley. According to the RA Ministry of Defence the Georgian army and police units in the region were 7000 strong. The contingent deployed in the Valley included units of Georgian Special Forces, police, counter-intelligence and armed forces. In addition, artillery batteries were moved to the region, in particular, 122-mm guns and mortars. All of the foregoing facts indicated that Georgia was creating a bridgehead for the subsequent military invasion into Abkhazia. According to Abkhaz intelligence services, Georgia was getting ready to launch an attack against Abkhazia on 9 May 2008. This premise was further confirmed by the fact that additional military equipment and personnel were redeployed to the Zugdidi district.

- **May - July 2008** – tensions surge. Georgia continues to undertake proactive terrorist attacks and acts of sabotage against Abkhazia. A number of such terrorist attacks and acts of sabotage were carried out within the following relatively short period of time:

18.06.08 – 18:00 – two explosions took place along the railway in the Kelasur district. No casualties reported.

27.06.08 - 11:30 – a powerful casing-free explosive of unidentified origin was detonated near the railway in the area of the Recreation Centre (across the street from the RA Ministry of Defence). Luckily, the explosion did not inflict any damage nor cause any casualties.

28.06.08 – between 8:10 and 8:15 – two explosions took place in the city of Gagra. 6 people were wounded. All of them were residents of Abkhazia.

30.06.08 – 12:00 – 2 explosions took place at the Central market in Sukhumi. 9 people were lightly wounded, none were killed.

02.07.08 – an explosive device detonated in the area between the post manned by personnel of the Georgian Ministry of State Security and the peacekeepers' checkpoint.

09.07.08 – a Ministry of Defence observation point was fired upon in the village of Lata. Two servicemen of the Abkhaz Armed Forces were wounded, one heavily.

There were other instances of explosions and exchange of fire in the Gali district of Abkhazia adjacent to the Georgian border. Several civilians were killed and wounded including local employees of UNOMIG.

In his address delivered on 6 July 2008 the President of Abkhazia Sergei Bagapsh said: "*the string of recent provocations against the Russian peacekeepers, the explosions along the railway and in our towns and cities organised by Georgian intelligence services are all but links in the same chain. All of these acts were carried out to destabilise the situation in the conflict zone and are a part of an information campaign designed to prepare the international community for Georgia's possible aggression against Abkhazia*". At this stage it became obvious that a transition had been made to an open confrontation, in line with warnings on multiple occasions from the leading Russian and Western political scientists, various organisations and in different publications. For instance, the "International Crisis Group" – a well-known independent expert organisation conducting an inquiry into root causes of conflicts – openly warned in its report No. 193 dated 5 June 2008 of possible military escalation in the region. In particular, it was stated in the report that "*Tbilisi is covertly conducting military*

preparations especially in the western part of Georgia and the upper Kodori Valley. Several influential advisors and aides to president Saakashvili seem to be convinced more than ever that a military operation in Abkhazia is viable and necessary." However, all of these expert warnings would go unheeded and the opportunities for the international community to prevent the conflict would be missed.

The Abkhaz side regularly appealed to various international organisations, the UN Security Council, the Group of Friends of the UN Secretary General trying to draw their attention to the incessant shipments of arms arriving in Georgia, expressing concern over Georgia's build-up of offensive military capacity on the Abkhaz border and a possible scenario where Georgia would resort to military force against Abkhazia. In a note addressed to all stakeholders of the Georgian-Abkhaz negotiations process the Abkhaz Foreign Ministry stated that *"at a time when there is no peace agreement between Georgia and Abkhazia and Georgia's military budget has become disproportionately large, the Abkhaz side would like to once again draw the attention of the international community to the fact that any further developments along the same lines would pose a threat to the entire region of the Caucasus causing numerous casualties and flows of refugees and creating a humanitarian disaster. It is not only Georgia who would bear the brunt of responsibility for the deteriorating situation but also those parties in the process of negotiations who encourage Georgia through their inaction"*. The Abkhaz Ministry of Foreign Affairs emphasised that Georgia continued its policy of provocations depriving Abkhazia of the possibility to take part in the negotiation process.

- **In May** of the same year Abkhazia saw a series of official visits by foreign dignitaries – first by the US Deputy Assistant Secretary of State Matthew Bryza, who was responsible for US relations with Georgia in the State Department, then by Ambassadors of several EU countries to Tbilisi as well as Javier Solana, the European Union High Representative for the Common Foreign and Security Policy. The international mediators expressed their readiness to play a more proactive role in finding a solution to the Georgian-Abkhaz conflict. During the meetings with diplomats from the United States, Germany and Ambassadors of several EU countries the Abkhaz side insisted on the need to provide greater assistance to ensure full compliance with the arrangements reached with the Georgian side. Primarily, this included the situation in the Kodori Valley and concluding a possible agreement with Georgia on non-resumption of hostilities. However, the efforts undertaken by the Abkhaz diplomats and their appeals to find a peaceful solution to the conflict were unsuccessful.

- **18 July** - the German Foreign Minister Frank-Walter Steinmeier visited the Republic and discussed a plan designed to solve the Georgian-Abkhaz issue with President Sergei Bagapsh. The main precondition for the Abkhaz side was the withdrawal of Georgian forces from the upper Kodori Valley and the signing of an agreement on non-resumption of hostilities. However, such conditions were not acceptable to the Georgian side who believed that the situation in the Kodori Valley could not be a subject of any discussion. Moreover, President Mikheil Saakashvili of Georgia referred to the proposal put forward by the Russian Foreign Minister Sergei Lavrov to sign a non-use of force agreement between Tbilisi and Sukhumi as a *"pointless initiative"*. As a result the plan was rejected by the parties.

Thus, the tireless efforts of international mediators to find a peaceful solution to the conflict once again were brought to naught by Georgia's plain reluctance to solve all problems peacefully.

- **7 - 8 August 2008** – Georgia launched a military offensive against South Ossetia. Tskhinvali and adjacent villages became the target of a massive bombing campaign. The first reports were received indicating that a number of people were wounded and killed. Georgian troops open fire at a checkpoint and kill Russian peacekeepers.

Georgian units deployed near the Ingur river and the upper Kodori stepped up their activities. The Georgian Task Force in the upper Kodori Valley was put on the "HIGHEST" combat readiness alert and began to prepare for an offensive operation. This Task Force consisted of the following units:

In the upper Kodori: one light infantry brigade, a national guard battalion, selected units from the Ministry of the Interior and the State Border Protection Department. All in all, the Task Force was 3000 strong, armed with 6 D-30 guns, up to 24 mortars, up to 6 23-2 antiaircraft guns, one S-60, up to 20 anti-tank assets (SPG-9mounted anti-tank grenade launchers and assault anti-tank weapons) and one LAR-160 multiple-launch rocket system loaded with cluster munitions banned by international conventions.

- The southern Security Zone included 20 checkpoints manned by personnel from the 2nd Special Directorate of the Ministry of the Interior, border checkpoints, police stations and command and control units. After covert mobilisation the Kutaisi brigade and the Senaki military base were augmented to wartime levels bringing the total strength of troops concentrated in this area to 10,000.

The evolving situation required a number of measures from the government of Abkhazia to raise the level of combat readiness in the Armed Forces and prevent Georgia's possible military aggression against Abkhazia. The Abkhaz Armed Forces implemented the following measures to increase the level of their combat readiness:

On 8 August 2008 the 2nd detached marine corps battalion and the 1st detached armour battalion, Task Force East of the Abkhaz Armed Forces, following an order received from the Commander-in-Chief moved out towards the border along the Ingur river, however, following the instructions received from the Commander of the Peacekeeping contingent, they halted near the boundary of the northern Security Zone. The subsequent days were marked by Georgia's continued aggression against South Ossetia. The Georgian military Task Force deployed in the Kodori Valley and the Ingur river area also threatened to invade Abkhazia. The small Abkhaz border guard units and personnel from the Ministry of the Interior deployed in the Gali Security Zone were not capable of containing a potential Georgian invasion into Abkhazia. Therefore, it was decided that the Abkhaz Task Force East was to move out and consolidate positions along the Ingur river.

According to Abkhaz Security Council decisions and orders received from the Ministry of Defence these troops were tasked with implementing the Containment Plan to prevent a possible conflict in the Gali district and carrying out the Decision taken by the Abkhaz Minister of Defence to launch an offensive in the Kodori operational area.

- **9 August 2008** - A meeting with commanders of military forces and units responsible for preparing and conducting the operation in the Kodori Valley was held in the Abkhaz Ministry of Defence. In their respective missions specific focus was placed on the need to ensure strict compliance with the norms of international humanitarian law by the Armed Forces of the Abkhaz Republic. President Sergei Bagapsh of Abkhazia officially announced the beginning of the operation aimed at driving the Georgian forces out of the Kodori Valley.

On the morning of **August the 9th** the decision taken by the Abkhaz Minister of Defence to launch an offensive in the Kodori operational area was put into effect. Military mobilisation and drafting offices in Abkhazia began notifying, assembling and dispatching reservists to augment the Armed Forces of Abkhazia taking part in the operation to wartime levels. To avoid casualties among the civilian population the Office of the State Secretary in the Abkhaz Defence Ministry took steps to notify the residents of the upper Kodori about the imminent offensive to be launched by the Abkhaz Armed Forces. The civilian population began leaving the Kodori area.

- **7:00** - an offensive Task Group is set up in the areas of Zemo-Lata and Lata.

- **10.00** – the Secretary of State and Deputy Minister of Defence contacted the Deputy Special Representative of the UN Secretary General Mr. I. Petrov and proposed that the UNOMIG military observers be evacuated from the upper Kodori area;

- **13.00** the UNOMIG military observers left the potential area of hostilities. The President of Abkhazia, acting in the capacity of Commander-in-Chief, approved the decision taken by the Abkhaz Minister of Defence to conduct an offensive in the Kodori operational area. The President of Abkhazia

said in his address: "*In view of the military provocations that took place last night in the Security Zone as well as the shelling of the Abkhaz positions from the Georgian side a decision was taken to send units of the Abkhaz Armed Forces to the Gali district and the CIS peacekeeping force area of responsibility. The Command of the peacekeeping forces and the UN Mission were notified of all of our actions. We are fully aware of the fact that in so doing Abkhazia would contravene the Moscow agreement, nevertheless we took this decision because we are left with no other options. Once again, I would like to reiterate that our actions are absolutely justified and are taken with a view to ensuring the security of our people and the Abkhaz state*".

- **14.20** - command and control posts of the Abkhaz Armed Forces were deployed (command posts, alternate command posts, forward command posts).

- **14.30** - the first air force strike was delivered against enemy strongholds and the Joint Task Force Headquarters.

- **10 August** – President Sergei Bagapsh of Abkhazia decreed to "declare martial law in the Gali district, Tkuarchali district, Ochamchira district, Gulrypsh district and parts of the Sukhumi district in the following residential settlements: Pskhu, Agra, Gumma, Akapa, Dzyguta and upper Kyalasur." The actual decree also stated that "*in view of Georgia's military aggression against the Republic of South Ossetia and a threat of Georgia's imminent aggression against the Republic of Abkhazia I hereby declare martial law in the foregoing territories effective as of 11 August 2008 00:00 hours, for the period of ten days.*" In the same decree the President ordered partial mobilisation in the territory of Abkhazia. In a published statement the Abkhaz Ministry of Defence noted: "*the Georgian side still conducts its policy of provocations along the Abkhaz borders, continues to build up its military presence and initiates fire exchange. In view of the above the Republic's Armed Forces were compelled to enter the Security Zone and move out towards the Georgian border.* In essence Abkhazia was forced to open the second front and move its units towards the Georgian border to draw the attention of some of the Georgian military units away from South Ossetia. It should be noted that in accordance with Article 9 of the Friendship and Cooperation Treaty signed between the Republic of Abkhazia and the Republic of South Ossetia on 19 September 2005, "*in the event of a potential threat to peace and stability all parties to this Treaty shall immediately hold mutual consultations to coordinate their actions aimed at eliminating such a threat and undertake effective measures to ensure peace and stability*".

In an official statement disseminated on 10 August the RA Minister of Defence said: "*In recent days Georgia doubled the strength of its Armed Forces deployed in the upper Kodori up to 2500. These units are armed with large-calibre weapons systems, both self-propelled and stationary surface-to-air missile systems, artillery and heavy weapons. As we pointed out on multiple occasions their presence and the heavy weapons systems amount to a gross violation of the 1994 Moscow framework agreement. This Task Force poses a threat to the Abkhaz statehood. In view of this military and political situation that threatens the lives of UN military observers, we recommended that the UN Mission administration recall the military observers from the upper Kodori Valley... According to our information most of the civilian population has already left the Valley. I call upon those who remained in this area as well as the Georgian military units to use this opportunity and leave the Valley by 19:00 on the 11th of August. Should the Georgian forces choose to forego this opportunity we will be compelled to use force.*" The Abkhaz government decided to provide a corridor for the civilian population in the upper Kodori so that they could leave the area of hostilities. Immediately prior to the military operation the population of the upper Kodori received many warnings about the preparations and impending conduct of the operation designed to liberate the upper Kodori Valley. A humanitarian corridor was made available both for the civilian population and the military. All air strikes and artillery fire were adjusted accordingly to prevent any damage to local settlements and any casualties among the civilian population. After the upper Kodori Valley was liberated by the Abkhaz Armed Forces all reserve units were withdrawn from this area. Following a Decree issued by the President of the Abkhaz Republic an administrative district was set up in this area, while a representative of the President of Abkhazia and an administrative commandant were appointed.

Thus, the operation in the Kodori Valley was conducted without any casualties among the civilian population residing in this area. There was no damage or any violations of norms of international law during the operation, nor were there any instances of looting or arson.

The Abkhaz General Staff began implementing the finalised decision to launch an offensive operation in the Kodori area;

10:00 - The Armed Forces of Abkhazia were put on "HIGH" combat readiness alert; reserve motorised rifle brigades were augmented to wartime levels.

12:00 to 13:00 – support aviation delivered the first strike against four targets including strong points, command and control posts, and the airfield inside the following areas: Kvabchara, Tschalta, Kvemo-Ajara, Levy-Gentsvish.

- **11 August** – despite the earlier missile strikes the same [Georgian] Task Force remains in the area; simultaneously preparations are being made to withdraw the Task Force from the region. By the end of the day the first signs of their withdrawal become visible.

As of 21:00 - the network of radio communications used by the Georgian units in the upper Kodori was dismantled.

The decision taken by the Abkhaz Minister of Defence to launch an offensive in the Kodori area of operations dated 10 August 2008 has been in effect as of the early morning hours.

- **12 August** – units of the newly created offensive group began the offensive in the Kodori area of operations in the wake of the air strikes against various targets inside the enemy Task Force area in Kodori at 02:00, 04:00 and 06:00 hours, follow-up aerial reconnaissance, artillery preparations and the landing of tactical airborne units near the Tschalta residential settlement.

20:30 – the leading units of the attacking Abkhaz forces reached the mountain passes of Kalamri-Suki and Khida thus completing the offensive operation in the Kodori area.

Following the cessation of hostilities reserve units were reduced to peacetime levels and redeployed to their permanent bases.

The contingent used during the events in August 2008 was comprised of units of the Abkhaz Army (reserve motorised rifle brigade, mountain rifle, reconnaissance, armour, artillery and engineers units) as well as the Abkhaz Air Force. The total strength of the contingent that took part in the operation was approaching 9,000.

The structure and chain of command and control in the Abkhaz forces at the time of the Kodori operation was as follows: a Ministry of Defence Command Post (CP) was deployed in the village of Tsabal as of 14:20 hours on August the 9th; during the same hours the following posts were deployed:

- An alternate command post (ACP) of the Abkhaz Ministry of Defence was deployed in the city of Sukhumi and subordinated to the Chief of General Staff;
- A forward control post (FCP) of the Abkhaz Ministry of Defence was deployed in the Kodori area near the residential settlement of Zemo-Lata and subordinated to the Army Commander.
- Another forward control post (FCP) of the Abkhaz Ministry of Defence was deployed in the Gali area in the town of Ochamchira and subordinated to the Deputy Minister of Defence responsible for combat training

All operational information received from all of the command and control posts was reported to the Command Post and the Commander-in-Chief of the Abkhaz Armed Forces. All decisions were taken at the level of the Minister of Defence and the Chief of General Staff of the Abkhaz Republic; when necessary they were coordinated with the Commander-in-Chief of the Abkhaz Armed Forces.

During the year previous to the events in August steps had been taken to train the Armed Forces of the Abkhaz Republic. In particular, the following measures had been implemented in accordance with annual plans:

- A command-post exercise
- A command-post mobilisation exercise
- A command-post training exercise
- Two command-post mobilisation training exercises
- Three tactical battalion exercises without live fire
- Three tactical battalion exercises with live fire

Various staff and radio training exercises were held on a monthly basis.

- **18 August 2008** - President Sergei Bagapsh decreed to "abolish the state of martial law in the Gali, Tkuarchalsk, Ochamchira and Gulrypsh districts as well as parts of the Sukhumi district within the boundaries of the following residential settlements: Pskhu, Agra, Gumma, Akapa, Dzyguta and upper Kyalasur".

It should be emphasised that all military operations before and during the events in August 2008 were carried out by the Armed Forces of the Abkhaz Republic independently and only within the territory of the Abkhaz Republic.

Questions to the authorities of Abkhazia on legal issues including international humanitarian law and human rights law issues

1. Please explain the formal and informal relationship between the Russian Federation and Georgia and Abkhazia respectively before the outbreak of the conflict in August 2008 in all levels. Would you call the developments in legal, political, economic space, including infrastructure, energy and social welfare in the recent years between the Russian Federation and Abkhazia as an integration process? How do you qualify in legal terms the decision taken by the Russian Federation a few months before the outbreak of the conflict to establish formal contacts between the Russian Federation and Abkhazia?
2. How would you describe the legal status of as well as administrative and military structures in the region (district) of Upper Kodori Valley prior to the outbreak of hostilities in August 2008? What was the reason for extending military activities of Abkhaz and Russian forces to that part of Abkhazia?

3. Please explain the process and dynamics of acquiring Russian nationality by persons residing in Abkhazia, and explain the reasons for the conferral of Russian citizenship.

4. What was the composition of the regular Abkhaz forces and were there volunteers integrated into those forces prior to or during the hostilities in 2008? What was the relationship between the regular Abkhaz forces on one hand and the forces of the Russian Federation on the other hand?

5. In the course of the conflict and in terms of responsibility under international law: How would you describe the formal and informal relationship between the Russian military and Abkhaz armed forces, prior to 17 September 2008 and nowadays? Please explain especially the respective command chains.

6. What was the nationality of individuals and/or composition of armed groups not integrated in the regular Abkhaz forces and who participated in hostilities and who were still present in Abkhazia and in the undisputed territory of Georgia following the cessation of hostilities? What was the relationship between those individuals/groups on one hand and the authorities of Abkhazia and the forces of the Russian Federation on the other hand?

7. Why did persons leave their places of residence between August 1992 and 2008, in particular in August, September and October 2008, and what hinders them to return? Please provide us with your legislation in this respect. How are the property rights of such persons protected? May they dispose of such property freely? How do you respond to allegations of ethnic cleansing of ethnic Georgians?

8. What targets were attacked on what day by forces not controlling the place where those targets were situated between 7 and 12 August 2008? When those targets were situated in towns and villages, what was the evaluation of expected incidental deaths of civilians, injury to civilians or damage to civilian objects? Did the actual effects correspond to the expected effects? If not, why? What precautionary measures were taken in such attacks by the attacker and by the defender to avoid or minimize incidental deaths of civilians, injury to civilians or damage to civilian objects? Did those precautionary measures succeed? If not, why?

9. Were persons perceived as being associated with the adverse party after the end of hostilities in 2008 discriminated against and/or deprived of the enjoyment of some human rights? What measures were taken against such practices, in particular in the Gali district? What are the measures taken to ensure that regulations and practice of acquiring Abkhaz citizenship for ethnic Georgians and other nationalities do not amount to discrimination? The enjoyment of what civil, political, social or economic rights in Abkhazia depends on Abkhaz citizenship? What measures are taken to ensure language of education for ethnic groups including the Georgian and other ethnic groups?

10. In areas that your forces or adverse forces gained control over during the 2008 hostilities, were persons summarily executed, raped, or ill-treated and were buildings pillaged, burned or destroyed? If

so by what kind of persons or groups? What measures were taken by the forces of the party controlling the area to prevent, stop and repress such violations?

11. During or following hostilities in 2008, when were persons who fell into the power of your party or into the power of the adverse party arrested? On what legal basis were they arrested? How were those persons treated? Were they tried? When were they released?

12. What steps did your party and the adverse party take to clarify the fate of persons reported missing since 1992 by the ICRC, their families, or by the party to which they belong? In which cases were those steps successful? If they were not, why? What measures did your party or the adverse party take to search for, collect and evacuate the dead and to facilitate the returns of the remains to the party to which they belong or to their families?

13. What investigations and prosecutions have been launched since 1992 by your judicial authorities against members of your forces, members of adverse forces, and against civilians in relation with crimes committed in relation to the conflict? In which cases did such prosecutions lead to convictions or acquittals? Please provide copies of the relevant decisions. If prosecutions did neither lead to convictions nor to acquittals, why did they not succeed?

14. If forces or persons under your control, committed any violation(s) of International Humanitarian Law or Human Rights, did the victims of those violations obtain reparation? Were other measures of restorative justice adopted? If not why? How could the victims obtain such reparations?

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Ответы на вопросы по правовым аспектам августовских событий

1. Формальные и неформальные отношения Абхазии с Российской Федерацией до начала конфликта августа 2008.

Абхазия и Россия в своих взаимоотношениях прошли долгий и порой противоречивый исторический путь. После отечественной войны Абхазии 1992-1993 гг., Абхазия выступила с предложением об ассоциированных отношениях с Россией, которые подразумевали бы заключение межгосударственных договоров в военно-политической, таможенной, пограничной, а также в экономической и культурной областях. Впервые это предложение было озвучено первым президентом Абхазии, Ардзинба В.Г. В дальнейшем неоднократно принимались обращения Парламента Абхазии к Государственной Думе, к Федеральному собранию РФ с просьбой о признании независимости Абхазии и подписании соответствующих соглашений. И, хотя власти Российской Федерации на разных уровнях неоднократно заявляли о связывающих наши страны глубоких исторических, политических и гуманитарных связях, о заинтересованности России в справедливом разрешении проблем абхазского народа, тем не менее, Россия не предпринимала шагов по сближению с Абхазией. Более того, именно Россия в тяжелое послевоенное время объявила против Абхазии блокаду. Напомним, что так называемое «Решение о мерах по урегулированию конфликта в Абхазии, Грузии» от 19 января 1996 года, было инициировано РФ и подписано Ельциным Б.Н., а также рекомендовано для подписания лидерам большинства стран СНГ.

Кроме того, руководство РФ на самом высоком уровне заявляло о своей поддержке территориальной целостности Грузии. Однако, в международно-правовых документах, в частности, в Хельсинском акте, нет ничего, что указывало бы на приоритетность принципа территориальной целостности над другим основополагающим принципом - правом народов на самоопределение. Что касается Устава Организации Объединенных Наций, являющегося основным международно-правовым документом, то в нем понятие о территориальной целостности, и вовсе отсутствует. Однако к доводам абхазских дипломатов не всегда прислушивались и, только действия властей самой Грузии заставили Россию отказаться от признания территориальной целостности этой и страны, чтобы остановить процесс попрания всех основных принципов международного права и прекратить уничтожение одним народом другого. Принцип территориальной целостности в международном праве регулирует взаимоотношения между государствами, он призван предотвратить агрессию государств друг против друга. Таким образом, в данном конкретном случае, после событий августа 2008 года, дальнейшее поддерживание Россией принципа территориальной целостности Грузии шло бы в разрез с общечеловеческими гуманными принципами. По сути, своим решением о признании независимости Абхазии Россия защитила народ Абхазии от кровопролития и очередной военной агрессии, восстановила, отобранную у Абхазии в эпоху Сталина, государственность и установила стабильность в регионе.

Отметим, что санкции против Абхазии неоднократно подвергались критике со стороны Российской Думы, которая указывала на незаконность этого мероприятия, однако не получала должной поддержки в Парламенте. И наконец, в марте 2008 года было принято решение об отмене санкций против Абхазии. Депутаты Государственной Думы заявили о поддержке усилий Президента Российской Федерации В. Путина и Правительства Российской Федерации по улучшению экономического положения Абхазии и снятию ограничений на ее внешнеэкономическую деятельность, по обеспечению жителям Абхазии достижений российской и мировой культуры, образования, по защите прав граждан Российской Федерации и российских соотечественников, проживающих на территории Абхазии.

На решение о снятии экономического эмбарго с Абхазии, Грузия ответила в свойственной ей манере, обвинив Россию в провокации против Грузии. Госминистр Грузии по вопросам реинтеграции Темур Якобашвили, заявил: *"Выход России из этого решения означает одно - имеет место попытка экономической аннексии. Этого руководство Грузии не*

допустит". Однако, Россия вышла из санкций, которые просто не выгодно было продолжать, прежде всего по экономическим причинам. Решение о снятии санкций было продиктовано объективными реалиями текущего момента. В официальной ноте МИД России объясняет свое решение тем, что ситуация с 1996 года кардинально изменилась, и упрекает грузинскую сторону в отсутствии конструктивного подхода к выполнению ранее достигнутых договоренностей. Россия вышла из санкций против Абхазии, так как не видела смысла в дальнейших жестких ограничениях. Более того, снятие санкций обозначило открытие новых возможностей для взаимовыгодного развития отношений в экономической, культурной, социальной и других сферах. Россия сегодня является пока практически единственным торгово-экономическим партнером и кредитором Абхазии. Экономика Абхазии тесным образом связана с Российской, мы также связаны транспортным путями и инфраструктурным объектами. Но главное, практически все жители Абхазии являются одновременно и гражданами Российской Федерации. Россия была и остается гарантом безопасности и мира на Кавказе. В Статье 2, Договора о Дружбе и взаимопомощи между РФ и Абхазией, подписанного президентами РА и РФ в Москве 17 сентября 2008 года сказано, что *«Договаривающиеся Стороны будут тесно сотрудничать в области внешней политики, взаимодействовать в деле укрепления мира, повышения стабильности и безопасности в Закавказском регионе и регулярно проводить в этих целях консультации по международным и региональным проблемам, представляющим взаимный интерес. Они обязуются прилагать скоординированные усилия для содействия урегулированию региональных конфликтов».*

И конечно, нельзя не отметить и особую роль Росси в миротворческом процессе, что изначально давало ей преимущество перед остальными участниками переговорного процесса. Именно Россия явилась инициатором создания Коллективных Сил по Поддержанию Мира, который осуществлял свою деятельность согласно подписанному 13 января 1994 года Соглашению о прекращении огня и разъединению сил, в котором в частности говорилось: *«Миротворческие силы Содружества Независимых Государств и военные наблюдатели, учрежденные в соответствии с Протоколом к настоящему Соглашению, будут размещены в ЗБ с целью наблюдения за соблюдением настоящего Соглашения».* Россия участвовала в миротворческой операции в качестве силы, которая разделяла стороны по линии прекращения огня и Коллективные силы по поддержанию мира СНГ были фактически представлены исключительно Российскими военнослужащими. Именно усилиями Российских миротворцев хрупкий мир, ценой неимоверных усилий и человеческих жертв, тем не менее, удалось сохранить. Напомним, что за время службы, в зоне безопасности погибло более 100 российских миротворцев.

2. Правовой статус административных и военных структур в Верхней части Кодорского ущелья до августа 2008 года.

Резолюция Совета Безопасности ООН 1716, предписывала грузинской стороне выполнять подписанные ранее соглашения и вывести войска из Кодорского ущелья. Были и другие подписанные соглашения, под которыми стояли также и подписи представителей ООН. В частности Гагрский протокол от 25 мая 1998 года, в котором прямо записано, что вооруженные отряды и даже отдельные лица, не должны проникать с территории Грузии на территорию Абхазии и грузинская сторона берет на себя обязательства не допускать их сюда.

Однако вместо того, чтобы вывести военные формирования Грузии с территории Кодорского ущелья Президент Саакашвили принимает решение о размещении там так называемого "легитимного правительства Абхазии". *"Я, по согласованию с парламентом Грузии и премьер-министром страны, принял решение расположить в Кодорском ущелье, впервые с 1993 года, легитимное правительство Абхазии, которое распространит юрисдикцию Грузии на эту территорию",* - заявил Саакашвили агентству РИА Новости 27 июля 2006 года.

Однако, как известно, никакой реальной властью так называемое "легитимного правительства Абхазии" не обладало, тем более, что данное правительство ни кем не избиралось, а законность решений этого, искусственно созданного Саакашвили марионеточного правительства распространялась разве что на территорию непосредственно Кодорского ущелья. По той же псевдолигитимной схеме работали и тренировочные, так называемые «молодежно-патриотические лагеря», в селе Ганмухури Зугдидского района. Напомним, что Ганмухури это населенный пункт под юрисдикцией Грузии расположенный на правом берегу реки Ингур. По своей сути, этот лагерь открытый 26 мая 2007 года Президентом Саакашвили представлял собой идеологический рычаг, скрывавшийся под псевдопатриотическими лозунгами и использовавшийся властями Грузии для совершения различного рода провокаций, а также организации диверсионных актов на территории Абхазии. Власти Абхазии не раз подчеркивали возможные негативные последствия, которые могут быть связаны с организацией подобного лагеря. Дестабилизирующую роль молодежного лагеря отметил и Генеральный секретарь ООН Пан Ги Мун в своем докладе Совбезу в июле 2007 года, предлагая его упразднить.

Однако, несмотря на то, что административные и военные структуры создаваемые Грузией на территории и в непосредственной близости от границ с Абхазией не имели никакой реальной правовой базы и лигитимности, и использовались властями Грузии лишь для планируемой агрессии против Абхазии, тем не менее, они не были расформированы или ликвидированы. Более того, их существование не подвергалось осуждению со стороны расквартированных в Грузии международных мониторинговых организаций.

3. Процесс получения Российского гражданства лицами, проживающими в Абхазии.

Россия, ставшая правопреемницей СССР по согласию всех союзных республик, имела особую ответственность перед бывшими гражданами Советского Союза. После распада СССР она вынуждена была решать некоторые вопросы, в том числе и связанные с гражданством. В соответствии с российским законодательством, те граждане СССР, которые не взяли гражданство других стран и обратились за помощью к России, должны были быть обеспечены Российским гражданством. Подобную законодательную норму Россия ввела в свой закон о гражданстве. В соответствии с этим, многие жители Абхазии, которые все эти годы тщетно добивались возможности свободно выезжать и въезжать в свою страну, как это предусмотрено Всемирной декларацией о правах человека, получили подобную возможность. Следует заметить, что Абхазия не раз обращалась в различные международные инстанции с просьбой предоставить нашим гражданам альтернативные документы, неоднократно ставила вопрос (в частности и перед ООН) о том, чтобы нашим гражданам дали проездные документы ООНовского образца (подобная процедура была введена в свое время в Косово). Однако в проездных документах, по типу тех, которые были выданы ООН жителям Косово, нам было отказано. Абхазским властям говорили, что Косово это одно, а Абхазия – другое, и тогда многие граждане начали обращаться за помощью к России (вначале все делалось по частной инициативе, потом это приняло массовый характер). Таким образом, на призыв Абхазии как-то разрешить ситуацию с паспортами откликнулась только Россия, согласившаяся выдать жителям Абхазии российские паспорта заграничного образца. С этого момента, у наших соотечественников появилась реальная возможность выезжать за пределы республики и пользоваться правами и свободами, согласно международным правам и нормам.

Вслед за принятым Российской Федерации решением, в законодательство Республики Абхазия были внесены соответствующие изменения и введено понятие о двойном гражданстве. В частности в Статье 6, Закона о гражданстве РА говорится, что гражданин Республики Абхазия вправе приобрести гражданство Российской Федерации.

4. 6. Состав регулярной Абхазской армии. Национальный состав армии Абхазии.

Согласно статье 33 Конституции Республики Абхазия: *«Защита Родины – долг и обязанность каждого гражданина Республики Абхазия».* Следует сказать, что помимо регулярной Абхазской армии существует и большая, мобильная, хорошо подготовленная часть резервистов. При проведении операции в Кодорском ущелье были мобилизованы резервисты.

Если говорить об этнической принадлежности военнослужащих, то и в регулярной Абхазской армии и в резерве задействованы представители разных этнических групп. В национально-освободительной войне Абхазии 1992-1993 гг. участвовали представители всех национальностей, проживавших в Абхазии. Абхазская армия, созданная после войны, состояла из ее защитников, из ее народа, который, как известно, мультиэтничен. И сейчас в рядах вооруженных сил Республики Абхазия служат представители различных национальностей. Многонациональный состав армии сохраняется.

Следует сказать, что в ходе Кодорской операции жители ущелья, этнические сваны, оказывали содействие военнослужащим Абхазской армии. Абхазская сторона рассматривает сванов как граждан Абхазии, хотя они не принимали гражданства Абхазии и не имеют абхазских паспортов.

Необходимо отметить, что когда началась военная операция Грузии в Южной Осетии, Абхазия, в соответствии с договором, подписанным президентами республик, выдвинула свои войска к границам с Грузией и вышла к берегам Ингура, выйдя на грузинскую территорию в тех местах, где граница заходит на правый берег. Но затем, по обращению миротворческих сил и сил ООН, остановила продвижение своих войск. В настоящее время самая большая опасность и провокации происходят именно в тех частях, где граница переходила на правый берег. Эти участки способны вновь создать проблему, поэтому власти Абхазии заинтересованы в укреплении и охране границ. Абхазская армия, хоть и имела консультации с действующими с территории Абхазии российскими силами, но действовала самостоятельно и исключительно на территории Абхазии, не выходя за пределы республики, за исключением указанного выше краткосрочного выхода на территорию Грузии.

После событий августа 2008 года кадровые изменения в вооруженных силах РА, также как и высших органах законодательной, исполнительной, судебной ветвях власти не производилась. Согласно официальным данным, во всех перечисленных высоких инстанциях, в том числе и на ответственных должностях, заняты абхазы, русские, армяне, евреи, грузины и представители других национальностей, проживающих в Абхазии.

5. Взаимоотношения между регулярной армией Абхазии и армией РФ.

Абхазская сторона в случае необходимости проводит консультации с Российской стороной по интересующим ее вопросам. Напомним, что в статье 3 договора о Дружбе и взаимопомощи между РФ и Абхазией зафиксировано, что *«Договаривающиеся Стороны будут тесно взаимодействовать друг с другом в деле защиты суверенитета, территориальной целостности и обеспечения безопасности Российской Федерации и Республики Абхазия. Они будут безотлагательно консультироваться между собой каждый раз, когда, по мнению одной из Договаривающихся Сторон, возникнет угроза нападения на нее, в целях обеспечения совместной обороны, поддержания мира и взаимной безопасности. В ходе этих консультаций будут определяться необходимость, виды и размеры помощи, которую одна Договаривающаяся Сторона окажет другой Договаривающейся Стороне в целях содействия устранению возникшей угрозы».*

После того как был подписан Договор о дружбе и сотрудничестве между Россией и Абхазией разрабатывается ряд соглашений военного характера, по разным направлениям, касающиеся юрисдикции военных баз на территории Абхазии, совместного пограничного сотрудничества, а также в целом военного сотрудничества. В связи с этим, мы рассчитываем на то, что в Абхазии будет дислоцировано достаточное количество российских вооруженных сил,

которые во взаимодействии с абхазскими вооруженными силами смогут обеспечить безопасность страны. Согласно статье 5, упомянутого Договора *во целях обеспечения безопасности Договаривающихся Сторон, а также мира и стабильности в Закавказском регионе каждая из Договаривающихся Сторон будет предоставлять другой Договаривающейся Стороне право сооружения, использования и совершенствования ее вооруженными силами военной инфраструктуры и военных баз (объектов) на своей территории.* А в статье 4 говорится, что *«Договаривающиеся Стороны будут совместно принимать все доступные им меры для установления мира, нарушения мира, а также для противодействия любым агрессии против них со стороны любого государства или группы государств и оказывать друг другу необходимую помощь, включая военную, в случаях осуществления прямо на индивидуальную или коллективную самооборону в соответствии со статьей 51 Устава ООН».*

7. Э. 10. Беженцы и препятствия к их возвращению. Дискриминация и лишение каких-либо прав после августа 2008 года. Гальский район обеспечение гражданских, политических, экономических и правовых свобод.

Как и везде в мире, вопрос возвращения беженцев требует внимательного и взвешенного подхода. Все, в том числе и международные участники переговорного процесса, должны осознать степень ответственности при решении данного вопроса, а также беспристрастно, невзирая на национальные и другие различия, помогать всем группам, пострадавшим в конфликтах.

В то же время в решении вопроса возвращения беженцев абхазская сторона четко придерживалась взятых на себя обязательств, в частности всегда неукоснительно соблюдала положения Московского соглашения. В соответствии с вышеуказанным, подписанным 14 мая 1994 года, на первом этапе было обеспечено безопасное и достойное возвращение беженцев в Гальский район. Таким образом, власти Абхазии сами инициировали поэтапный процесс возвращения беженцев в Гальский район Абхазии. В течение шестнадцати последующих лет уже более 60 тысяч людей, пожелавших вернуться, возвратились в свои дома в Гальском районе. (Заметим, что проживание этнических грузин на территории Абхазии не ограничивается лишь Гальским районом. По данным Государственной Статистической Службы Республики Абхазия на 1 января 2008 года в Гагрском районе проживает 10.329 грузин; в Гульрипшском районе – 739; в Очамчирском – 1,970 и в Гвардейском – 6,794 человек).

Стремясь зафиксировать число возвращенцев из Абхазии-грузинских беженцев, абхазская сторона поддержала инициативу Управления Верховного Комиссара ООН по делам Беженцев относительно проведения процедуры верификации и регистрации. Верификация позволила бы в более точной мере определить число возвратившихся и число тех, кто все еще желает вернуться. Точные данные о беженцах также позволили бы определить наиболее важные экономические ресурсы для приема столь большого числа населения. Однако Грузинские власти всячески препятствуют верификации беженцев. Более того, несмотря на факт того, что за время грузино-абхазского переговорного процесса, Грузия предприняла 3 крупномасштабные военные операции против Абхазии в мае 1998 года, в октябре 2001 года, и в июле 2006 года, сорвав весь процесс переговоров, нарушив мир в регионе, развязав войну в Южной Осетии, говорят сами за себя. По сути, власти Грузии создали дополнительные страдания для мирного населения не только в Абхазии и Южной Осетии, но и для самой Грузии, увеличив количество беженцев.

Что касается вопроса возвращения в остальные регионы Абхазии, то этот вопрос напрямую зависел от степени доверия между сторонами. Однако Грузинская сторона все эти годы всячески препятствовала процессу возвращения и делала все, чтобы подорвать мирные инициативы абхазской стороны по возвращению беженцев. По сути, было сделано все, чтобы создать условия, при которых безопасное возвращение беженцев невозможно было бы

осуществить ряд дерзких диверсионно-террористических актов. До сих пор не известна судьба, похищенного грузинскими спецслужбами, председателя избирательной комиссии Гальского района Давида Ситуа, похищенного 2 февраля 2007 года из своего дома в городе Гал, после своего публичного выступления призывавшего власти Грузии не срывать вопросы беженцев.

Грузинская сторона все еще не ответила за осуществленные провокации, направленные против мирных граждан Абхазии, российских миротворцев, а также сотрудников миссии ООН, погибших в Кодорском ущелье в октябре 2001 года в результате грузинской военной провокации. Необходимо подчеркнуть, что Грузия предпринимала целенаправленные шаги по дестабилизации обстановки в Гальском районе, что зафиксировано в Отчете совместной миссии ООН по изучению ситуации в Гальском районе (20–24 ноября 2000 года), в главе С, раздел III, пункт 58 говорится: *«На протяжении нескольких лет после окончания открытых боевых действий вооруженные группы, состоящие из грузин, проводили целенаправленные атаки в Гальском районе. В публичных заявлениях лидеров наиболее известных групп, таких как «Белый легион» и «Местные братья», отмечалось, что их основной задачей является изгнать грузин из Абхазии. Их деятельностью было создание атмосферы страха и дестабильности среди возвратившихся в Гальский район с тем, чтобы показать, что нахождение на территории, контролируемой абхазской стороной, небезопасно. Для этого они использовали насилие, похищения и целенаправленные нападения»*.

Наблюдатель Комиссии по правам человека ООН отмечал, что доказательств в грузинских опровержения, имеются постоянные и заслуживающие доверия донесения о том, что *«партизанские группы имеют связи с военизированными структурами Грузии, с местными государственными службами безопасности и с некоторыми членами правительства»*. Именно из названных чиновников Грузии, в число которых можно отнести Уполномоченного Президента Грузии в регионе Имерети, Темура Шаликашвили, который не скрывая заявил, что *«право возвращения гарантировано всем беженцам... никто не может лишить человека из Абхазии права возвращения домой»*. Заметим, что ни одного этнического грузина власти Абхазии из своих домов не изгоняли. Жители Абхазии по преступившие законы Республики и не совершившие военных преступлений, уже вернулись в свои дома.

Этнические грузины не преследуются законом, пользуются всеми правами и свободами наравне с другими гражданами республики. Согласно статье 11 Конституции РА *«Республика Абхазия признает и гарантирует права и свободы, закрепленные во Всеобщей Декларации прав человека, в Международных Пактах об экономических, социальных и культурных правах, о гражданских и политических правах, других общепризнанных международно-правовых актах»*.

Накануне 10 августовских событий спецслужбами Грузии была проведена серия террористических актов в городах Абхазии, направленных против мирного населения. В результате пострадали невинные люди, а 6 июня 2008 года в городе Гал в результате террористического акта погибли четыре человека и несколько получили серьезные ранения, что явилось еще одним прямым подтверждением причастности силовых структур Грузии к террористической деятельности против Абхазии.

После августовских событий доверие абхазского общества было окончательно подорвано. В целом, начиная с августа 2008 года, в результате террористических актов со стороны Грузии, было убито 5 человек и ранено более 10. Это стало результатом произведенной в Грузии амнистии, когда члены диверсионно-террористических групп в сентябре 2008 года, были выпущены из тюрем с целью возобновления террористической деятельности против Абхазии. Если проследить динамику ситуации в Гальском районе, то можно увидеть, что период стабильности и безопасности пришелся на август 2008г., по время проведения операции по принуждению Грузии к миру. В этот период, более 20 русских семей, проживавших в Грузии, были вынуждены покинуть территорию Грузии через Абхазию, так как стали объектами постоянного преследования и нападений. Несколько граждан Грузии обратились к

руководству Абхазии с просьбой о политическом убежище, так как в Грузии их жизни угрожает опасность.

За последнее время в официальные структуры Абхазии не поступало данных о фактах нарушения прав грузинского населения Абхазии, в том числе и после августовских событий. Не зафиксированы подобные факты и представленными в Гальском районе международными и местными неправительственными организациями. Не зафиксировано фактов и покидания домов жителями Гальского района после событий августа 2008 года. Таким образом, можно констатировать, что ситуация в Гальском районе после августовских событий никак не изменилась.

В Гальском районе функционирует 21 школа, 11 из которых являются грузинскими. Преподавание на грузинском языке не прекращалось, что подтверждается отчетами международных наблюдателей. Согласно статье 6 Конституции Республика Абхазия: *«Государство гарантирует всем этническим группам, проживающим в Абхазии, их право на свободное использование родного языка».*

Этнические грузины заняты в органах местного самоуправления (из 18 руководителей Администрации Гальского района 15 по национальности грузины).

Несмотря на непрекращающиеся провокации Грузии, абхазская сторона продолжает следить за положением в области безопасности этнических грузин и учитывает интересы остальных этнических групп, проживающих в Абхазии, тем более, что все граждане Абхазии вне зависимости от национальной, конфессиональной и иной принадлежности косвенно или напрямую пострадали от действий Грузии, направленных на эскалацию конфликта во всем регионе.

Республика Абхазия – многонациональное и многоконфессиональное государство, в котором мирно сосуществуют представители различных национальностей и конфессий. Для них созданы благоприятные условия жизни и развития, их права и свободы соблюдаются в той же мере, в какой соблюдаются права и свободы представителей титульной нации. Члены этих меньшинств представлены во властных структурах государства. В Республике издаются национальные газеты, функционируют национальные школы, активно участвуют в общественной жизни русское, греческое, армянское, немецкое, еврейское, польское, татарское, эстонское общества. Всего в Абхазии зарегистрировано порядка 100 НПО и общественных гуманитарных организаций, не включая религиозные организации.

Помимо этого, в Абхазии функционируют и другие демократические институты:

- активное гражданское общество находится в тесном взаимодействии с государством;
- все граждане Республики имеют право на свободу слова, мысли и убеждений, что создает благоприятные условия для существования свободных и независимых СМИ;
- согласно Конституции, все люди имеют право на объединение, проведение мирных митингов, собраний, шествий и демонстраций.

В Абхазии функционирует общественная палата, которая призвана защищать права и свободы граждан, содействовать развитию гражданского общества, осуществлять общественный контроль за деятельностью органов государственной власти. В Гальском районе Абхазии открыт и успешно функционирует офис по правам человека. В стране имеется много различных партий и общественно-политических движений, в том числе и оппозиционного характера.

В настоящее время в Абхазии сформирована структура, схожая по своим задачам с институтом омбудсмена. Об этом в беседе с корреспондентом ИА REGNUM 26 февраля заявил комиссар Совета Европы по правам человека Томас Хаммарберг. По его словам, механизм, который формируется в Абхазии, очень важен и позволит обеспечить эффективную защиту прав человека. *"Я беседовал с представителем, который был назначен президентом Абхазии, и, думаю, мы поможем им в формировании данной структуры"*, - отметил Хаммарберг.

Сегодня Республика Абхазия является международно признанным государством (28 сентября 2008 года ее независимость признала Российская Федерация, а 3 сентября того же года – Республика Никарагуа). Более 15 лет Абхазия является членом президиума ОНН (Организации Непредставленных Народов), основной тезис которой: «проживающие на своих территориях коренные Народы против порабощающих их «чужих» государств».

Непрекращающиеся обвинения грузинской стороны о том, что «Грузинское население» Гальского района, подвергается притеснению, права которого якобы нарушаются, на самом деле представляет собой население мегрельской национальности, о чем усиленно пытаются забыть власти Грузии. Следует подчеркнуть, что основную часть населения Гальского района составляют мегрелы, отдельная этническая группа, субэтнос грузинского народа. Грузины и мегрелы отличаются по менталитету, характеру, но главное у них разные языки, таким образом можно говорить о том, что у них разная идентичность. В ходе истории мегрелы не раз вступали в открытое противостояние с грузинами, проводившими насильственную ассимиляцию мегрельского населения. В 1925 году в Западной Грузии началось движение за создание самостоятельной мегрельской автономии, а уже в 1926 году мегрелы исчезли из переписного листа как отдельная этническая группа. В 30-е годы мегрельский язык был запрещен. В результате многовекового воздействия со стороны грузинского языка мегрельский язык практически утратил свою письменность (мегрелы рассматриваются как часть грузин, мегрельский язык продолжает рассматриваться как диалект грузинского и развитие письменности на нем не поощряется). В 1939 году вместе со сванами и аджарцами во Всесоюзной переписи населения мегрелы уже фигурировали как грузины, в графе «национальность» у мегрелов, как и у сванов, аджарцев, евреев, должно было быть написано «грузин». В советское время на вопрос: «Жизнь какого народа самая короткая?» представители мегрельской нации отвечали: «Мегрелов. Поскольку после 16 лет и соответствующей записи в паспорте все они – грузины». *(Г.Гегелия 25.9.1993 г. - Из архива газеты «Советская Россия).*

На протяжении долгого времени мегрелы как нация подавлялись властями Грузии, которая навязывала грузинскую идентичность, пытаясь, тем самым, обезопасить себя от появления еще от одного «проблемного этнического региона». В то время в абхазском обществе существует четкое понимание того, что гальцы – это мегрелы, со своим языком, культурой, историей.

По поводу этнических чисток хотелось бы напомнить, что сразу после окончания войны в октябре 1993 года по приглашению Шеварнадзе Э.А. в Абхазию приехала комиссия ООН для проведения мониторинга с целью установления фактов этнических чисток. Руководство Абхазии работе комиссии не препятствовало, напротив оказывала всяческое содействие, так как было заинтересовано в освещении реальных фактов и восстановлении справедливости. В частности, в период с 22 по 27 октября 1993 года, члены комиссии имели возможность не только опросить свидетелей и многочисленных жертв, побеседовать с гражданскими лицами на местах, но и встретиться с руководителями Абхазии, представителями внутренних дел, юстиции, политологами и правозащитниками.

По результатам работы комиссии был составлен подробный документ, в котором говорится, что в процессе войны как одна сторона, так и другая в массовом порядке нарушали права человека. *«Жертвами нарушений прав человека становились гражданские лица, принадлежащие ко всем этническим группам»* - говорится в отчете комиссии, и это не удивительно, таков, к сожалению, результат любой войны.

Второй документ, на который хотелось бы сослаться - это Отчет совместной Миссии ООН по изучению ситуации в Гальском районе, проводившей мониторинг по ситуации в районе с 20-24 ноября 2000 года, который также не признал фактов этнических чисток.

В этой связи вызывают недоумения отчеты и доклады ОБСЕ, которая кстати никогда не проводила мониторинга на территории Абхазии, о якобы имевших место этнических чистках и массовом изгнании грузин с территории Абхазии. В частности в Лиссабонском докладе ОБСЕ 1996 года говорится: *«Мы осуждает «этническую чистку», в результате которой имеют*

место массовое уничтожение и насильственное изгнание преимущественно грузинского населения в Абхазии. Деструктивные действия сепаратистов, в том числе создание препятствий для возвращения беженцев и перемещенных лиц...».

Во-первых, грузинское население из Абхазии не изгонялось абхазскими властями. Оно покинуло Абхазию вместе с отступающей грузинской армией. И, во-вторых, именно абхазская сторона явилась инициатором одностороннего возвращения беженцев на свою территорию. В Отчете совместной Миссии по изучению ситуации в Гальском районе, зафиксировано: *«...абхазская сторона начала претворять в жизнь свою одностороннюю инициативу с целью узаконить возвращение в Гальский район, а также провести регистрацию».* Напомним, что готовилось подписание документа о возвращении беженцев в Гальский район, но именно по инициативе грузинской стороны, его подписание было сорвано.

8. Разрушение гражданских объектов, количество жертв между 7 и 12 августа 2008 года? Принятые превентивные меры по недопущению врага на территорию Абхазии.

Операция по освобождению Кодорского ущелья была проведена без жертв. Абхазские власти сделали все, чтобы не пострадали мирные жители. Артиллерия и авиация не подвергала ударам жилые здания, что подтверждают и международные наблюдатели.

Следует отметить, что грузинская сторона отказалась обсуждать всякие условия мирного решения ситуации в Кодорском ущелье, которые абхазская сторона предлагали даже в ходе операции. Тем не менее, абхазскими силами был предоставлен гуманитарный коридор, чтобы не подвергать людей опасности. Интересным в этой связи кажутся слова бывшего полевого командира Квициани Э., который родился и вырос в Дале (историческое абхазское название Кодорского ущелья – Дал, а нижней части Колдорского ущелья - Цабал): *«...абхазы в отличие от власти Саакашвили оказались намного честнее и хозяевами своего слова. У нас было джентльменское соглашение, которое не нарушалось ни с одной стороны и отношения также были урегулированы. Доверие же заслуживают только те люди, которые не лгут, не изменяют своему слову, кто является настоящим мужчиной, а не трусом и лгуном, как Саакашвили», из интервью газете Пирвели от 23 марта 2009 года.*

Сразу после окончания операции было созвано экстренное заседание Совета безопасности РА, на котором были приняты решения и даны соответствующие распоряжения о возвращении всех без исключения жителей, покинувших Кодорское ущелье во время военной операции.

Что касается Гальского района, то в период августовских событий 2008 года никакой миграции населения не наблюдалось. Властями не зафиксированы факты поджога домов или иных противоправных действий на этнической основе против жителей Гальского района.

11. Аресты противника.

В ходе операции в Кодорском ущелье аресты противника не производились, пленных нет.

12. Судьба лиц пропавших без вести с 1992 года, содействие объединению семей.

После войны 1992-1993 гг. была создана специальная комиссия по пропавшим без вести. Такая же комиссия была создана и со стороны Грузии. Обе стороны активно сотрудничали по вопросам выявления таких фактов. Приглашались специалисты, которые производили идентификацию останков погибших. На первоначальном этапе сотрудничество было достаточно эффективным, потом постепенно деятельность этой комиссии потеряла интенсивность. На сегодняшний день как с абхазской, тай и с грузинской стороны зафиксировано немалое количество людей пропавших без вести, однако их обнаружение не

представляется возможным. С абхазской стороны есть мнение, что эти люди скорее всего уже погибли.

Что касается вопроса объединения семей, то следует подчеркнуть, что абхазская сторона никогда не препятствовала процессу объединению семей, более того, предпринимала все меры, и имеющиеся в арсенале возможности для разрешения этой проблемы.

Вопросом объединения семей в Абхазии также активно занималась организация МККК, которая участвовала в этом процессе с 1992 года. По данным МККК, только усилиями этой организации после войны 1992-1993 гг. 504 семьи были воссоединены. МККК в Абхазии также оказывает содействие в сборе информации о пропавших без вести. В 2007 году при содействии МККК была издана книга памяти о пропавших без вести в Абхазии «Надежда не умирает».

13. Расследования и судебные разбирательства с 1992 года.

Известны и документально зафиксированы карательные экспедиции грузинских войск на территориях абхазских сел, особенно на Восточном фронте. Методы этнических чисток, применяемые грузинскими военнослужащими в ходе войны 1992-1993 гг. в Абхазии были крайне жестокими и бесчеловечными, захваты заложников, убийства женщин, стариков и детей, расстрел целых сел танками, артиллерией и авиацией Грузии, во много крат превышавших в военной мощи подразделения абхазских повстанческих групп. Известны случаи (например в с. Адзюбжа), когда заложников использовали как живой щит при передвижении войсковых колонн. Широко применялись поджоги домов, грабежи, планомерно уничтожалась социально-экономическая инфраструктура Абхазии. За бойцами абхазской армии не признавались права военнопленных. Неоднократно, за несколько часов до оговоренной даты обмена, плененных абхазов казнили, причем хладнокровно фиксировали казнь на видео и фотопленку. Военнослужащие и офицеры грузинской армии не соблюдали никаких международных норм ведения войны. Во время освобождения г. Очамчира от грузинских войск, было захвачено большое количество документального материала, включая карты, схемы и подробные планы того, как Грузия готовилась к ведению огня ядерными боеприпасами. По не понятным причинам данный факт до сих пор не имеет должного освещения и оценки соответствующими международными органами.

Документальные подтверждения фактов геноцида грузинских властей против абхазского народа еще ждут своего представления в высших международных судебных инстанциях. Практика нацизма по отношению к народу Абхазии и Абхазскому государству, до сих пор пропагандируемая государственной идеологией Грузии, должна найти осуждение в мировом сообществе.

14. Меры по восстановлению правосудия, возмещение убытков, компенсации жертвам войны.

Люди уже вернувшиеся или возвращающиеся в Кодорское ущелье Абхазии после событий августа 2008 года, пользуются теми же правами и свободами, как и остальные граждане Абхазии, в том числе и правами частной собственности, что доказывает пример людей, вернувшихся в Гальский район. Все жители Абхазии, постоянно проживающие на ее территории, вне зависимость от гражданства, не ущемляются в своих правах.

Несмотря на то, что беженцы, вернувшиеся в Гальский район, подвергались определенному политическому давлению (кстати, политический прессинг не прекращается и сегодня), не решались брать абхазское гражданство и паспорта абхазские власти сделали все для возвращения доверия людей. И даже на протяжении послевоенных лет, власти Абхазии находили возможности, чтобы дать возможность всем жителям Абхазии без исключения участвовать в голосовании во время выборов президента, выборов в парламент и других важных государственных мероприятиях. Сейчас у всех вернувшихся людей есть возможность получения абхазского гражданства и паспортов, но это происходит без всякого нажима и

давления, это добровольный выбор каждого гражданина Абхазии, каждого человека считающего себя жителем этой страны.

Мы предлагали неоднократно нашим партнерам по миротворческому процессу, многочисленным международным организациям оказать содействие, и сделать свои предложения по осуществлению легитимации людей, поживающих на нашей территории без абхазского гражданства и паспорта. Здесь необходимо было найти взвешенное решение, чтобы узаконить их присутствие в Абхазии. Однако никаких достойных предложений не последовало, и в этих условиях власти Абхазии предложили жителям своей страны сделать собственный выбор. Сегодня, по данным паспортно-визовой службы МВД РА от жителей Гальского района Абхазии принято на рассмотрение документов от 2108 лиц, выдано паспортов – 583 единицы.

Replies to questions on legal issues related to the events of last August[1]

1. The formal and informal relationship between the Russian Federation and Abkhazia before the outbreak of the conflict in August 2008.

Throughout their history the relationship between Abkhazia and Russia has been long and at times characterised by contradiction. After its war of national liberation in 1992-1993, Abkhazia proposed establishing a status of association with Russia that would entail concluding inter-state agreements in military-political, customs, border-control, as well as economic and cultural spheres. It was Abkhazia's first president, V.G. Ardzinba, who initially put forward this proposal. Subsequently, Abkhazia's Parliament addressed several messages to the State Duma and the Federal Assembly of the Russian Federation with a request to recognize the independence of Abkhazia and to sign the relevant agreements. Even though the authorities of the RF, at various levels, frequently articulated the deep historical, political and human ties that bind our two countries, as well as Russia's interest in a just resolution to the problems affecting the Abkhaz people, nevertheless Russia did not take any steps to effect a rapprochement with Abkhazia. What's more, it was Russia that imposed an embargo on Abkhazia in the difficult post-war period. As a reminder, the so called «Decision on measures to resolve the conflict in Abkhazia, Georgia», dated 19 January 1996, was at the initiative of the RF and was not only signed by B. Yeltsin but recommended for signature to the leaders of most CIS States.

Furthermore, the leaders of the RF expressed their support at the highest level for the territorial integrity of Georgia. However, there is nothing in any international legal text, notably the Helsinki Final Act, indicating the primacy of the principle of territorial integrity over the other fundamental principle: peoples' right to self-determination. As for the United Nations Charter, which is the paramount international legal document, it contains no mention at all of the principle of territorial integrity. However the arguments of Abkhaz diplomats weren't always heeded and it took the actions of Georgia itself to convince Russia not to recognize Georgia's territorial integrity, so as to put a stop to the process of infringement of all the main principles of international law, and to end the destruction of an entire people by another. The principle of territorial integrity in international law governs relations between states and is intended to prevent aggression by states against each other. Therefore, in this specific case, in the aftermath of the events of August 2008 any further support by Russia of the principle of Georgia's territorial integrity would have contradicted commonly-accepted humanitarian principles. By its decision to recognize the independence of Abkhazia, in essence Russia shielded the Abkhazian people from bloodshed and more military aggression, restored their statehood that had been stripped from Abkhazia under Stalin and fostered stability in the region.

It is worth noting that the sanctions against Abkhazia had been criticized repeatedly by the Russian Duma on the grounds that they were illegal, however such criticism didn't obtain sufficiently broad support in Parliament. A decision to lift the sanctions against Abkhazia was finally made in March 2008. The members of the state Duma endorsed the efforts of V. Putin, President of the Russian Federation, and the Government of the Russian Federation to improve the economic situation of Abkhazia, lift restrictions on its foreign economic activity, ensure that its inhabitants benefit from the great accomplishments of Russian and other World cultures, have access to education, and that the rights of citizens of the Russian Federation and Russian nationals residing in Abkhazia be fully protected.

Georgia reacted in its usual way to Russia's decision to lift the economic embargo against Abkhazia; it accused Russia of seeking to provoke Georgia. The Georgian State Minister of Reintegration Issues, Temur Yakobashvili, declared: «Russia's decision to lift the embargo can only mean one thing — an attempt at economic annexation. The Government of Georgia will not allow this.» In fact, Russia withdrew from the sanctions regime primarily because it no longer made sense to

[1] Unofficial translation by the Independent International Fact-Finding Mission on the Conflict in Georgia.

maintain it, on economic grounds. The decision to lift sanctions was dictated by the objective circumstances of the moment. In an official note the MFA of the Russian Federation explains its decision by the fact that the situation had completely changed since 1996 and faults the Georgian side for not having a constructive approach to implementing the agreements reached earlier. Russia withdrew from the sanctions regime against Abkhazia because it no longer saw sufficient reasons to maintain the harsh restrictions. Furthermore, lifting sanctions would lead to new opportunities for pursuing mutually beneficial relations in the economic, cultural, social and other areas. At present Russia is practically Abkhazia's only trade and economic partner, and sole lender of capital. The economy of Abkhazia is tightly interwoven with the Russian economy and we are closely linked by transport networks and infrastructure facilities as well. But most importantly, practically all the inhabitants of Abkhazia are at the same time citizens of the Russian Federation. Russia has always been and will remain the guarantor of peace and security in the Caucasus. Article 2 of the Treaty on Friendship, Cooperation and Mutual Assistance between the RF and Abkhazia, signed by the Presidents of the RF and RA in Moscow on 17 September 2008, states that, «the Parties to the Treaty will cooperate closely in the area of foreign policy, work together to advance peace and enhance stability and security in the Transcaucasus region, and to this end regularly hold consultations on international and regional issues of common interest. They pledge to coordinate their efforts so as to contribute to resolving regional conflicts.»

Also worth mentioning is Russia's special role in the peace-building process, which from the start gave it an advantage over the other participants in the negotiations. It was Russia's proposal to create the CIS peacekeeping force, which carried out their mission in accordance with the Agreement on a Ceasefire and Separation of Forces of 13 January 1994, which stipulates that, «The Peacekeeping Force of the Commonwealth of Independent States and military observers constituted in accordance with the Protocol to this Agreement will be deployed in the Security Area in order to monitor compliance with the current Agreement.» Russia's role in the Peacekeeping Operation was to separate the sides along the ceasefire line and the CIS peacekeeping force were practically essentially composed of Russian military personnel. It was the Russian peacekeepers who, through their prodigious efforts and by paying the ultimate price, made it possible to salvage a fragile peace. Let's not forget that in the course of their service, over 100 Russian peacekeepers died in the Security Zone.

2. The legal status of administrative and military structures in the upper Kodori Valley prior to August 2008.

UN Security Council Resolution 1716 directs the Georgian side to abide by the previously concluded agreements and withdraw its military troops from the Kodori Valley. There were a number of other agreements signed as well, also bearing the signature of UN representatives. In particular the Gagry protocol, dated 25 May 1998, clearly stipulates that no armed units or even individuals shall enter Abkhaz territory from Georgia and that the Georgian side undertakes to make sure this doesn't happen.

However, instead of withdrawing all Georgian military formations from Kodori, President Saakashvili instead decided to deploy the so-called 'legitimate government of Abkhazia' on the territory of Kodori Valley. «With the consent of the Georgian Parliament and Prime Minister, I have decided to install the legitimate government of Abkhazia in the Kodori Valley, for the first time since 1993, which will extend Georgian jurisdiction over the said territory», was what Saakashvili declared to RIA News Agency on 27 July 2006.

However, the so-called 'legitimate government of Abkhazia' possessed no real power, especially as no one had elected it and taking into account that the legality of decisions by this puppet entity artificially installed by Saakashvili applied if at all, only to the territory of the Kodori Valley. The so-called «Patriotic Youth Camps» set up for training purposes in the Ganmukhuri village of the Zugdidi district operated on the basis of the same pseudo-legitimate principle. As a reminder,

Ganmukhuri is a town under Georgian jurisdiction, located on the right bank of the Ingur river. In essence, the aforementioned camp inaugurated by President Saakashvili on 26 May 2007 served as an ideological instrument; cloaked in pseudo-patriotic slogans it was in fact used by the Georgian authorities to carry out acts of provocation and sabotage on Abkhaz territory. The Abkhaz authorities more than once underscored the potentially negative fallout from the establishment of this type of camp. The UN Secretary General Ban Ki-Moon in his report to the Security Council in July of 2007 also referred to the destabilizing role of the youth camp, suggesting that it be closed down.

Nevertheless, even though the administrative and military structures created by Georgia on the territory and in immediate proximity to the border of Abkhazia had no real legal basis or legitimacy and were being used by the Georgian authorities only for their intended aggression against Abkhazia, they weren't broken up or eliminated. In fact their existence wasn't even condemned by the international monitoring organizations with offices in Georgia.

3. The process of acquiring Russian nationality by persons residing in Abkhazia.

After becoming the successor state of the USSR with the consent of all the Soviet Republics, Russia assumed a special responsibility towards the former citizens of the Soviet Union. Following the break-up of the Soviet Union, it had to deal with a number of matters, including resolving citizenship issues. According to Russian legislation, Soviet citizens who chose not to become citizens of other states and applied to Russia for assistance, were to be extended Russian citizenship. Russia introduced such a provision into its citizenship law. As a result, many inhabitants of Abkhazia, who had tried in vain for many years to obtain the right to travel freely into and out of their country as guaranteed by the Universal Declaration on Human Rights were at last given the opportunity to do so. It is worth noting that Abkhazia repeatedly sought to obtain alternative documents from various international bodies. On numerous occasions it requested that these organizations (including the UN) issue UN-type travel documents to our citizens (a similar procedure had been used in Kosovo). However, our request to be issued travel documents modelled on those the UN had issued to the inhabitants of Kosovo was rejected. After the Abkhaz authorities were told that Kosovo and Abkhazia were entirely different cases, many people began turning to Russia for help (at first it was mainly individual cases but eventually it became a mass phenomenon). So in actual fact only Russia came to our assistance, agreeing to provide the people of Abkhazia with international-type Russian passports. From that moment on Abkhaz were able to travel outside the Republic and take advantage of the rights and freedoms afforded to them under international laws and standards.

Following the aforementioned decision by the Russian Federation, Abkhazia introduced a corresponding set of amendments into its own legislation and established the concept of dual citizenship. Specifically, Article 6 of the law on citizenship of the RA stipulates that a citizen of the Republic of Abkhazia is also entitled to obtain the citizenship of the Russian Federation.

4. 6. The composition of the regular Abkhaz army. What was the ethnic composition of the Abkhaz army.

Article 33 of the Constitution of Abkhazia states: «Defending the homeland is the duty and responsibility of every citizen of the Republic of Abkhazia.» It's important to mention that in addition to the regular army, Abkhazia also has a large, mobile and well-trained reserve component. Reserve units were mobilized during the operation conducted inside the Kodori Valley.

As for the ethnic make-up of the armed forces, people from various ethnic groups serve in both the regular army of Abkhazia and in the reserve formations. People from every ethnic group represented in Abkhazia took part in the war of national liberation of Abkhazia in 1992-1993. The Abkhaz army created after the war was made up of those who had defended the nation, drawn from all of its people, a multiethnic people, as is well known. Even now people of many different ethnic

groups serve in the armed forces of the Republic of Abkhazia. We have retained the multi-ethnic identity of the army.

Of note is the fact that during the Kodori operation, the inhabitants of the Valley, ethnic Svans, provided help to the troops of the Abkhaz army. The Abkhaz side considers ethnic Svans citizens of Abkhazia even though they have never acquired Abkhaz citizenship and don't carry Abkhaz passports.

Also important is that when Georgia unleashed its military operation in South Ossetia, Abkhazia, pursuant to a treaty signed by the President of the Republic, moved its troops forward to the Georgian border and up to the banks of the Ingur river, entering Georgian territory in places where the border cuts into the right bank of the river. After that however, at the request of the peacekeeping and UN contingents Abkhazia halted the movement of its forces. Currently the most dangerous situation and the greatest risk of provocation is precisely in those sectors where the border crosses over to the right bank. These sectors could potentially cause additional problems, which is why the Abkhaz authorities are keen on strengthening and defending this border. The Abkhaz army, while remaining in contact with Russian forces acting from Abkhaz territory, operated independently and only within the confines of the Republic, never going outside Abkhaz territory, with the exception of the brief incursion into Georgian territory mentioned above.

Following the events of August 2008, no changes were made to the command hierarchy of the armed forces of the RA or to the upper echelons of the legislative, executive and judicial branches of government. According to official data, the institutions mentioned above continue to be staffed, including at the most senior levels, by ethnic Abkhaz, Russians, Armenians, Jews, Georgians and people from other ethnic groups living in Abkhazia.

5. Interaction between the regular Abkhaz army and the Russian army.

When necessary the Abkhaz side holds consultations with the Russian side on issues of concern to it. Let's recall that Article 3 of the Treaty on Friendship, Cooperation and Mutual Assistance between the RF and Abkhazia states that «*the Parties to the Treaty will work closely together to defend sovereignty and territorial integrity, whilst providing security in the Russian Federation and the Republic of Abkhazia. They will hold immediate consultations with each other whenever in the view of one of the Parties to the Treaty a threat of attack against that Party arises, in order to provide for joint defence, peacekeeping and mutual security. In the course of such consultations they will determine the need, types and amount of assistance that one Party will provide to the other Party to the Treaty, to aid it in eliminating the threat.*»

Since the signature of the Treaty on Friendship, Cooperation and Mutual Assistance between Russia and Abkhazia a number of military agreements have been under development in various areas pertaining to jurisdiction over military bases located on Abkhaz territory, joint border patrol cooperation and military cooperation in general. Consequently we expect that the number of Russian troops stationed in Abkhazia will be sufficient to provide for the security of the country in cooperation with the armed forces of Abkhazia. According to Article 5 of the aforementioned Treaty, «*for the purposes of providing for the security of the Parties to this Treaty, as well as for peace and stability in the Transcaucasus region, each of the Parties to the Treaty shall grant the other Party the right to have its armed forces build, utilize and upgrade military infrastructure and military bases (facilities) located on its territory.*» Article 4 stipulates that, «*the Parties to the Treaty shall jointly undertake all available actions to eradicate threats to peace, disruptions of peace, as well as to counter any acts of aggression against them by any state or group of states, and shall extend all necessary assistance to each other, including military assistance, pursuant to their right to individual or collective self-defence in accordance with article 51 of the UN Charter.*»

7. 9. 10. *Refugees and what hinders their return. Discrimination and deprivation of the enjoyment of some human rights after August 2008. The Gali district – protection of civil, political, economic and human rights.*

As anywhere in the world, the issue of the return of refugees requires a careful and balanced approach. It is incumbent on all sides, including the international participants of a negotiating process, to be aware of the degree of responsibility they shoulder when resolving this issue, and they have an obligation to be impartial, and disregard ethnic origin or any other distinctions in assisting all groups that have suffered as a result of conflicts.

That being said, on the issue of the return of refugees the Abkhaz side has always clearly adhered to the commitments it has signed on to, specifically a strict compliance with the provisions of the Moscow agreement. In accordance with the document signed on 14 May 1994, the first phase saw the safe return of refugees to the Gali district. In other words, the Abkhaz authorities took the initiative of putting into effect the gradual return of refugees to the Gali district. In the 16 years since the end of the war over 60 thousand people who have wanted to have been able to return to their homes in the Gali district. (It should be noted that ethnic Georgians in Abkhazia aren't confined to the Gali district. According to figures from the State Statistical Service of the Republic of Abkhazia, on 1 January 2008, the Gagry district counted 13329 ethnic Georgian inhabitants; the Gulripsh district counted 729; the Ochamchir district — 1970 and the Tkvarcheli district — 6974).

In seeking to document the number of Georgian refugees returning to Abkhazia, the Abkhaz side endorsed the initiative of the Directorate of the UN High Commissioner for Refugees to conduct a verification and registration procedure. A verification would make it possible to more accurately determine the number of people who have actually returned and the number who still wish to return. Correct data on refugees would also make it possible to determine the economic resources needed to accommodate such a large group of people. However, the Georgian authorities have tried to obstruct the refugee verification process every way they can. Furthermore, certain facts are indisputable and speak for themselves. To wit, in the course of the Georgian-Abkhaz negotiations, Georgia has launched three large-scale military operations against Abkhazia, in May of 1998, October 2001 and July of 2006, thus entirely derailing the negotiating process, disrupting peace in the region, as well as embarking on a war in South Ossetia. In essence the Georgian authorities have inflicted additional suffering on the civilian population not only of Abkhazia and South Ossetia, but also of Georgia itself, increasing the number of refugees.

As far as the issue of the return of refugees to other parts of Abkhazia is concerned, this matter was directly contingent on the degree of trust between the sides. The Georgian side however, has done everything possible over the years to obstruct the process of return and has tried in every way to thwart the peace initiatives of the Abkhaz side aimed at facilitating the return of refugees. Essentially everything was done to create conditions under which the safe return of refugees would be impossible because of the incessant acts of sabotage and terrorism. To this day nothing is known about the fate of David Sigua, chairman of the electoral commission of the Gali district, abducted by Georgian Intelligence Services on 3 February 2007 from his home in the city of Gal, following a public statement calling on the Georgian authorities not to exploit the issue of refugees.

The Georgian side has yet to answer for its provocations aimed at the civilian population of Abkhazia, Russian peacekeepers, and staff member of the UN Mission, who were killed in the Kodori Valley in October 2001 as a result of a Georgian military provocation. It is important to highlight that Georgia undertook calculated steps to destabilize the situation in the Gali district, as documented in the report of the UN Joint Assessment Mission to the Gali district (20-24 November 2000). Chapter C, section III, paragraph 58 states that, «*Over the course of several years after the end of open military conflict, armed groups of ethnic Georgians conducted targeted attacks in the Gali district. In public statements made by the leaders of the most well known groups such as 'White Legion' and 'Forest*

Brothers' they declared that their main goal was to recover Abkhazia by force. Their immediate objective was to create an atmosphere of fear and instability among those returning to the Gali district in order to demonstrate that it was impossible to live on territory under Abkhaz control. To this end they employed ambushes, abductions and targeted placement of mines.»

The observer from the UN Commission on Human Rights noted that in spite of Georgian denials, there have been repeated and credible reports that «partisan groups maintain contacts with the Georgian Ministry of Interior and of Defence, as well as with the State Security Services and with some members of the government.» Senior Georgian government officials, such as the Envoy of the Georgian President in the Tskhinvali region, Temur Shashiashvili, have openly declared, that «*the movement of the peoples' avengers will grow inevitably... no one can deny those who have been expelled from Abkhazia their right to return to their homes*». Parenthetically, not a single ethnic Georgian has been evicted from their home by the Abkhaz authorities. Those inhabitants of Abkhazia who haven't been guilty of breaking the Law or committing war crimes have already returned to their homes.

There have been no legal proceedings brought against any ethnic Georgians, who have benefited from all the rights and freedoms afforded all citizens of Abkhazia. According to article 11 of the Constitution of the RA: «*The Republic of Abkhazia recognizes and guarantees the rights and freedoms enshrined in the Universal Declaration of Human Rights, in the International Covenants on economic, social and cultural rights, civic and political rights, and in other universally recognized international legal documents.*»

Shortly before the events of August the Georgian special services carried out a series of terrorist attacks in Abkhaz cities, targeting the civilian population. Innocent people suffered as a consequence and on 6 July 2008, a terrorist attack in the city of Gul caused the deaths of four people and serious injuries to several others. This was further proof of the involvement of Georgian military and security forces in terrorist activity aimed at Abkhazia.

The events of last August swept away whatever trust remained on the part of Abkhaz society. In total, since August of 2008 5 people have been killed and more than 10 wounded as a consequence of terrorist attacks perpetrated by Georgia. This was brought about by an amnesty granted in September 2008 by Georgia for members of groups involved in sabotage and terrorism, leading in turn to their release from prison and resumption of their terrorist activity against Abkhazia. Looking at the way the situation unfolded in the Gali district demonstrates that August 2008, which coincided with the military operation to compel Georgia to pursue peace, was a period of stability and security. During that period, more than 30 Russian families living in Georgia were forced to leave Georgian territory through Abkhazia, after becoming targets of incessant persecution and attack. Several Georgian citizens appealed to the government of Abkhazia for political asylum, because in Georgia their lives were in danger.

Since the events of last August, there has been no evidence submitted to the Abkhaz authorities about cases where the rights of ethnic Georgians living in Abkhazia have been infringed upon. Nor have such cases been reported by the international and local NGOs represented in the Gali district. Neither have there been any cases reported of people from the Gali district leaving their homes in the aftermath of August 2008. Therefore it is possible to conclude that there have been no changes to the situation in the Gali district since the events of last August.

The Gali district has 21 schools, 11 of which are Georgian schools. There has been no interruption of teaching in Georgian, a fact confirmed by international observers. According to Article 6 of the Constitution of the Republic of Abkhazia: «The State guarantees all ethnic groups that inhabit Abkhazia the right to freely use their native language.»

Ethnic Georgians are employed in local institutions of self-government (of the 18 directors in the Gali district administration 15 are ethnic Georgians.)

In spite of Georgia's constant provocations, the Abkhaz side continues to keep a watchful eye over the security of ethnic Georgians and takes duly into consideration the interests of all the other ethnic groups living in Abkhazia, especially since all citizens of Abkhazia, independently of their

ethnic, religious or other backgrounds have suffered directly or indirectly from Georgia's actions aimed at extending the conflict to the entire region.

The Republic of Abkhazia is a multi-ethnic and multi-confessional state, where people of different ethnic groups and religions live peacefully side by side. A favourable environment has been created for them to live and prosper; their rights and freedoms are upheld as strictly as those of the majority ethnic group. These minorities are represented in the governmental bodies of the state. There are ethnic newspapers and ethnic schools in Abkhazia and diverse communities, including Russian, Greek, Armenian, German, Jewish, Polish, Latvian and Estonian communities actively participate in civic affairs. All together, not counting religious organizations, some 100 NGOs and public humanitarian organizations are registered in Abkhazia.

In addition, there are also a number of other democratic institutions operating in Abkhazia:

-An active civil society that works closely with the government;

-All citizens of Abkhazia enjoy the freedoms of expression, of thought and of conscience, thus creating a favourable environment for the existence of a free and independent media;

-The Constitution of Abkhazia guarantees everyone the freedom of assembly and the right to conduct peaceful meetings, gatherings, rallies, and demonstrations.

There is an active Public Chamber in Abkhazia whose purpose is to defend the rights and freedoms of citizens, contribute to the development of civil society and monitor the activity of state government bodies. A Human Rights Office has been set up and operates in the Gali district. There are many different political parties and movements throughout the country, including those in opposition.

Currently there is an entity being set up in Abkhazia that is similar in its functions to the office of ombudsman. The Council of Europe Commissioner on Human Rights, Thomas Hammarberg, referred to this in an interview with IA REGNUM on 26 February. According to him, the mechanism being created in Abkhazia is extremely important and will make it possible to ensure effective protection of human rights. *«I spoke with the official appointed to this job by the President of Abkhazia and I believe we shall be able to assist him in establishing the said body»* noted Hammarberg.

Today the Republic of Abkhazia is an internationally recognized state (on 23 September 2008 its independence was recognized by the Russian Federation, and on 3 September 2008, by the Republic of Nicaragua). For over 15 years Abkhazia has been a member of the Executive Presidium of the UNPO (Unrepresented Nations and Peoples Organization), whose main tenet is: «Indigenous nations and peoples living in their own lands and resisting the 'foreign' states that enslave them».

Georgia constantly alleges that the Georgian population of the Gali district is being persecuted and its rights supposedly violated. The Georgian authorities try hard to forget that the population in question is in fact Mingrelian and not Georgian. It is noteworthy that the major part of the population living in the Gali district is made up of Mingrelians, a sub-ethnic group of the Georgian people. The Georgians and the Mingrelians are different in mentality and in temperament but most importantly, they have a different language, and therefore we can speak of a separate identity. Throughout their history, Mingrelians have more than once come into open stand-off with the Georgians, who assimilated the Mingrelians by force. In 1925 a movement to establish an independent Mingrelian homeland started in Western Georgia, but by 1926 all mention of the Mingrelians as a separate ethnic group had disappeared from census lists. In the 1930s the Mingrelian language was banned. After many centuries of strong Georgian influence, Mingrelian has practically disappeared in its written form (Mingrelians are considered to be part of the Georgian ethnic group, Mingrelian is seen as a dialect of Georgian and writing in it isn't encouraged) In the 1939 Soviet census the Mingrelians, along with the Svans and the Adjarians were listed as Georgians; for 'ethnic origin' Mingrelians just as Svans, Adjarians and Jews had to write 'Georgian'. During the Soviet era when asked: «Which people have the shortest lifespan?» the Mingrelians would answer: «Mingrelians, because after reaching the

age of 16 they're issued a passport where they're designated as Georgians.» (G. Gegelia 25/09/93 — from the archives of the newspaper 'Soviet Russia'.)

For a long time Mingrelians as an ethnic group have been oppressed by the Georgian government with the latter trying to impose a Georgian identity in an attempt to stave off the emergence of another "problematic ethnic region". At that time the Abkhaz society clearly understood that the term "Galis" referred to the Mingrelians with their own language, culture and history.

As for the ethnic cleansing issue, it is worth recalling that immediately after the war ended in October 1993 a UN commission arrived in Abkhazia at Mr. E.A. Shevardnadze's invitation, on a monitoring and fact-finding mission to ascertain whether instances of ethnic cleansing had taken place. The government of Abkhazia never blocked the work of this commission – on the contrary every effort was made to assist this commission since the government was interested in shedding more light upon the actual facts and restoring justice. In particular, between 22 and 27 October 1993 members of the commission had an opportunity not only to interview witnesses and numerous victims and talk to representatives of the civil society at the local level, but also to meet the leaders of Abkhazia, representatives of the Ministry of the Interior, Ministry of Justice, political scientists and human rights activists.

The commission's work culminated in a detailed document which stated that during the war both sides violated human rights on a massive scale. "*Civilians of all ethnic groups fell victim to human rights violations*", - was the commission's conclusion presented in the report, which is not surprising – such is the result of any war.

The second document we would like to refer to is the Report published by the Joint UN Fact-Finding Mission in the Gali district, which monitored the situation in this district between 20 and 24 November 2000. The report never recognised that the allegations of ethnic cleansing were true.

In this respect we are puzzled by various reports and statements made by the OSCE which, incidentally, never conducted any monitoring in the territory of Abkhazia, alleging ethnic cleansing and massive expulsion of Georgians from the territory of Abkhazia. In particular, the OSCE Lisbon report published in 1996 stated "*We condemn the "ethnic cleansing" that resulted in massive extermination and forceful displacement of predominantly Georgian population in Abkhazia. Destructive actions taken by the separatists including obstacles preventing the return of refugees and displaced persons...*"

First, the Georgian population has never been driven out of Abkhazia by the Abkhaz authorities. Ethnic Georgians left Abkhazia together with the retreating Georgian army. Secondly, it was the Abkhaz side who initiated unilaterally the return of refugees to its territory. The report published by the Gali district Joint Fact-Finding Mission mentioned that "*...the Abkhaz side launched a unilateral initiative aimed at legalising the return [of refugees] to the Gali district as well as conducting their registration*". We would also like to recall that a document was being prepared to facilitate the return of refugees to the Gali district but it was at the Georgian side's initiative that the signing of it was blocked.

8. Destruction of civilian facilities, casualties sustained between 7 and 12 August 2008? Precautionary measures taken to keep the enemy off the territory of Abkhazia.

The operation launched to liberate the Kodori Valley was conducted without any casualties. The Abkhaz authorities did everything within their power to prevent civilian casualties. Artillery and air force strikes never targeted residential buildings as confirmed by international observers.

It should be noted that the Georgian side refused to discuss any conditions precedent to finding a peaceful resolution to the situation in the Kodori Valley, which the Abkhaz side proposed even during the operation. Nevertheless, the Abkhaz forces did create a humanitarian corridor to avert any danger for the civilian population. In this respect it is worth citing the words of E. Kvitsiani - a former field commander born and raised in Dal (historically the Abkhaz name of the Kodori Valley was Dal

and the lower part of the Valley was called Tsabal) : "*...the Abkhaz as opposed to the Saakashvili government proved to be much more honest and kept their word. We had a gentleman's agreement which was never broken by either side and the relations were successfully managed. One should only trust those people who do not lie and never break their promises, who act as true men and not as cowards or liars like Saakashvili*", taken from an interview published in the Pirveli newspaper on 23 March 2009.

Immediately after the operation ended an emergency session of the Abkhaz Republic Security Council was convened. During this session decisions were taken and relevant instructions were issued to ensure the return of all residents, without exception, who had left the Kodori Valley during the military operation.

As for the Gali district, during the events in August 2008 no reports were received of local migration. The authorities never received any reports of houses being torched or any other unlawful actions taken against the ethnic residents of the Gali district.

11. Enemy arrests.

In the course of the operation in the Kodori Valley no enemy were arrested or taken as prisoners of war.

12. The fate of persons reported missing since 1992, measures taken to facilitate their return to their families.

After the war of 1992-1993 a special commission on missing persons was created. A similar commission was set up by the Georgian authorities. Both sides cooperated proactively trying to identify such instances. Specialists were invited to identify bodies of those killed. During the initial stages the cooperation was relatively efficient, however, gradually the intensity of the commission's work subsided. As of today both Abkhazia and the Georgian side have identified a significant number of missing persons, however, it seems unlikely that they would ever be found. The Abkhaz side believes that these people are most likely dead.

As for the efforts to facilitate family reunions, it should be stressed that the Abkhaz side never opposed the process, on the contrary, all possible and available measures have been taken to resolve this problem.

The ICRC has also been proactively dealing with this issue since 1992. According to ICRC data, thanks to the efforts taken by this organisation 504 families were reunited after the 1992-1993 war. The ICRC also provides assistance in Abkhazia in terms of collecting information about persons reported missing. In 2007 the ICRC helped to publish a book in memory of those reported missing in Abkhazia entitled "Hope never dies".

13. Investigations and legal proceedings since 1992.

There were known and well-documented punitive expeditions conducted by the Georgian troops in Abkhaz villages, especially in the Eastern front. Methods of ethnic cleansing used by the Georgian military during the 1992-1993 war in Abkhazia were exceedingly cruel and inhumane; they included hostage-taking, murdering women, elderly people and children, destruction of entire villages by Georgian tanks, artillery and air strikes, significantly exceeding the military power of the Abkhaz rebel units. There are known cases (for example, events in the village of Ardzyubzha) where hostages were used as a live shield to protect army columns en route. The torching of houses, pillaging and

organised destruction of Abkhazia's social and economic infrastructure was a widespread phenomenon. Fighters of the Abkhaz army captured by Georgia were never recognised as prisoners of war. On numerous occasions prior to carrying out pre-arranged exchanges of prisoners, the captured Abkhaz fighters were executed in cold blood while being filmed on video and photo cameras. Servicemen and officers of the Georgian army did not comply with any international norms governing the conduct of war. During the liberation of Ochamchir from Georgian troops a large volume of documents were captured including various materials, maps, schematics and detailed plans showing that Georgia was getting ready to use nuclear munitions. For reasons that remain unclear this fact has not received adequate coverage nor undergone analysis by the appropriate international bodies as of yet.

Documented proof of genocide perpetrated by the Georgian government against ethnic Abkhaz is still to be presented before the highest international judicial institutions. The practice of Nazism against the people and state of Abkhazia still propagated by the Georgian state ideology, must be condemned by the international community.

14.Measures to restore justice, reimburse losses and compensate victims of war.

Residents who have already returned or still are returning to the Kodori Valley in Abkhazia following the events of August 2008 enjoy the same rights and freedoms as all other citizens of Abkhazia including the right to private property as shown by the example of refugees returning to the Gali district. No rights of permanent residents of Abkhazia regardless of their nationality have ever been infringed upon.

Despite the fact that the refugees who returned to the Gali district felt a certain political pressure (parenthetically, this political pressure continues to this day) and expressed uncertainty with respect to applying for Abkhaz citizenship and passports, Abkhaz authorities have done everything within their power to regain trust. Even during the post-war years the government of Abkhazia managed to afford all residents of Abkhazia without exception the right to take part in presidential and parliamentary elections as well as in other important affairs of the state. Currently, the returnees have the right to obtain Abkhaz citizenship and passports without any pressure or coercion – this is a free choice of every citizen of Abkhazia and every person who considers him or herself to be a resident of this country.

On numerous occasions we requested that our peace process partners and various international organisations provide assistance and submit proposals on how the status of people residing in our territory without Abkhaz passports/nationality can be legitimised. In this case a balanced decision is required to legalise their presence in Abkhazia. However, no proposals worthy of consideration have been received so far and against this backdrop the Abkhaz authorities offered all residents of this country to make a free choice. Today, according to the Passport and Visa Service of the Abkhaz Ministry of the Interior, 5168 Gali district residents applied for citizenship and 583 passports have already been issued.

Official documents

- 6-point-plan signed by H.E. Mr. Nicolas Sarkozy
- 6-point-plan signed by H.H.E.E. Mr. Nicolas Sarkozy and Mr. Mikheil Saakashvili
- 6-point-plan signed by H.E. Mr. Dmitri Medvedev
- 6-point-plan signed by H.H.E.E. Mr. Sergei Bagapsh and Mr. Eduard Kokoity
- Implementation plan
- Orders No. 1 and No. 2

Le Président de la République

Protocole d'accord

1/ Ne pas recourir à la force.

2/ Cesser les hostilités de façon définitive.

3/ Donner libre accès à l'aide humanitaire.

4/ Les forces militaires géorgiennes devront se retirer dans leurs lieux habituels de cantonnement.

5/ Les forces militaires russes devront se retirer sur les lignes antérieures au déclenchement des hostilités. Dans l'attente d'un mécanisme international, les forces de paix russes mettront en œuvre des mesures additionnelles de sécurité.

6/ Ouverture de discussions internationales sur les modalités de sécurité et de stabilité en Abkhazie et en Ossétie du Sud.

Pour l'Union européenne,
la Présidence française

Nicolas Sarkozy

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Pour l'Union européenne,
la Présidence française

Nicolas Sarkozy

Pour la République de Géorgie,
la Présidence géorgienne

Mikheil Saakashvili

PRÉSIDENCE
DE LA
RÉPUBLIQUE

Service de presse

Paris, le 16 août 2008

COMMUNIQUÉ

La Présidence de la République, dans un souci de transparence, souhaite rendre publique la lettre qui établit précisément les modalités de mise en oeuvre du point 5 de l'accord de cessez-le-feu en six points, telles qu'elles ressortent de l'entretien du Président de la République Nicolas SARKOZY avec le Président Dimitri MEDVEDEV le 12 août. Cette lettre a été adressée le 14 août au Président Mikhaïl SAAKACHVILI

== début de citation ==

Monsieur le Président,

S'agissant du point 5 de l'accord en six points auquel vous avez -après le Président Medvedev- donné votre accord le 12 août dernier lors de notre rencontre à Tbilissi, et qui prévoit que « les forces militaires russes devront se retirer sur les lignes antérieures au déclenchement des hostilités » et que « dans l'attente d'un mécanisme international, les forces de maintien de la paix russes mettront en œuvre des mesures additionnelles de sécurité », je souhaite vous faire part des précisions suivantes :

- Ainsi que je l'ai précisé lors de notre conférence de presse conjointe à Tbilissi, ces « mesures additionnelles de sécurité » ne pourront être mises en oeuvre que dans l'immédiate proximité de l'Ossétie du Sud, à l'exclusion de toute autre partie du territoire géorgien ;

- Plus précisément, ces « mesures » ne pourront être mises en oeuvre qu'à l'intérieur d'une zone d'une profondeur de quelques kilomètres depuis la limite administrative entre l'Ossétie du Sud et le reste de la Géorgie, de façon à ce qu'aucun centre urbain significatif n'y soit inclus -je pense en particulier à la ville de Gori- ; des arrangements particuliers devront être définis pour garantir la liberté de mouvement et de circulation le long des axes routiers et ferroviaires de la Géorgie ;

- Ces « mesures additionnelles de sécurité » prendront la forme de patrouilles effectuées par les seules forces de maintien de la paix russes aux niveaux autorisés par les arrangements existants, les autres forces russes se retirant sur leurs positions antérieures au 7 août conformément au protocole d'accord ;

PRÉSIDENCE
DE LA
RÉPUBLIQUE

Service de presse

- Ces « mesures » auront un caractère provisoire, en attendant l'établissement dans les meilleurs délais du « mécanisme international » dont la nature et le mandat sont d'ores et déjà en cours de discussion dans différentes enceintes internationales, en particulier l'OSCE, l'Union européenne et les Nations Unies.

Fort de ces précisions, je vous demande de bien vouloir confirmer l'accord que vous m'avez donné et que vous avez annoncé publiquement à Tbilissi, en apposant votre signature au bas du protocole d'accord en six points que j'ai moi-même signé en tant que témoin et garant au nom de l'Union européenne. Le Président Medvedev m'a assuré hier que votre signature conduirait au retrait des forces russes conformément à l'accord conclu.

Je vous prie de croire, Monsieur le Président, à l'assurance de ma très haute considération.

Signé : Nicolas SARKOZY

== fin de citation ==

La Présidence de la République souhaite ajouter les 3 précisions suivantes :

- Dans la lettre accompagnant le document relatif au cessez-le-feu, le territoire mentionné se comprend comme l'immédiate proximité de la zone de conflit, telle qu'elle est définie par les arrangements antérieurs, à l'exclusion de toute autre partie du territoire géorgien. Les mesures définies par ce document ne pourront être mises en œuvre qu'à l'intérieur d'une zone d'une profondeur de quelques kilomètres, autour Tskhinvali dans la zone de conflit.
- En aucune manière les mesures mentionnées dans la lettre ne pourront limiter ou mettre en danger la liberté de mouvement et de circulation le long des axes routiers et ferroviaires de la Géorgie.
- D'autres aspects du processus de résolution du conflit seront discutés ultérieurement.

Президент Российской Федерации Д.А.Медведев и Президент Французской Республики Н.Саркози поддерживают следующие принципы урегулирования конфликтов и призывают соответствующие стороны подписаться под этими принципами:

1. Не прибегать к использованию силы;
2. Окончательно прекратить все военные действия;
3. Свободный доступ к гуманитарной помощи;
4. Вооруженные силы Грузии возвращаются в места их постоянной дислокации;
5. Вооруженные силы Российской Федерации выводятся на линию, предшествующую началу боевых действий. До создания международных механизмов российские миротворческие силы принимают дополнительные меры безопасности;
6. Начало международного обсуждения путей обеспечения прочной безопасности Южной Осетии и Абхазии.

За Грузинскую Сторону: За Южноосетинскую Сторону: За Абхазскую Сторону:

При посредничестве:

За Российскую Федерацию

При участии:

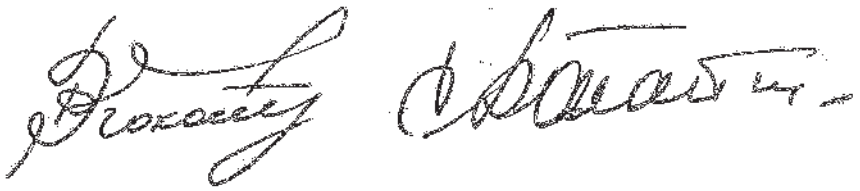
За ОБСЕ

За ЕС

Президент Российской Федерации Д.А.Медведев и Президент Французской Республики Н.Саркози поддерживают следующие принципы урегулирования конфликтов и призывают соответствующие стороны подписаться под этими принципами:

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За Грузинскую Сторону: За Югоосетинскую Сторону: За Абхазскую Сторону:



При посредничестве:

За Российскую Федерацию

При участии:

За ОБСЕ

За ЕС

+ UNAL

Mise en oeuvre du Plan du 12 août 2008

Réaffirmation de l'engagement de toutes les parties à mettre en œuvre dans leur intégralité toutes les dispositions du plan Médvédev-Sarkozy en 6 points du 12 août 2008.

1. Retrait des forces

- Retrait de toutes les forces russes de paix des cinq postes d'observation sur la ligne de Poti à Sénaki, dans un delai maximum de 7 jours, compte tenu de la signature le 8 septembre des documents juridiquement contraignants et garantissant le non-recours à la force contre l'Abkhazie.
- Retrait complet des forces de paix russes hors des zones adjacentes à l'Ossétie du Sud et à l'Abkhazie sur leurs positions anterieures au debut des hostilites. Ce retrait se déroulera dans les 10 jours du déploiement dans ces zones des mécanismes internationaux, y compris au moins 200 observateurs de l'UE, qui devra intervenir au plus tard le 1er octobre 2008, compte tenu de l'existence des documents juridiquement contraignants qui garantissent le non-recours à la force contre l'Abkhazie et l'Ossétie du Sud.
- Achèvement du retour des forces armées géorgiennes dans leurs lieux de cantonnement d'ici le 1er octobre 2008.

2. Mécanismes internationaux d'observation

- Les observateurs internationaux de la MONUG continueront d'exercer leur mandat dans leurs zones de responsabilité en conformité avec leurs effectifs et le schéma de déploiement tel qu'il etait le 7 août 2008, sans préjudice d'ajustements futurs sur décision du Conseil de sécurité des Nations unies .
- Les observateurs internationaux de l'OSCE continueront d'exercer leur mandat dans leurs zones de responsabilité en conformité avec leurs effectifs et le schéma de déploiement tel qu'il etait le 7 août 2008, sans préjudice d'ajustements futurs sur décision du Conseil permanent de l'OSCE.
- Les préparatifs seront accélérés pour permettre le déploiement d'observateurs supplémentaires dans les zones adjacentes à l'Ossétie du Sud et à l'Abkhazie en nombre suffisant pour remplacer les forces de paix russes d'ici le 1er octobre 2008 dont au moins 200 observateurs de l'UE.

- L'Union européenne en tant que garante du principe de non-recours a la force, prépare activement le déploiement d'une mission d'observation en complément des mécanismes d'observation existants.

3. Discussions internationales

- Les discussions internationales prévues au point 6 du plan Médvédev-Sarkozy du 12 août 2008 débuteront le 15 octobre 2008 a Genève. Les conversations preparatoires debuteront en septembre.

Elles porteront notamment:

- sur les modalités de sécurité et de stabilité dans la region;
- sur la question des réfugiés et déplacés sur la base des principes reconnus au niveau international et de la pratique de règlement post-conflictuel ;
- sur tout autre sujet, d'un commun accord entre les parties.

Orders No.1 and No.2

The Russian Federation provided the Independent International Fact-Finding Mission on the Conflict in Georgia with what it said to be copies of the documents which became known in the media as "combat Orders No. 1 and 2", allegedly issued by the commander of the Georgian 4th infantry brigade on 7 August 2008. Russia also gave the Mission what it said to be the operational maps of Georgian armed forces concerning planned combat actions against Abkhazia and South Ossetia. Together with copies of these documents the Russian side also provided the Mission with their translations into Russian which are also enclosed, together with non-official courtesy translations into the English language provided for by the Mission.

Acting also on a suggestion made by the Russian side, the Fact-Finding Mission made the above-mentioned alleged Orders No. 1 and 2 available to the Georgian side for their scrutiny and comments. The written answer of the Georgian authorities, which denies the authenticity of the documents, is given below.

The Orders No. 1 and 2 were also made available to an independent authority with special expertise to assess the authenticity of the documents. This authority did not come to final conclusions. It was stated that the documents did not show signs of flagrant falsification. However, the number of elements which could be examined were not enough to come to a definite assessment of the documents' authenticity, owing to the fact that only a copy of the original documents had been made available.

Приложение 8

საიდუმლო
ეგზ.№ 2
მე-4 ქვეითი ბრიგადის
შტაბი
დ.ეახიანი
07.0130 აგვისტო 2008 წ.

განმფრთხილებელი ბრძანება №01
რუკა №1:50 000, K-38-64-A, K-38-90- Б , K-38-64-B, K-38-64-Г
1987 წ. გამოშვება
დროებითი სარტყელი: ადგილობრივი

1. ვითარება

90 იანი წელებში დაიძაბა სიტუაცია სამაჩაბლოს რეგიონიში, ადგილობრივმა ხელისუფლებამ რუსეთის პოლიტიკური დახმარების საშუალებით მოახდინა ქართული მოსახლეობის ნაწილის რეგიონიდან განდევნა. რეგიონში დარჩა მხოლოდ დიდი ლიახვის კომპაქტურად დასახლებული ქართული მოსახლეობა. რუსეთმა პოლიტიკურ-ეკონომიკური ბერკეტების გამოყენებით მოახდინა საშშეიდობო ძალების შეყვანა რეგიონში, რომლებიც ხელს უწყობენ რეგიონში დესტაბილიზაციას, ღიად უჭერენ რა მხარს სეპარატისტულ მთავრობას.

ბოლო დროს არაკანონიერი ბანდფორმირებები რეგულარულად ახორციელებენ თავდასხმას რეგიონში მცხოვრებ ქართულ მოსახლეობაზე, გაუხსნეს ცეცხლიუ როგორც მცირე კალიბრიანი ასევე მსხვილ მკალიბრიანი შეიარაღებიდან, პარალელურად ხორციელდება ბანდ-ფორმირებების აღჭურვა, რაც თავის მხრივ ზრდის საფრთხეს რეგიონში მცხოვრები ქართული მოსახლეობისათვის.

ა. მოწინააღმდეგე ძალები.

სამაჩაბლოს რეგიონში ოსი სეპარატისტები აგრძელებენ მშეიდობიანი მოსახლეობისა და სამშეიდობო ძალების მიმართულებით შეიარაღებულ საცეცხლე დაპირისპირებას.

მათ ძირითად ტაქტიკურ ხერხებს წარმოადგენს თვითნაკეთი ასაფეთქებელი მოწყობილობები, სნაიპერები, თვითნაკეთი რაკეტმტყორცნები, 60-82 მმ. ნაღმტყორცნები, ასევე ანხორციელებენ კომპლექსურ ჩასაფრებებს.

ბ. საკუთარი ძალები:
- 41 ქვეითი ბატალიონი
- 42 ქვეითი ბატალიონი
- 43 ქვეითი ბატალიონი
- ჯ/ბატანკო ბატალიონი
- საარტილერიო დივიზიონი
- უზრუნველყოფის ბატალიონი
- საშტაბო ასეული
- სალაზვერვო ასეული
- საინჟინრო ასეული
- ჯ/გ ასეული

გ. მომაგრებული ქვედანაყოფები.
არ გვყავს

2. ამოცანა

IV- ქვეითი ბრიგადის დაქვემდებარებული ქვედანაყოფები მოვიდნენ საბრძოლო მზადყოფნაში დისლოკაციის ადგილზე არაუგვიანეს 2008 წლის 7 აგვისტოს 08:00 საათამდე, რათა განახორციელონ ოპერატიული დაჯგუფების მხარდაჭერა.

შემოსულია
07

3. ადგილმდებარეობა.

ა) ობიექტის კოორდინატები: ამ თავისებურებაში მნიშვნელოვანია დასალაგების ადგილზე სწორად სამრეწველო მზადყოფნაში მოქცევა, რათა გარემოსდაცვითი კომპანიისებული თანხმობის დებულებების თავისებურებების მხარდაჭერა, რომელიც ხელს შეუწყობს სტაბილურობის, ეფექტიანობის მიღწევების ცხოვრების რეგიონში. ბრაუნდი განპირობებულების თანხმობის სრულ სამყაროს საბანკო ტექნიკური ტექნიკა.

ბ) დაკავებული სამანქანო ტექნიკანატები:

მსუბუქი ტვირთი ბაგალიანები

დაკავება: ტექნიკური მოცულობით საბრძოლო მზადყოფნაში არა უგვიანეს 2018 წლის 11:00 საათამდე. ბრიგადის დასალაგების ადგილიდან განთავსებულად და ავტომატური დაგეგმების თავისებურების მხარდაჭერა; მოქმედების რაიონში სტაბილურობა, შეკვეთილი და თავდაცვითი ოპერაციების საწარმოებლად.

გ) დაკავებები მხარდამჭერ ტექნიკანატებს:

სამანქანო ტვირთი:

დაკავება: მზად იყოს სასაზღვრო ტექნიკანატების მხარდამჭერი ოპერაციების განსახორციელებლად.

დამცველის ტვირთი

დაკავება: სამანქანო ტექნიკა თავისებურების რაიონში დაწყოს სამანქანო ტვირთის წარმოება 2018 წლის 7 აგვისტოს 11:00 საათისთვის, ბრიგადის თავისებურების ადგილის შესწავლის მიზნით.

დ) მატერიალურ-ტექნიკური უზრუნველყოფა:

1. ბრძანება ბრიგადის შეკვეთის განხორციელებაზე;
2. შეიარაღების მოთხოვნა მზადყოფნაში ოპერაციისთვის
- ტექნიკის სრული მზადყოფნა ბრძანების შესასრულებლად;
- დაკომპლექტება ადგილზე სრული მომარაგების მისაღებად, დამხმარებული შეკვეთის დროს და
დაბრუნდა ოპერაციის შესასრულებლად
- ნიშნების კოდების მიღებისთვის
3. მძიმე ტექნიკის ნაწილის შეკვეთის დაცვა;
4. ტექნიკის მოქმედება მიმდებარე ბრიგადებთან კოორდინაციაში.

4. საკომუნიკაციო-ტექნიკური უზრუნველყოფა:

TV ტვირთი ბრიგადის უზრუნველყოფილი კლასების მიხედვით განსხვავებულად ცვლილებების ბრიგადების ძალებით.

ინფორმაციის ცვლილება შესაძლებელია I, II, V, VIII და წესით.

5. მხარდაჭერა და კავშირი.

მხარდაჭერა და კავშირი განსხვავებულად სტანდარტული ოპერაციული პროცედურების მხარდაჭერით (SOP)

შეიარაღებული ძალების მეთაური

მაიორი ე. კალანდაძე

საიდუმლო
ეგზ.№
მე-4 ქვეითი ბრიგადის
შტაბი
დ.ვაზიანი
07.0515 აგვისტო 2008 წ.

განმაფრთხილებელი ბრძანება №02
რუკა №1:50 000, K-38-64-A, K-38-90- Б , K-38-64-B, K-38-64-Г
1987 წ. გამოშვება
დროები სარტყელი: ადგილობრივი
1. ვითარება.
ცვლილებების გარეშე (იხილეთ განმაფრთხილებელი ბრძანება №01)
ბ. მოწინააღმდეგე ძალები.
ცვლილებების გარეშე (იხილეთ განმაფრთხილებელი ბრძანება №01)
ბ. საკუთარი ძალები:
ცვლილებების გარეშე (იხილეთ განმაფრთხილებელი ბრძანება №01)

<u>ზემდგომი მეთაურის ამოცანა</u>
ოპერატიულმა ჯგუფმა განახორციელოს საბრძოლო ოპერაცია სამაჩაბლოს რეგიონში და 72 საათის განმავლობაში გაანადგუროს მოწინააღმდეგე. აღადგინოს სამართველოს იურისდიქცია რეგიონში.

ზემდგომი მეთაურის ჩანაფიქრი
– სწრაფი საბრძოლო მოქმედებისგანხორციელება;
– მშვიდობიანი მოსახლეობისა და მათი ქონების განადგურების რისკის შემცირება;
– ზუსტი წერტილოვანი დარტყმებით მოწინააღმდეგე ძალების განადგურება;
– საკუთარი ძალების დაცვა

გ. მომაგრებული ქვედანაყოფები.
არ გვყავს

2. ამოცანა
IV- ქვეითი ბრიგადის დაქვემდებარებული ქვედანაყოფები მოვიდნენ საბრძოლო მზადყოფნაში დისლოკაციის ადგილზე არაუგვიანეს 2008 წლის 7 აგვისტოს 11:00 საათამდე, რათა განახორციელონ ოპერატიული დავალების მხარდაჭერა.

3. აღსრულება.
მეთაურის ჩანაფიქრი:
– სწრაფი საბრძოლო მოქმედების განხორციელება;
– მშვიდობიანი მოსახლეობისა და მათი ქონების განადგურების რისკის შემცირება;
– ზუსტი წერტილოვანი დარტყმებით მოწინააღმდეგე ძალების განადგურება;
– საკუთარი ძალების დაცვა
– ოპერაციის რაიონში შეტევითი და თავდაცვითი ოპერაციების განხორციელება;
– სამოქალაქო ფუნქციების უსაფრთხოების დაცვა;

საბოლოო შედეგი:
– რეგიონში ანტი სეპარატისტული ძალების გაუნებივრებელყოფა
– რეგიონში მშვიდი და უსაფრთხო გარემოს შექმნა.

<u>მე-4 ბრიგადა საერთო საზღვრები:</u>
<u>ჩრდილოეთით: კ. 858864; კ. 056868.</u>
<u>აღმოსავლეთით: კ. 056868 კ. 112732</u>
<u>სამხრეთით: კ. 112732; კ. 977690; კ. 951682; კ. 868709</u>
<u>დასავლეთით: კ. 868 709</u>

№ 210-1 ფურც. 3.
"4" 06 ...წ.

<u>მე-4 ბრიგადის შიდა საზღვრები:</u>
<u>41 ქვეითი ბატალიონი:</u>
ჩრდილოეთით: კ. 858864; კ. 935865
აღმოსავლეთით: კ. 935865; კ. 977690
სამხრეთით: კ. 977690; კ. 948681. . 878708
დასავლეთით: კ 878708; კ. 858864.

<u>42 ქვეითი ბატალიონი:</u>
ჩრდილოეთით: კ. 935865; კ. 973867
აღმოსავლეთით: კ. 973867; კ. 025748; კ. 046718
სამხრეთით: კ. 046718; კ. 977690
დასავლეთით: კ 977690; კ. 935865

<u>43 ქვეითი ბატალიონი:</u>
ჩრდილოეთით: კ. 973867; კ. 056868
აღმოსავლეთით: კ. 056868; კ. 112732
სამხრეთით: კ. 112732; კ. 046718.
დასავლეთით: კ 046718; კ. 025748. . 973867

მეთაური მოთხოვნა მნიშვნელოვან ინფორმაციაზე (CCIR).

(ა) დაზვერვის პრიორიტეტული მოთხოვნები (PIR).

1 საშუალებები/მეთოდები/რეჟიმები, რომელთაც გამოიყენებენ ანტისეპარატისტული ძალები რეგიონის უსაფრთხოების დესტაბილიზაციისათვის.

2 სად ხდება უშუალოდ ძალების დაპირისპირება.

3 ვინ უჭერენ მხარს ანტისეპარატისტულ ძალებს?

4 სად მდებარეობენ ანტსეპარატისტული ძალების ბანაკები. და სამალავები;

5 სად აქვთ განლაგებული ძირითადი საცეცხლე საშუალებები;

6 რა შემადგენლობა და საშუალებები გააჩნიათ მოწინააღმდეგე ძალებს;

7 სად და როდის ჩაატარებენ მოწინააღმდეგე ძალების სხვადასხვა დაჯგუფებები კოორდინირებულ შეტევას საკუთარი ძალების წინააღმდეგ

8 ვინ არის გავლენიანი პირები (ლიდერები) ოპერაციის რაიონში.

რისკი

– სამაჩაბლოს რეგიონში არსებული რუსული საშვიდობო ბაზები ზრდის პროვოკაციის რისკს მათზე ცეცხლის გახსნის შემთხვევაში;

– შშვიდობიანი მოსახლეობისა და ლტოლვილთა გადმოადგილებისას საშიშროება, რომ მათ შორის აღმოჩნდეს სეპარატისტული დაჯგუფების წევრები, რომლებიც შეეცდებიან დესტაბილიზაციის შექმნას ზურგში

დავალებები სამანევრო ქვედანაყოფებს:

- სამანევრო ქვედანაყოფებმა (41-ე; 42-ე და 43-ე ბატალიონები) მოამზადონ სადაზვერვო ოცეულები ტაქტიკური სადაზვერვო ოპერაციების საწარმოებლად თავთავიანთ საპასუხისმგებლო რაიონში;
- სამანევრო ქვედანაყოფებთან შეტევითი და თავდაცვითი ოპერაციების საწარმოებლად, ჩაატარონ ვარჯიშები ოპერაციების საწარმოებლად. (შეტევა დასახლებულ პუნქტებში, შენობობში შესვლა ჩხრეკა, თავდახსნითი და აყვანის ოპერაციები)

დავალებები მხარდამჭერ ქვედანაყოფებს:

ბრიგადის მხარდამჭერი ქვედანაყოფებმა (ჯ/სატ. ბატ; საარტ. დივიზიონი; უზრ. ბატალიონი და ცალკეული ასეულები) – მოიყვანონ ქვედანაყოფები სრულ საბრძოლო მზადყოფნაში სამანევრო ქვედანაყოფების მხარდასაჭერად და იყვნენ მზად მარშის განსახორციელებლად ბრიგადის თავმოყრის რაიონში კვ. 0259

უსაფრთხოების ღონისძიებები:

– მარშის მსვლელობისას დაცული იქნეს უსაფრთხოების ზომები;
– ქვედანაყოფებმა თავიანთ გადაადგილების მიმართულებებზე უზრუნველყონ ფლანგები და ზურგის დაცვა.

4. მატერიალურ-ტექნიკური უზრუნველყოფა;
   ცვლილებების გარეშე (იხილეთ გამაფრთხილებელი ბრძანება №01)

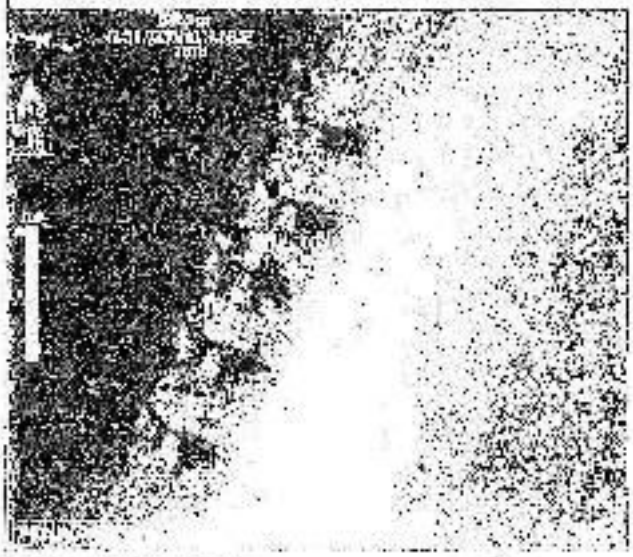
5. მართვა და კავშირი.
   ცვლილებების გარეშე (იხილეთ გამაფრთხილებელი ბრძანება №01)

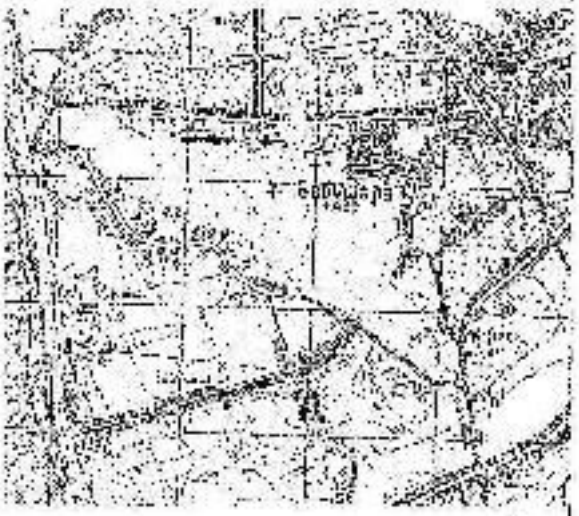
მჭოთხე ქვეითი ბრიგადის მეთაური

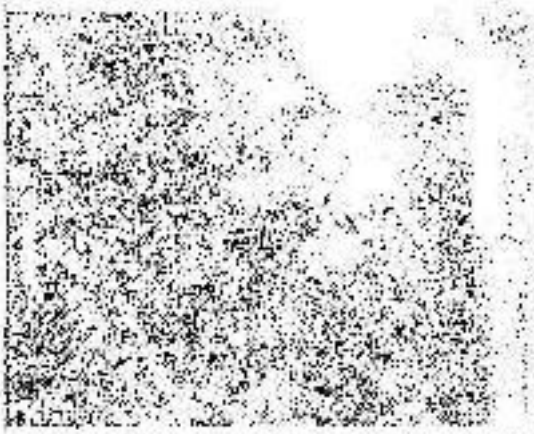
მაიორი გ. კალანდაძე

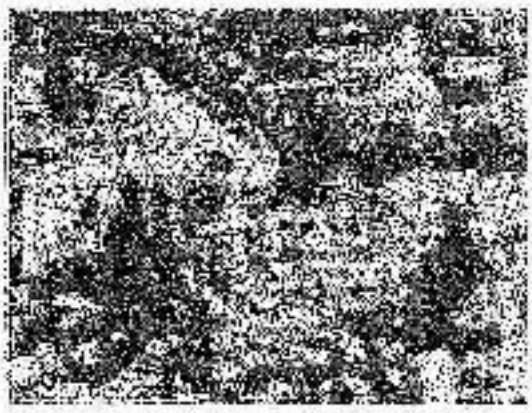
7390 5020 (1: 50 000)

N 42°51'59"—E 41°07'39"







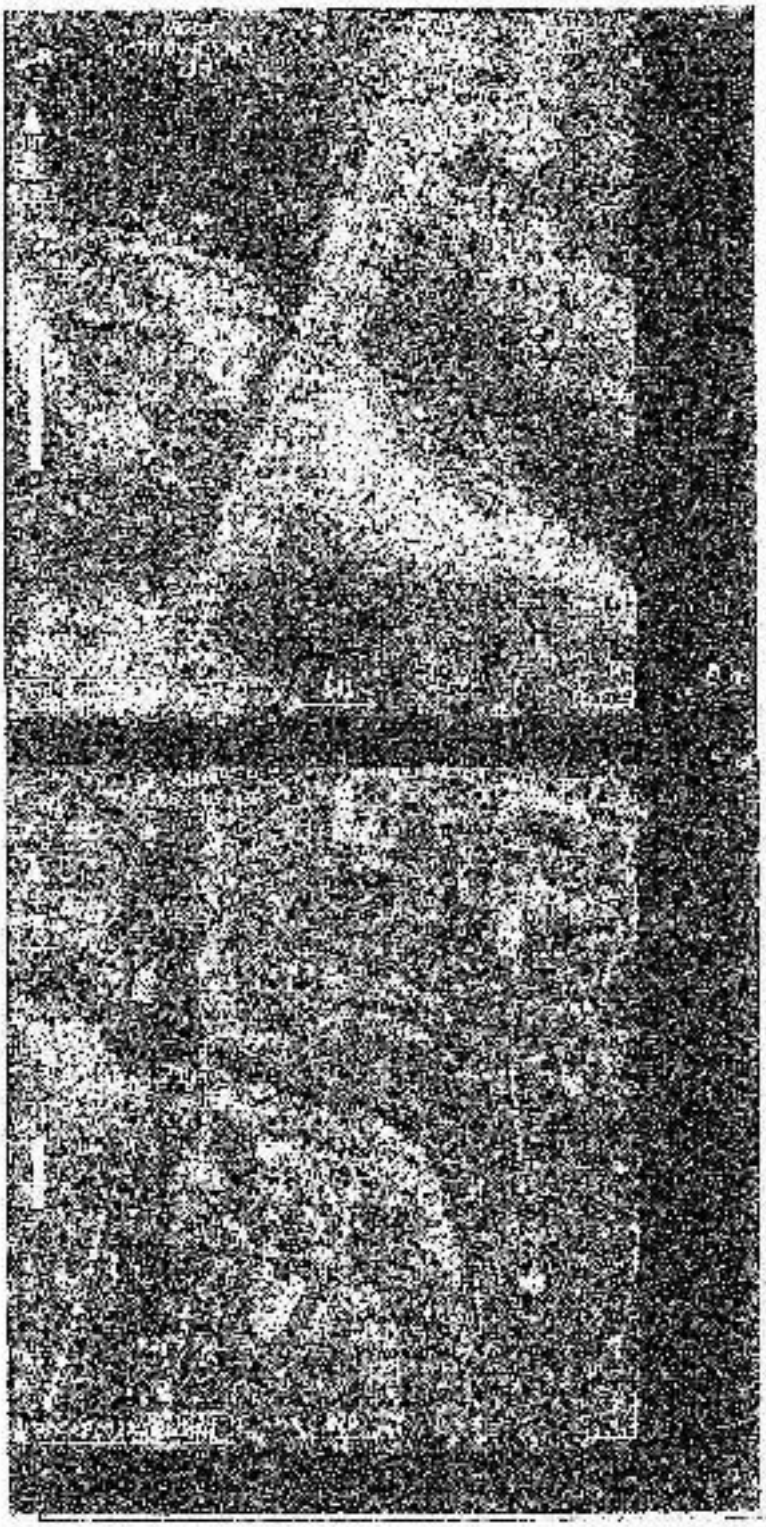


Формуляры объектов на территории Абхазии, планируемые к поражению ВС Грузии

7047 3940 (1: 50 000)

N 42°57'01" E 44°05'18"

ს ა ა მ ტ ო ს ი ო ბ ი ს ე რ ი ხ ი დ ი
(ს ო ფ. მ ა ხ ა რ ო ბ ე ლ ი)





•xidi cad. toiWoruza, sof. traWara /7058/.

•xidi dkinsberonis, kcWiri, Wili. malebis konstrucpia - S keWi; asvali nawili asfaltobetonis safaxiT. sayrdenebi dkinsberonis, masalebi

•xidis maxasiaTeblebia:

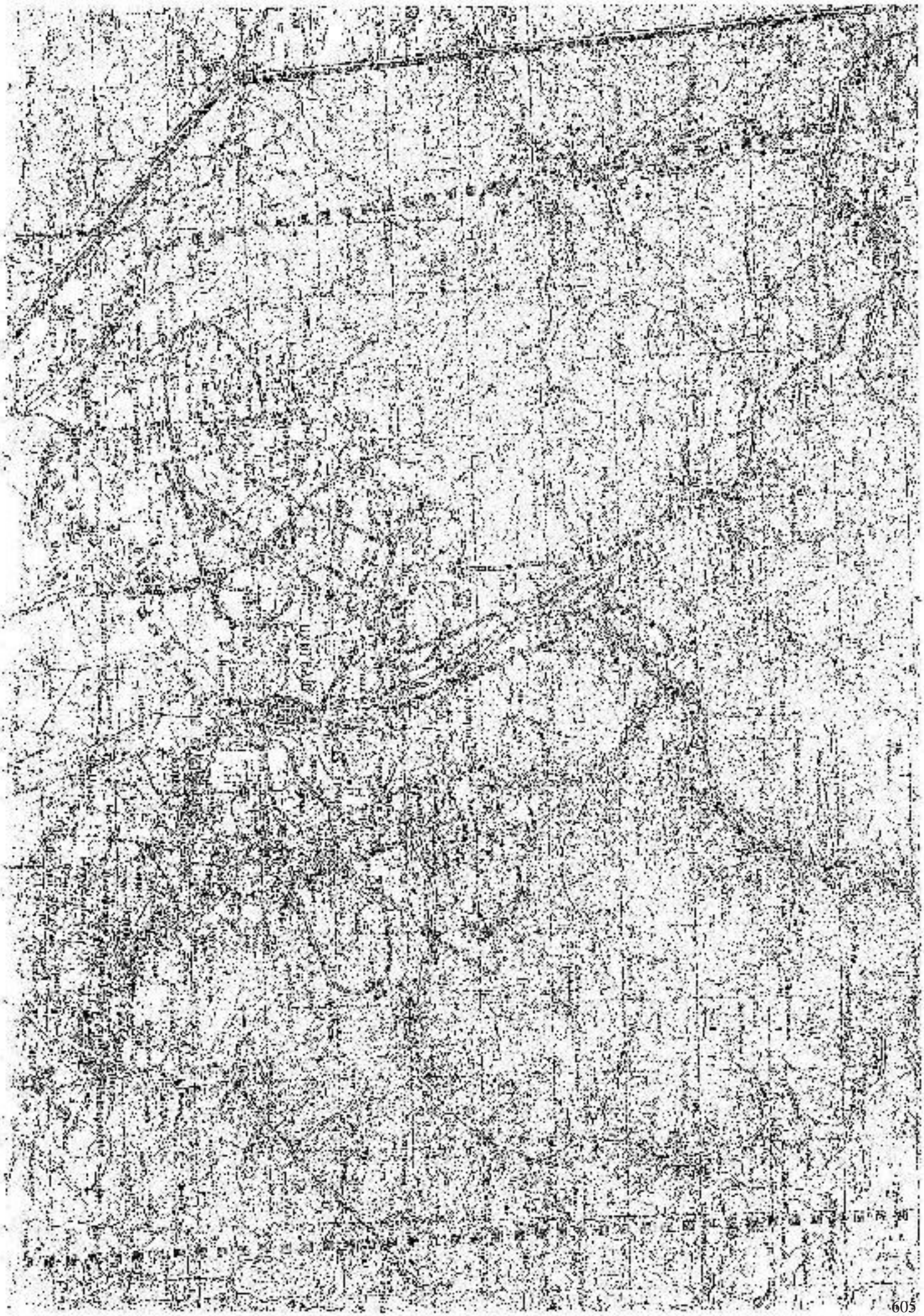
sigrZe - 56 m;

_ sigane - 10 m;

_ asvali nawilis sigane – 6 m;

tvirTamwyoba - 60 t.

•xidvisa sigane 10m, wylis sixSire 0,6m, dinebis sixSire 0,8m/wm, fxebis gauti naSiani- kcaWmebiani, neylebis simaRle: marjvena 8-10m, marcxena 0,5-1m, faic.




ОБ состоянии на 8.00 2009 г.
Республика Северная Осетия - Алания
РОССИЙСКАЯ ФЕДЕРАЦИЯ
Состав Смешанных сил по поддержанию м
в зоне грузино-осетинского конфликта
Страны
Количество личного состава, военной техники и сооружения
Российская Федерация
Личный состав - 466 чел.
БТ - 40; АТ - 57; минометы - 8
Северная Осетия
Личный состав - 788 чел.
БТ - 42; АТ - 50
Грузия
Личный состав - 530 чел.
БТ - 13; АТ - 14; минометы - 6
Всего
Личный состав 1524 чел.
БТ - 10; АТ - 127; минометы - 13
Группировка войск Грузи
в зоне грузино-осетинского конф
Южная Осетия
Джавский район
Северный
Восточный
Цхинвальский район
Ленингорийский район
ЦХИНВАЛИ
мсб РСОА
мсб МС
ГПОС
3 ПБр
31, 32, 33 пп
42, 43 пп
мсб а/д, рн

Дислокация
российского воинского контингента в зоне грузино-осетинского конфликта
по состоянию на 8.08.2008 г.



Состав Смешанных сил по поддер
в зоне грузино-осетинского ко

Страна	Количество личного состава, военной техники и вооружения
Российская Федерация	Личный состав - 450 чел. БТ - 43; АГ - 67; минометы - 6
Северная Осетия	Личный состав - 464 чел. БТ - 42; АГ - 48
Грузия	Личный состав - 530 чел. БТ - 10; АГ - 14; минометы - 4
Всего	Личный состав 1521 чел., БТ - 10; АГ - 12; минометы -

Группировка во
в зоне грузино-осетин
3 бр (без 2-х лпб), 4
обсп - 2, 1
ВДВ
ЕСМ
НОВО
8 ОУ-25,

(Перевод с грузинского языка)

Отписано:
Начальнику штаба
Подпись 07.08.08

Секретно
Экз.№2
Штаб 4 пехотной
бригады
Вазиани
01.30 07 августа 2008 г.

Предварительный приказ № 01
Карта № 1:50000, К-38-64-А, К-38-90-Б, К-38-64-В, К-38-64-Г
Издание 1987 г.
Время местное

1. Обстановка

В 90-х годах осложнилась ситуация в регионе Самачабло *(Южная Осетия - прим. переводчика)*, местное руководство с помощью российской политической поддержки осуществляло изгнание грузинской части населения из региона. В регионе осталось только грузинское население, компактно проживающее в районе Диди-Лиахви *(села севернее Цхинвали)*. Россия, используя политико-экономические рычаги, способствовала вводу в регион миротворческих сил, которые дестабилизируют обстановку и открыто поддерживают сепаратистское руководство.

В последнее время незаконные бандформирования регулярно нападают на грузинское население в регионе, открывают огонь как из мелкокалиберного, так и крупнокалиберного оружия Одновременно продолжается вооружение бандформирований, что в свою очередь увеличивает опасность для грузинского населения в регионе.

А. Силы противника, *(нумерация на языке оригинала)*

Осетинские сепаратисты в регионе Самачабло продолжают вооруженное противостояние с мирным населением и миротворческими силами.

Их основные тактические приемы представляют собой следующее: самодельные взрывные устройства, снайперы, самодельные ракетные пусковые установки, 60-82 мм миномёты, также осуществляются комплексные засады.

Б. Собственные силы:

- 41 пехотный батальон
- 42 пехотный батальон
- 43 пехотный батальон
- бронетанковый батальон

- артиллерийский дивизион
- батальон обеспечения
- штабная рота
- разведывательная рота
- инженерная рота
- рота радиосвязи

Регистрационный штамп 7.08. 2008

Г. Приданные подразделения
Не имеются

2. Задача
Подразделения 4 пехотной бригады переводятся в состояние боевой готовности на месте дислокации не позднее 08.00 7 августа 2008 года, чтобы осуществить поддержку оперативной группировки.

3. Выполнение
а) Концепция операции: в этой операции важно быстрое приведение в боевую готовность на месте дислокации, чтобы осуществить поддержку комбинированной оперативной группировке, которая осуществляет стабилизирующие мероприятия в Цхинвальском регионе. Бригада осуществляет полный спектр операции маневренными подразделениями.
б) Задания маневренным подразделениям:
Лёгкие пехотные батальоны.
Задание: подразделения приводятся в боевую готовность не позднее 11.00 *(день неуказан)* 2008 года для выхода из района дислокации бригады и поддержки оперативной группировки; проведения в районе действий стабилизирующих, наступательных и оборонительных операций.

г) Задания поддерживающим подразделениям;
Артиллерийский дивизион
Задание: быть готовым к поддержке маневренных подразделений в ходе проведения операций.

Разведывательная рота
Задание: разведывательной роте начать разведывательные действия в районе операции с 05.00 7 августа с.г. с целью изучения района сосредоточения бригады

д) Координирующие инструкции:
1. Приказ вступает в силу с момента отдания;
2. Основные требования командира:
- полная готовность подразделений к выполнению задачи;

- укомплектование вооружением в соответствии с полным стандартом для проведения операций в населённых пунктах днём и ночью;

- обстановка по классам снабжения;

3. Соблюдение правил вступления в бой;

4. Подразделения действуют в координации с бригадой

4. Материально-техническое обеспечение

Обеспечение 4 пехотной бригады осуществляется по классам обеспечения батальонных

сил.

Приоритет отдаётся следующим классам I, Ш, V, VIII и вода.

5. Управление и связь.

Управление и связь осуществляются в соответствии со стандартными оперативными процедурами (SOP).

Командир 4 пехотной бригады
Майор *подпись* Г. Каландадзе

На обороте:
№ 0666
Отпечатано: 7 (семь) экземпляров
Экз.№1-16161
Экз.№2-16162
Экз.№3-16163
Экз.№4-16164
Экз.№5-16165
Экз.№6-16166
Экз.№7-16167
Для ознакомления отдельным ротам
Исполнил: G-3 м-р З.Джанджалия
Тел: 877-19-39-49
7.08.2008 г.

(Перевод с грузинского языка) Отписано: Начальнику штаба Подпись 07.08.08

Секретно
Экз.№

Штаб 4 пехотной бригады
Вазиани
05.15 07 августа 2008 г.

Предварительный приказ № 02
Карта № 1:50000, К-38-64-А, К-38-90-Б, К-38-64-В, К-38-64-Г
Издание 1987 г.
Время местное

1. Обстановка
Без изменения (см. Предварительный приказ №
01) **А. Силы противника.**
Без изменения (см. Предварительный приказ №
01) **Б. Собственные силы:**
Без изменения (см. Предварительный приказ № 01)

Задача вышестоящего командира

Оперативной группировке осуществить боевую операцию в регионе Самачабло *(Южная Осетия)* и в течение 72 часов разгромить противника. Восстановить юрисдикцию Грузии в регионе. **Замысел вышестоящего командира**
- быстрое осуществление боевых действий;
- уменьшение риска уничтожения гражданского населения и его имущества;
- уничтожение сил противника точечными ударами;
- оборона собственных сил

Г. Приданные подразделения Не имеются

2. Задача
Подразделения 4 пехотной бригады переводятся в состояние боевой готовности на месте дислокации не позднее 11.00 7 августа 2008 года, чтобы осуществить поддержку оперативной группировки.

3. Выполнение
Замысел командира:
- быстрое осуществление боевых действий;
- уменьшение риска уничтожения гражданского населения и их имущества;
- уничтожение сил противника точечными ударами;
- оборона собственных сил
- осуществление наступательных и оборонительных операций в районе действий;
- защита безопасности городской функциональности;

Конечный результат:
- выявление антисепаратистских сил в регионе
- установление мирной и безопасной среды в регионе.

Общие границы 4 бригады *(координаты по кодировочной карте):*
На севере: к. 858864; к. 056868.
На востоке: к. 056868 к. 112732
На юге: к. 112732; к. 977690; к. 951682; к. 868709
На западе: к 868 709

Внутренние границы 4 бригады;
41 пехотный батальон:
На севере: к. 858864; к. 935865. На
востоке: к. 935865 к. 977690 На
юге: к. 977690; к. 948681.. 878708
На западе: к 878708; к. 858864.

42 пехотный батальон:
На севере: к. 935865; к. 973867
На востоке: к. 973867; к. 025748; к. 046718
На юге: к. 046718; к. 977690
На западе: к 977690; к. 935865

43 пехотный батальон:
На севере: к. 973867; к. 056868
На востоке: к. 056868; к. 112732
На юге: к. 112732; к. 046718.
На западе: к 046718; к. 025748.. 973867

Основные требования командира (CCIR)
(а) приоритетные требования разведке (PIR)
1. Средства/методы/режимы, используя которые антисепаратистские силы могут дестабилизировать безопасность в регионе.
2. Где происходит непосредственное противостояние сил.
3. Кто поддерживает антисепаратистские силы?
4. Где расположены лагеря и укрытия антисепаратистских сил;
5. Где у них размещены основные огневые средства;
6. Численность и используемые средства противника;
7. Где и когда различные группировки противника проведут наступления на наши силы
8. Кто являются влиятельными персонами *(лидерами)* в районе операции.

Риски

- существование в регионе Самчабло российских миротворческих без предполагает
возникновения риска провокаций, в случае открытия по ним огня;

- опасность того, что при перемещении гражданского населения и беженцев, среди них
могут оказаться члены сепаратистских группировок, которые будут дестабилизировать
обстановку в тылу.

Поручения мотострелковым подразделениям:
- маневренным подразделениям (41,42 и 43 батальоны) подготовить разведывательные взводы для проведения тактических разведывательных операций в своих зонах ответственности;
- маневренным подразделениям провести тренировки операций наступления и обороны (наступление в населенных пунктах, проникновение в здания, обыск, нападение и захват).

Поручения подразделениям поддержки:
Подразделениям поддержки бригады (бронетанковый батальон; артиллерийский дивизион; батальон обеспечения и отдельные роты) - перейти в полную боевую готовность для поддержки маневренных подразделений и быть в готовности к маршу в район сбора бригады кв. 0259

Мероприятия по безопасности:
- на марше соблюдать расстояния безопасности;
- подразделения при перемещениях обеспечивают защиту флангов и тыла собственными силами.

4. Материально-техническое обеспечение.
Без изменения (см. Предварительный приказ № 01)

5. Управление и связь.
Без изменения (см. Предварительный приказ № 01)

Командир 4 пехотной бригады
Майор *подпись* Г. Кандидадзе

(Translation from Georgian)[1]

Addressed to:
Chief of Staff
Signature 07.08.08

Classified
Copy No. 2
4th Infantry Brigade
Headquarters
Vaziani
01.30 07 August 2008

Preliminary order No. 01
Map No. 1:50000, K-38-64-A, K-38-90-B, K-38-64-V, K-38-64-G
Revision 1987
Local time

1. Background

In the 1990-s the situation in the Samachablo region *{South Ossetia -original translator's note}* deteriorated, the local administration used the Russian political backing to drive the ethnic Georgian population out of the region. The only remaining ethnic Georgian residents settled within the boundaries of the Didi-Liakhavi district *{a village north of Tskhinvali}*. Russia used its political and economic leverage to send peacekeeping forces into the region. These forces destabilized the situation and openly supported separatist leaders.

As of late illegal armed gangs have regularly attacked ethnic Georgians residing in the region and opened fire from small and large calibre weapons. At the same time these gangs continue to rearm, which in turn poses a greater threat to the Georgian population of the region.

A. Opposing force *{the numbering convention is the same as in the original language}*

Ossetian separatists in the Samachablo region continue their military confrontation with the local population and the peacekeeping forces.

Their key tactical methods and capabilities are as follows: improvised explosive devices (IEDs), sniper fire, improvised rocket launchers, 60-82mm mortars as well as complex ambushes.

[1] Unofficial translation by the Independent International Fact-Finding Mission on the Conflict in Georgia.

B. Own forces:
- 41st infantry battalion
- 42nd infantry battalion
- 43rd infantry battalion
- armour battalion
- artillery battalion division
- support battalion
- HQ company
- reconnaissance company
- engineer company
- signal company

Registration stamp 7.08. 2008

C. Augmentation units
Not available

2. **Mission objectives**
Units of the 4th infantry brigade will be put on high combat readiness alert at the location of their deployment no later than 8.00 on 7 August 2008 in order to provide support to the Task Group.

3. **Execution**
a) Concept of operation: in this operation it is important to quickly transition to a higher combat readiness at the location of deployment in order to provide support to the combined Task Group engaged in a stabilisation operation in the Tskhinvali region. The brigade is to carry out a full spectrum of operations using manoeuvre units.
b) Manoeuvre units mission:
Light infantry battalions.
Objective: these units will quickly transition to combat readiness no later than 11.00 *{no date specified}* 2008 to redeploy from the current location to provide support to the Task Group; the units will carry out stabilisation, offensive and defensive missions in the area of operation.

c) Support units mission:
Artillery division
Mission: be ready to support the manoeuvre units in the course of the operation.

Reconnaissance company
Mission: the reconnaissance company will begin to carry out a reconnaissance mission in the area of operation as of 05.00 on 7 August of this year in order to study the brigade's area of deployment.

d) **Coordinating instructions**
1. The order shall enter into force immediately upon its issue;

2. Key commander requirements:
- all units must be fully ready to carry out their missions;
- [all units] must be armed in full compliance with the standard procedure applicable to operations carried out in residential settlements in the daytime and at night;
- situation with respect to classes of supplies;
3. Compliance with the rules of engagement;
4. All units must coordinate their operation with the brigade.

4. Logistical support

Logistical support shall be provided to the 4th infantry brigade in accordance with the supply classification requirements applicable to battalion-size forces.
Priority shall be given to the following classes I, III, V, VIII and water.

5. Control and Communications
Control and communications shall be executed in accordance with the standard operating procedures (SOP).

Commander, 4th Infantry brigade
Major *Signature* G. Kalandadze

Reverse side:
No. 0666
Printed: 7 (seven) copies
Copy No.1-16161
Copy No.2-16162
Copy No.3-16163
Copy No.4-16164
Copy No.5-16165
Copy No.6-16166
Copy No.7-16167
To be distributed in selected companies
Executed by: Major Z. Dzhandzhalia, G-3
Tel. 877-19-39-49
7.08.2008

(*Translation from Georgian*)

Addressed to: Chief of Staff Signature 07.08.08

Classified
Copy No.
4th Infantry Brigade
Headquarters
Vaziani
05.15 07 August 2008

Preliminary order No. 02
Map No. 1:50000, K-38-64-A, K-38-90-B, K-38-64-V, K-38-64-G
Revision 1987
Local time

1. Situation
No changes (see Preliminary order No.
01) **A. Opposing force.**
No changes (see Preliminary order No.
01) **B. Own forces:**
No changes (see Preliminary order No. 01)

Higher Commander's Mission

The Task Group shall carry out a combat operation in the Samachablo region *{South Ossetia}* and defeat the enemy within 72 hours. Restore Georgia's jurisdiction in the region. **Higher Commander's intent:**
- quick execution of a combat operation;
- reduce the risk of civilian casualties and damage to civilian property;
- launch precision strikes to destroy the opposing force;
- defend own forces

D. Augmentation units Not available

2. **Mission objectives**
Units of the 4th infantry brigade will be put on high combat readiness alert at the location of their deployment no later than 11.00 on 7 August 2008 in order to provide support to the Task Group.
3. **Execution**
Commander's intent:

- quickly execute a combat operation;
- reduce the risk of civilian casualties and damage to civilian property;
- launch precision strikes to destroy the opposing force;
- defend own forces;
- carry out offensive and defensive missions in the area of operation;
- ensure security of municipal functionality [infrastructure];

End result:

- identify anti-separatist (sic!) forces in the region;
- restore peace and security in the region.

General boundaries of the 4th Brigade (*code map coordinates*):
North: c. 858864; c. 056868.
East: c. 056868 c. 112732
South: c. 112732: c. 977690: c. 951682; c. 868709
West: c 868 709

Inner boundaries of the 4th Brigade:
41st infantry battalion
North: c. 858864; c. 935865.
East: c. 935865 c. 977690
South: c. 977690; c. 948681: c. 878708
West: c 878708; c. 858864

42nd infantry battalion
North: c. 935865: c. 973867
East: c. 973867; c. 025748; c. 046718
South: c. 046718; c. 977690
West: c 977690; c. 935865

43rd infantry battalion
North: c. 973867: c. 056868
East: c. 056868; c. 112732
South: c. 112732; c. 046718
West: c 046718; c. 025748.. 973867

Critical Command Information Requirements (CCIR)

(a) Priority Intelligence Requirements (PIR)

1. Assets/methods/techniques that may be used by the anti-separatist forces to destabilise the situation in the region.
2. Where will the actual confrontation of forces take place?
3. Who supports the anti-separatist forces?
4. Where do the anti-separatist forces maintain their camp and cover position?
5. Where do they deploy their core firepower;
6. Strength of the opposing force and assets at its disposal;
7. Where and when will different enemy groups carry out offensive operations against our forces?
8. Who are the most influential persons (*leaders*) in the area of operation?

Risks

- the fact that the Russian peacekeeping bases are located in the Samachablo region entails a risk of provocations should they come under fire;
- there is a risk that members of the separatist groups may mix with the civilian population and refugees on the move and destabilise the situation in the rear.

Tasks for the manoeuvre units:

- manoeuvre units (41st, 42nd and 43rd battalions) shall ready reconnaissance platoons to carry out tactical reconnaissance operations in their respective areas of responsibility;
- manoeuvre units shall conduct an exercise to train for offensive and defensive operations (offensive operations in residential settlements, penetration of buildings, searches, assault and takeover).

Tasks for support units:
Brigade support units (armour battalion; artillery battalion; support battalion and selected companies) shall be put on full combat readiness alert to be able to provide support to manoeuvre units and be ready to deploy to the brigade assembly point sq. 0259.

Security measures:
- [troops] on the march must maintain a secure distance;
- during the redeployment phases units shall ensure protection from the flanks and the rear using own forces.

4. Logistical support
No changes (see Preliminary order No. 01)

5. Control and Communications
No changes (see Preliminary order No. 01)

Commander, 4th Infantry brigade
Major *Signature* G. Kalandadze

Letter of 27 July 2009 from MFA Giorgi Bokeria to Amb. Heidi Tagliavini

Dear Heidi, Dear Colleague,

Thank you for your letter requesting clarification over select materials provided to the Mission and shared with the Government of Georgia, specifically so-called "Orders Number 1 and 2"; selections of apparent UAV photographs; peacekeeper location maps in South Ossetia/the Tskhinvali Region; and other supposed military maps of South Ossetia and Abkhazia. This letter provides explanations and information on the above related materials.

So Called "Orders Number 1 and 2"

The Government of Georgia affirms that both of the so-called military "orders" submitted to the Mission are falsifications. This statement is based on the fact that the Government of Georgia retains original copies of both orders, which are materially different from the falsified documents submitted to the Mission. Both of those documents are currently in the process of being declassified and in short order will be provided to the Mission.

The Government of Georgia is in the process of reviewing the signatures contained on both documents and carefully studying the body text.

Supposed UAV Photographs

The Mission has shared what appear to be Unmanned Aerial Vehicle photographs of Machara bridge and Babushera airport. The origins of this photographic material are unclear but in some measure resemble data obtained by Government of Georgia assets and shared with friendly governments and international organizations in the past.

It is common knowledge that the Government of Georgia has employed the use of unarmed, unmanned aerial vehicles in Abkhazian region on a regular basis as a tool to increase transparency in an environment where other forms of verification were not possible/were denied.

Peacekeeper Location Maps in South Ossetia/the Tskhinvali Region

Prior to the Russian invasion, Georgia was a member of the Joint Control Commission. In that context, the Government of Georgia was regularly provided with maps of peacekeeper locations, consistent with standard operating procedure. The two maps, privided by the mission are very similar to peacekeepers' maps. However, for obvious reasons, the maps dated August 8, 2008 were not shared with the Government of Georgia. Therefore, we can not confirm authenticity of those maps.

Supposed Military Maps of South Ossetia/the Tskhinvali Region and Abkhazia

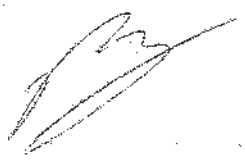
The map showing potential avenues for a Russian invasion from South Ossetia/the Tskhinvali Region has no distinct verification marks or forms of identity linking it to the Georgian Government. It has no specific time or date, and in that respect, cannot be linked to any specific

author or verifiable source. Rather, at best it appears to be the product of a highly speculative interpretation of what forces on the ground might do at any given time.

The "map" from Abkhazia suggesting potential invasion plans/routes/scenarios is of a similar evidentiary nature. There are no identification marks, no time, no date and no information linking it to any specific party. No such map has been or is in a possession of Georgian Armed Forces.

Yours Sincerely,

Giga Bokeria



საქართველო
GEORGIA

საქართველოს პირველი მოადგილე
საგარეო საქმეთა მინისტრი
FIRST DEPUTY MINISTER OF
FOREIGN AFFAIRS

№ 1/135-02
11- 27. 2009

Dear Heidi, Peter Colleagues,

As follow-up to my letter dated 27 July, 2009 I am sending you recently declassified copies of the original orders of the 4th brigade of the Georgian Armed Forces – specifically Orders #01 and #02.
Of note, the structure of the falsified orders submitted to the Mission is in some respects similar to the original version submitted herein. The formats used are based on field manuals of Georgian Armed Forces, which are very similar to standard American field manuals (Field Manual (FM) 101-5, Staff Organization and Operations. Distribution Restrictions: "approved for public release, distribution is unlimited"). The fabricated ones do follow the manual in detail.

We have concluded that the name identified with signatures on the first page of both falsified orders submitted to the Mission is Major Shalva Dolidze (fallen in battle on August 9, 2008, in west part of Tskhinvali). Major Dolidze's signatures on both documents are falsified.
Supposed signatures by Major Gigi Kalandadze, Commander of the 4th Brigade appear on the final pages of both falsified orders submitted to the Mission. These signatures are wholly unidentifiable.

In distinction to the structure of the text, the content of the text is inconsistent and does not follow standard military logic, (e.g. insertion of historical background in Order #01) while the Georgian language is written by an individual who does not have a sufficient command of Georgian (e.g. Georgian troops targeting "anti-separatist forces").

The content contained in fabricated documents suggests that those responsible for falsifying the orders sought to establish their own contextual reason for the use of force by Georgian forces, linking orders #01 and #02 in an apparent narrative. Fabricated Order #02, submitted to the Mission contains language intended to justify the Georgian military action in the context of "restoring Constitutional order/jurisdiction" in South Ossetia/the Tskhinvali Region. It is our conclusion that

0113 თბილისი, ზარ. ჭავჭავაძის ქ. №4; www.mfa.gov.ge 0118 Tbilisi, Shio Chitadze st. №4; Georgia
ტელ.: (995 32) 284648 ფაქსი/Fax: (995 32) 284678 ელ-ფოსტა/E-mail: info@mfa.gov.ge

this specific angle was chosen by those responsible for falsifying the order(s) to create a consistent narrative, aimed at avoiding the mentioning of Russian forces, in particular military units, hardware crossing Georgian border from Russia, while going in quite detailed, albeit poorly articulated, description of situation on the ground.

In this context it is worth recalling, that Georgian Government made specific public statement (also delivered to the international community and EU in particular) on the morning of august 7th regarding the military units and hardware crossing Georgian border from Russia through Rocky Tunnel[1].

Yours Sincerely,

Giorgi Bokeria

[1] **DEUTSCHE PRESSE-AGENTUR**
August 7, 2008

Blame Russia, not Georgia for fighting, Tbilisi says (EWR)

Tbilisi/Brussels - Wednesday night's outbreak of fighting in the breakaway Georgian province of South Ossetia is the fault of Russia, not Georgia, the government in Tbilisi said Thursday in response to Russian statements.

'All responsibility for the recent development of events falls on (Russia): it is from Russian territory, through the Roki tunnel, that the mercenaries, military hardware and armament used to raid peaceful villages in the Tskhinvali region keep penetrating Georgia,' a statement from the Georgian foreign ministry said.

~~Secret~~
Copy #1
HQ of the 4th Infantry
Brigade
S. Vaziani
09:00, 07.08.2008

WARNING ORDER #01

1. SITUATION:
During the last days intensive fire, including from large caliber artillery, has been conducted against Georgian villages, police and peacekeeping units. There are injuries.
Heavy armament and armed units are being intensively deployed to Tskhinvali Region from the Russian Federation.

2. MISSION:
Put subunits of the 4th Infantry Brigade on operational readiness no.1 on their disfocation place, not later than 13:00, August 7 2008; Subunits must be ready to implement the tasks assigned to them.

3. EXECUTION:
According to Standard Operational Procedures.

4. SERVICE SUPPORT:
To be implemented by the Logistic Battalion
Priorities following classes I, III, V, VIII.

5. COMMAND AND SIGNAL:
According to Standard Operational Procedures.

Major /Signature/ G. Kalandadze
Commander of the 4th Infantry Brigade

/Seal/

Secret
Copy #1
HQ of the 4th Infantry
Brigade
S. Vaziani
15.00, 07.08.2008

WARNING ORDER #02

MAP: 1:50.000, K-38-64-A, K-38-64-B, K-38-64-D, K-38-64-C.

1. SITUATION:

Intensive fire, including from large caliber artillery, is continuing against Georgian villages, police and peacekeeping units. There are casualties among the Peacekeeping Forces.

Deployment of heavy armament and armed units to Tskhinvali Region from the Russian Federation is continuing.

2. MISSION:

Deploy subunits of the 4th Infantry Brigade in the assembly point of the brigade with the center on height 701.6 (0259). Subunits must be ready to implement the assigned tasks immediately after receiving order.

3. EXECUTION:

a) Tasks to maneuver units;

The 4st Infantry Battalion moves on the route Vaziani-Tbilisi-Gori and by 18:00 must be deployed at the assembly point with the center on height 658.0 (0060), ready to implement the assigned tasks;

The 42nd Infantry Battalion moves on the route Vaziani-Tbilisi-Gori and by 18.00 must be deployed at the assembly point with the center on height 677.0 (0459), ready to implement the assigned tasks;

The 43rd Infantry Battalion moves on the route Vaziani-Tbilisi-Gori and by 18:00 must be deployed at the assembly point with the center on height 712.2 (0260), ready to implement the assigned tasks;

b) Tasks to combat support units;

Put Armored Battalion, Artillery Division, Logistic Battalion and separate companies on full operational readiness to support maneuvering subunits, march on the route Vaziani-Tbilisi-Gori and by 18:00 deploy at the assembly point of the brigade with the center on height 701.6 (0259).

4. SERVICE SUPPORT:

To be implement by the Logistic Battalion.

Priorities following classes: I, III, V, VIII.

5. COMMAND AND SIGNAL:

According to Standard Operational Procedures.

Major /Signature/ G. Kalandadze
Commander of the 4th Infantry Brigade

/Seal/

საიდუმლო
ეგზ. № 1
მე-4 ქვეითი ბრიგადის
შტაბი
დ. ვაზიანი
09:00, 07.08.2008

გამაფრთხილებელი ბრძანება №01

1. ვითარება:

უკანასკნელ დღეებში ინტენსიურად მიმდინარეობს ცხინვალის რეგიონში განლაგებული ქართული სოფლების, პოლიციისა და სამშვიდობო ქვედანაყოფების წინააღმდეგ ცეცხლი, მათ შორის მსხვილკალიბრიანი არტილერიითაც. არიან დაჭრილები.

ცხინვალის რეგიონში რუსეთიდან ინტენსიურად შემოდის მძიმე ტექნიკა და შეიარაღებული ქვედანაყოფები.

2. ამოცანა:

მე-4 ქვეითი ბრიგადის დაქვემდებარებული ქვედანაყოფები მოვიდნენ საბრძოლო მზადყოფნა №1-ში დისლოკაციის ადგილზე, არაუგვიანეს 2008 წლის 7 აგვისტოს 13:00 საათამდე; ბრძანების მიღებისთანავე მზად იყვნენ დასმული ამოცანების შესასრულებლად.

3. აღსრულება:

სტანდარტიული ოპერატიული პროცედურების შესაბამისად

4. მატერიალურ-ტექნიკური უზრუნველყოფა:

განხორციელდეს უზრუნველყოფის ბატალიონის ძალებით.
პრიორიტეტი კლასების მიხედვით: I, III, V, VIII.

5. მართვა და კავშირი:

სტანდარტული ოპერატიული პროცედურების შესაბამისად.

მაიორი გ. ჯაფლანდაძე
ქვეითი ბრიგადის მეთაური

საიდუმლო
ეგზ. № 1
მე-4 ქვეითი ბრიგადის
შტაბი
დ. ვაზიანი
15:00, 07.08.08

გამაფრთხილებელი ბრძანება №02

რუკა: 1:50.000, K-38-64-A, K-38-64-Б, K-38-64-В, K-38-64-Г.

1. ვითარება:

გრძელდება ცხინვალის რეგიონში განლაგებული ქართული სოფლების, პოლიციისა და სამშვიდობო ქვედანაყოფების წინააღმდეგ ცეცხლი, მათ შორის მსხვილკალიბრიანი არტილერიითაც. სამშვიდობო ძალებში არის მსხვერპლი.

ცხინვალის რეგიონში რუსეთის ფედერაციიდან გრძელდება მძიმე ტექნიკისა და შეიარაღებული ქვედანაყოფების შემოსვლა.

2. ამოცანა:

მე-4 ქვეითი ბრიგადის დაქვემდებარებული ქვედანაყოფები გადაადგილდნენ ბრიგადის თავმოყრის რაიონში ცენტრით სიმაღლე 701.6 (0259). მზად იყვნენ ბრძანების მიღებისთანავე დასმული ამოცანების შესასრულებლად.

3. აღსრულება:

ა) დავალებები სამანევრო ქვედანაყოფებს:

41-ე ქვეითმა ბატალიონმა განახორციელოს გადაადგილება მარშრუტით ვაზიანი-თბილისი-გორი და 18:00 სთ-სთვის განლაგდეს თავმოყრის რაიონში ცენტრით სიმაღლე 658.0 (0060), იყოს მზადყოფნაში დასმული ამოცანების შესასრულებლად.

42-ე ქვეითმა ბატალიონმა განახორციელოს გადაადგილება მარშრუტით ვაზიანი-თბილისი-გორი და 18:00 სთ-სთვის განლაგდეს თავმოყრის რაიონში ცენტრით 677.0 (0459), იყოს მზადყოფნაში დასმული ამოცანების შესასრულებლად.

43-ე ქვეითმა ბატალიონმა განახორციელოს გადაადგილება მარშრუტით ვაზიანი-თბილისი-გორი და 18:00 სთ-სთვის განლაგდეს თავმოყრის რაიონში ცენტრით 712.2 (0260), იყოს მზადყოფნაში დასმული ამოცანების შესასრულებლად.

ბ) დავალებები მხარდამჭერ ქვედანაყოფებს:

ჯავშანსატანკო ბატალიონი, საარტილერიო დივიზიონი, უზრუნველყოფის ბატალიონი და ცალკეული ასეულები მოიყვანილ იქნენ სრულ საბრძოლო მზადყოფნაში სამანევრო ქვედანაყოფების მხარდასაჭერად და განახორციელონ მარში მარშრუტით ვაზიანი-თბილისი-გორი და 18:00 სთ-სთვის განლაგდნენ ბრიგადის თავმოყრის რაიონში ცენტრით სიმაღლე 701.6 (0259).

4. მატერიალურ-ტექნიკური უზრუნველყოფა:

განხორციელდეს უზრუნველყოფის ბატალიონის ძალებით.

პრიორიტეტი კლასების მიხედვით: I, III, V, VIII.

5. მართვა და კავშირი:
სტანდარტული ოპერატიული პროცედურების შესაბამისად.

მთავრი გ. ჯოლანდაძე

მე-4 ქვეთავი პრაქტიკის ხელმძღვანელი

Kantonspolizei Zürich

Chef Kriminaltechnische Abteilung

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ISO 9001:2000 Kommando und Kriminaltechnische Abteilung
ISO 17020 Urkundenlabor Handschriftproben und Materialtechnik
ISO 17025 Urkundenlabor Materialtechnik

Einschreiben / Persönlich

Frau
Heidi Tagliavini
Ambassador
Independent International Fact-Finding
Mission on the Conflict in Georgia
7 bis Avenue de la Paix
P.O. Box 1295
1211 Geneva

Ihr Zeichen	Unser Zeichen	Rückfrage ☎	
	Pfe/flep	044 247 2401	Zürich, 04. September 2009

Urkundenprüfung

Sehr geehrte Frau Botschafterin

In der Anlage erhalten Sie den beauftragten Untersuchungsbericht. Gerne stehen wir Ihnen für Rückfragen und fachliche Weiterungen zur Verfügung.

Mit freundlichen Grüssen

KANTONSPOLIZEI ZÜRICH
Kriminaltechnische Abteilung

Dr. Peter W. Pfefferli

Anlage

Kantonspolizei Zürich

Kriminaltechnische Abteilung
Forensisch Naturwissenschaftlicher Dienst

04. September 2009

VERTRAULICH

Untersuchungsbericht

zuhanden	Frau H. Tagliavini Ambassador Independent International Fact-Finding Mission on the Conflict in Georgia 7 bis Avenue de la Paix P.O. Box 1295 CH-1211 Genève 1
Geschäfts-Nr.	---
betreffend	Dokumente zur Untersuchung auf Fälschungsmerkmale

1 Auftrag

Am 23. Juli 2009 überbrachte Frau H. Tagliavini dem Forensisch Naturwissenschaftlichen Dienst der Kriminaltechnischen Abteilung, Kantonspolizei Zürich, die nachfolgend beschriebenen Asservate. Mit Schreiben vom 18.08.2009 wurden wir ersucht, die fraglichen Dokumente auf Fälschungshinweise zu prüfen und dabei die Unterschriften sowie weitere handschriftliche Einträge auf Echtheit als auch die maschinenschriftlich erstellten Texte auf Manipulationen zu untersuchen.

2 Untersuchungsmaterial

X/1	zweiseitiges maschinenschriftliches Schreiben Nr. 1, "07.0130" (Farbkopie)
X/2	dreiseitiges maschinenschriftliches Schreiben Nr. 2, "07.0515" (Farbkopie)

3 Methodisches

3.1 Handschriftanalyse

Bei vergleichenden Analysen werden Schriften systematisch auf Übereinstimmung bzw. Nichtübereinstimmung bezüglich der allgemeinen Merkmale und besonderen Merkmale geprüft. Unter den allgemeinen Kriterien sind beispielsweise das Strichbild, der Schreibdruck, die Verbundenheit, die Schriftlage usw. zu verstehen. Der Bereich der Sondermerkmale umfasst jene graphischen Spuren, die aus der Eigenart der Bewegungsführung entstehen sowie die Schriftdetails. Die Echtheits- bzw. Urheberschaftsprüfung von fraglichen Schreibleistungen erfordert zwingend verbürgt echtes, zeitadäquates Vergleichsmaterial im Original.

Die fraglichen Dokumente stehen als Kopien zur Verfügung, weshalb die handschriftlichen Schreibleistungen, welche zudem eine relativ schlechte Abbildungsqualität aufweisen, nur sehr eingeschränkt analysierbar sind. Einerseits können bei schriftvergleichenden Untersuchungen zahlreiche relevante Schriftmerkmale wie Druckverlauf, Strichbeschaffenheit, Feinheiten der Bewegungsführung etc. bei Kopierprodukten nicht oder nicht zuverlässig beurteilt werden. Anderseits lassen sich allenfalls auf dem Original vorhandene Spuren, welche Hinweise auf die Herstellungstechnik und allfällige Manipulationen (Pausspuren, Vorzeichnungen, Anzeichen für die Montage von authentischen Unterschriften etc.) geben können, in der Regel auf der Kopie nicht mehr feststellen. Aus den genannten Gründen sind schlüssige Aussagen bezüglich Urheberidentität oder Nichtidentität von Schreibleistungen anhand von Kopien nicht möglich.

3.2 Materialtechnische Prüfung auf Manipulationen

Manipulationen an Dokumenten können Spuren hinterlassen, wie beispielsweise Hinweise auf mechanische oder chemische Radierung, Verwendung unterschiedlicher Einfärbungsmittel (Tinten) von geschriebenen oder gedruckten Schriften, Verschiebungen von Textpassagen bei Zufügungen etc. Nebst der Mikroskopie, der Untersuchung im ultravioletten und infraroten Spektralbereich stehen dem Kriminaltechniker eine Vielzahl weiterer Methoden zur Verfügung.

Da die fraglichen Dokumente lediglich als Kopie vorliegen, fokussiert sich die Untersuchung auf Spuren möglicher Manipulationen, welche bei einer Kopie reproduziert und somit gegebenenfalls auch am Nicht-Original nachweisbar sind.

Bei einer Zufügung von Textpassagen ist oft eine Abweichung in der Positionierung des sekundären Eintrags festzustellen. Wird für eine Zufügung nicht die gleiche Schreibmaschine bzw. der gleiche Drucker verwendet, so können die Schriftzeichen in ihrer Form von denjenigen im Primärtext abweichen. Mittels Überprüfung von Zeilenparallelität und Kolonnenvertikalität sowie Schriftüberlagerung lassen sich diese Hinweise prüfen.

Kopieren oder Einscannen und anschliessendes Ausdrucken mittels moderner Farblaser-Drucker hinterlassen auf den Dokumenten einen von blossem Auge nicht sichtbaren, latenten Code. Dieser lässt sich entziffern und führt im Idealfall aufgrund von Angaben des Herstellers zum Standort bzw. der Lieferadresse des entsprechenden Gerätes.

4 Untersuchungen

4.1 Optische physikalisch-technische Voruntersuchungen

Die Dokumente X/1 und X/2 wurden vorerst generell makroskopisch, stereomikroskopisch sowie im extravisuellen Lichtbereich (Ultraviolett und Infrarot) auf Fälschungsmerkmale untersucht. Dabei konnten keine Unregelmässigkeiten festgestellt werden.

Interpretation: Die vorliegenden Dokumente (Kopien) lassen keine materialtechnischen Manipulationen erkennen. Dies bedeutet jedoch nicht zwingend, dass an den Originalen keine Inhaltsfälschungen vorgenommen wurden. Bei qualitativ guten Urkundenfälschungen mittels Kopieren/Scannen lassen sich Spuren der Herstellung so kaschiere, dass deren Nachweis nicht mehr möglich ist.

4.2 Untersuchung auf latente (unsichtbare) Spuren

Sämtliche Blätter der fraglichen Dokumente X/1 und X/2 wurden vorder- wie auch rückseitig auf latente Schreibdruckrillen und weitere von blossem Auge nicht direkt erkennbare Spuren untersucht; unter Anwendung eines elektrostatischen Abbildungsverfahrens. Dabei konnten keine auswertbaren Spuren sichtbar gemacht werden.

Interpretation: Das fehlen von Druckrillen oder anderen, latenten Spuren im Trägermaterial weist darauf hin, dass die Dokumente mit einer gewissen Sorgfalt

behandelt und beispielsweise nicht als Schreibunterlage verwendet wurden. Blinde Schreibdruckrillen, latente Spuren von Radierungen etc. werden beim Kopieren nicht reproduziert. Daher kann aus den Ergebnissen der durchgeführten Untersuchungen nicht gefolgert werden, dass die Originale ebenfalls frei von latenten Spuren dieser Art sind.

Bemerkung: In Absprache mit der Auftraggeberin wurde auf die Überprüfung auf Fingerabdrücke sowie anhaftende DNA-Spuren verzichtet.

4.3 Untersuchung der Handschriften

Auf beiden fraglichen Schreiben befinden sich auf der ersten Seite oben links je eine komplexe, unleserlich gestaltete Unterschrift sowie ein handschriftlicher Texteintrag (möglicherweise in kyrillischer Schrift erstellt) und ein (Datums-) Eintrag "70808". Unten rechts sind je innerhalb eines Stempelabdruckes handschriftliche Zahleneinträge vorhanden. Die beiden Unterschriften wirken flüssig erstellt, Störungsmerkmale sind nicht erkennbar. Bei beiden Unterschriften ist anhand der Kopien der genaue Bewegungsablauf nicht in allen Teilen eindeutig nachvollziehbar.

Auf der zweiten Seite von X/1 und auf der dritten Seite von X/2 findet sich am Schluss der Texte je eine weitere, ebenfalls unleserlich gestaltete Unterschrift. Bei diesen kurzen Schriftzügen ist der genaue Bewegungsablauf ebenfalls nicht in allen Teilen eindeutig nachvollziehbar.

Interpretation: Bezüglich Identität oder Nichtidentität der vorerwähnten Schreibleistungen sind – soweit analysierbar und vergleichbar – folgende Aussagen möglich:

- Bei beiden fraglichen Dokumenten (X/1 und X/2) ergeben sich Anhaltspunkte, dass je innerhalb der 1. Seite der Datumseintrag oben links und die Zahlen unten rechts von **unterschiedlichen** Urhebern stammen.
- Beim Vergleich der Schreibleistungen auf der ersten Seite von X/1 mit jenen auf der ersten Seite von X/2 ergeben sich Anhaltspunkte, dass sowohl die beiden Unterschriften wie auch die einzelnen textschriftlichen und Zahlen-Einträge je **urheberidentisch** sind.
- Beim Vergleich der Unterschrift auf Seite 2 von X/1 mit jener auf Seite 3 von X/2 lassen sich formale Unterschiede erkennen. Ob diese Abweichungen nun auf

Variationsbreite zurückzuführen sind und somit nicht gegen Urheberidentität sprechen oder ob sie auf unterschiedliche Urheber hinweisen, lässt sich anhand des vorliegenden Materials nicht entscheiden.

- Mangels Vergleichsmaterial kann nicht überprüft werden, ob es sich bei den fraglichen Unterschriften um echte Schriftzüge existierender Personen oder allenfalls um Fälschungen (Nachahmungen oder Phantasieprodukte) handelt. Hierzu müsste von den Personen, von welchen die Unterschriften stammen sollten, eine Anzahl authentischer Unterschriften zur Verfügung stehen. Solange jedoch die fraglichen Dokumente nur als Kopien vorliegen, wäre auch dann eine abschliessende Aussage im echtheitsnachweisenden Sinne nicht möglich, da eine Montage (z.B. Einkopieren einer echten Unterschrift) nicht auszuschliessen wäre.
- Bezüglich der verwendeten Schreibgeräte für die handschriftlichen Einträge sind anhand der Kopien keine Aussagen möglich.

4.4 Materialtechnische Untersuchungen

Schriftträger

Das Trägermaterial der Dokumente X/1 und X/2 lässt sich wie folgt beschreiben: weisses Papier, Format A4, ohne Wasserzeichen, optisch aufgehellt; Farbe, Wolkigkeit und Siebstruktur der Papiere sind nicht differenzierbar.

Die Papierdicken liegen alle im gleichen Bereich von ca. 105 – 108 µm (Dok. X/1, Seite 1 = 105 µm, Dok. X/1, Seite 2 = 108 µm, Dok. X/2 alle Seiten = 106 µm).

Druck

Aufgrund der spezifischen Ablagerungsmerkmale wurden alle Dokumente (Seiten) von X/1 und X/2 mittels eines tonerbasierenden Systems (Farbtoner, nicht magnetisch) produziert. Bei sämtliche Dokumenten lassen sich identische Kopier-Codes feststellen. Deren Analyse ergab, dass es sich um ein Drucksystem der Firma CANON handelt; Abklärungen zu Folge um eine CANON-Druckeinheit, welche in Laser-Druckern der Firma HEWLETT-PACKHARD (HP) des Typs *Color LaserJet 2600 Series* eingebaut sind. Weitere Informationen könnten gegebenenfalls über den Gerätehersteller eingeholt werden.

Ferner sind übereinstimmende Kopier- und/oder Reproduktionsmerkmale erkennbar. Diese äussern sich in praktisch positionsgleichen "Punkten" bzw. Druckartefakten, bei welchen es sich weder um Interpunktions- noch um Schriftzeichen handelt.

Interpretation: Die identisch angeordneten Kopier-Codes belegen, dass die Vorliegenden Dokumente (Kopien) alle mit demselben Drucker produziert wurden. Die positionsgleichen Reproduktionsmerkmale (Punkte) können ihren Ursprung jedoch nicht beim Ausdruck der Dokumente X/1 und X/2 haben, sondern weisen eindeutig auf ein vorangehendes Einscannen eines Originals oder einer Kopie hin.

Mechanisch erzeugte Schrift

Die Texteinträge auf den fraglichen Dokumenten wurden nicht mit lateinischen Schriftzeichen produziert. Aus diesem Grunde ist eine Bestimmung der Schriftzeichenform nicht möglich. Es fällt jedoch auf, dass für die Erstellung der einzelnen Texteinträge unterschiedliche Schriftgrössen verwendet worden sind. Zwar haben wir versucht, einzelne Schriftzeichen zu überlagern zwecks Prüfung, ob bei den zur Diskussion stehenden Einträgen der Dokumente X/1 und X/2 eine allfällige Manipulationen nachweisbar sind. Aufgrund der relativ unscharfen Tonerkonturen und in Unkenntnis der einzelnen Schriftzeichenformen der georgischen Sprache, sind keine abschliessenden Aussagen betreffend Vergleich der Schrift-Fonts machbar.

Zwischen den fraglichen Dokumenten X/1 und X/2 lässt sich bei der Überlagerung von analogen (soweit beurteilbar) Texteinträgen horizontal ein Verzug feststellen.

Interpretation: Die Anwendung unterschiedlicher Schriftgrössen und/oder Schriftarten in Texten – insbesondere mit unterschiedlichen Absätzen, Aufzählungen etc. – ist keine Seltenheit und erlaubt daher keinen Schluss auf eine Textzufügung.
Der beschriebene Verzug analoger Texteinträge kann darin begründet sein, dass die Dokumente im Blocksatz erstellt sind, was eine möglichst gleichmässige Verteilung der Buchstaben zur Folge hat und daher automatisch zu unterschiedlicher horizontaler Ausdehnung der einzelnen Wörter führt.

Prüfung der Zeilenparallelität und der Kolonnenvertikalität

Die Texteinträge auf den fraglichen Dokumenten X/1 und X/2 wurden mit Hilfe einer 1mm-Rasterfolie auf Zeilenparallelität und Kolonnenvertikalität überprüft. Im Rahmen dieser Untersuchungen konnten keine Unregelmässigkeiten festgestellt werden.

Es fällt aber auf, dass bei den fraglichen Dokumenten der linke Seitenrand ungleiche Einzüge aufweist.

Interpretation: Die vorhandene Zeilenparallelität und Kolonnenvertikalität weist darauf hin, dass entweder keine Textpassagen zugefügt wurden oder bei einer Zufügung sehr präzise gearbeitet wurde. Letzteres ist unter Verwendung geeigneter Bildbearbeitungssoftware relativ einfach zu bewerkstelligen.

5 Schlussfolgerungen

Da es sich bei den fraglichen Dokumenten nicht um Originale, sondern um ausgedruckte Reproduktionen handelt, ist die Analysierbarkeit auf Manipulationen erheblich eingeschränkt.

Folgende Aussagen sind dennoch möglich:

- Die fraglichen Dokumente (X/1 und X/2) wurden mit dem gleichen Drucker hergestellt.
- Es ergeben sich keine Anhaltspunkte dafür, dass bei den fraglichen Dokumenten Manipulationen vorgenommen wurden; es handelt sich somit entweder um Kopien authentischer Dokumente oder die Spuren allfälliger Manipulationen sind nicht nachweisbar.

KANTONSPOLIZEI ZÜRICH
Leiter Kriminaltechnische Abteilung

Dr. Peter W. Pfefferli

KANTONSPOLIZEI ZÜRICH
Leiter Forensisch Naturw. Dienst

Dr. Rolf Hofer

DVD: Additional material from the sides

Georgia

- Documents related to the presentation of the temporary (ad hoc) parliamentary commission
- Humanitarian Law and Human Rights – answers and references
- International Law – answers and references
- Military aspects – answers and references
- Military aspects – additional answers and references
- Georgian film about Abkhazia – In remembrance of the victims of the conflict in Abkhazia, Georgia
- Georgian film about Abkhazia
- Peace initiatives
- From the Georgian Government. Russian Aggression in Georgia
- From the Georgian Government. Timeline of Russian Aggression. Ethnic Cleansing of Georgians. Violations of IHL and IHRL

Russia

- ICJ. Application of the international convention on the elimination of all forms of racial discrimination – Historical background
- ICJ. Application of the international convention on the elimination of all forms of racial discrimination – Timeline of events
- ICJ. Application of the international convention on the elimination of all forms of racial discrimination – Collection of relevant facts and documents
- ICJ. Application of the international convention on the elimination of all forms of racial discrimination – Judge's folder. Part I
- ICJ. Application of the international convention on the elimination of all forms of racial discrimination – Judge's folder. Part II

South Ossetia

- Compilation of documents, handed over in June 2009
- Agreement on further development of the process of peaceful settlement of the Georgian – Ossetian conflict and the Joint Control Commission (31 October 1994)
- Agreement on principles of settlement of the Georgian – Ossetian conflict (24 June 1992)
- Compilation of documents, handed over in May 2009 – Part I
- Compilation of documents, handed over in May 2009 – Part II
- From South Ossetia – Photographs
- Memorandum on necessary measures to be undertaken in order to ensure security and strengthening of mutual trust between the parties to the Georgian – Ossetian conflict (16 May 1996)
- Resolutions of the Parliament of the Republic of South Ossetia
- The Republic of South Ossetia – documents, chronicles, concise historical information

Abkhazia

- Documentation from Abkhazia – 4 films, November 2008
- Compilation of documents received from Abkhazia
- Photographs of American contractors
- Power point presentation about the Georgian military plan on Abkhazia
- Photographs
- Photographs of Kodori
- Photographs of Kodori bridges
- Maps
- UAV at the MoD of Abkhazia – film