

**PARLIAMENTARY TEMPORARY COMMISSION ON INVESTIGATION
OF THE MILITARY AGGRESSION AND OTHER ACTS OF RUSSIA
AGAINST THE TERRITORIAL INTEGRITY OF GEORGIA**

CONCLUSION

INTRODUCTION

“The Temporary Parliamentary Commission on Investigation of the Military Aggression and Other Acts of Russia against the Territorial Integrity of Georgia” was created on the basis of the Parliament Resolution.

The Commission studied the events that took place in Georgia as a result of the aggression of the Russian Federation before and during August, 2008.

The Commission held listening sessions in order to establish facts and receive necessary information. Taking into account the extensive public interest the sessions were open and their live broadcasting was organized. In order to ensure non-disclosure of state secrets, some of the sessions were closed for the public.

The Commission interviewed 22 high level civil and military officials. The President of Georgia also expressed his readiness to cooperate with the Commission and answered the Commission’s questions.

The list of officials interviewed by the Commission is given below (the list is arranged in compliance with the chronology of the Commission session):

1. Gela Bezhuashvili (Head of the Intelligence Service);
2. Ekaterine Tkeshelashvili (Minister of Foreign Affairs);
3. Teimuraz Iakobashvili (State Minister on Reintegration Issues);
4. Alexander Lomaia (Secretary of the National Security Council);
5. Mamuka Kurashvili (Head of the Peacekeeping Operation Headquarters);
6. Zaza Gogava (Head of the Georgian National Military Headquarters);
7. David Tkeshelashvili (State Minister on Regional Governance Issues);
8. Zaza Gorozia (Governor of Samegrelo/Zemo Svaneti Region);
9. Vladimer Vardzelashvili (Governor of Shida Kartli Region);
10. Alexander Kvitashvili (Minister of Labor, Healthcare and Social Protection);
11. Lado Gurgenidze (former Prime Minister of Georgia);
12. Giorgi Ugulava (Mayor of Tbilisi);
13. Dimitri Sanakoev (Head of the Administration of the Temporary Administrative-Territorial Unit on the territory of the former Autonomous Region of South Ossetia);
14. Malkhaz Akishbaia (Chairman of the Government of the Abkhazian Autonomous Republic);
15. Ekaterine Sharashidze (Minister of Economic Development);
16. David Bakradze (Chairman of the Parliament of Georgia);

17. Erasti Kitsmarishvili (former Extraordinary and Plenipotentiary Ambassador of Georgia to the Russian Federation);
18. Giorgi Bokeria (First Deputy Minister of Foreign Affairs);
19. Ivane Merabishvili (Minister of Internal Affairs);
20. Grigol Vashadze (Former Deputy Minister of Foreign Affairs);
21. David Kezerashvili (Minister of Defense);
22. Mikheil Saakashvili (the President of Georgia).

In addition to the listening Sessions, the Commission also used other information sources, such as materials and publications of the international, Georgian and Russian media and reports of reputable international NGOs.

After the Sessions the officials were asked to provide relevant documents available at their institutions.

The aspects covered by this Report are as follows:

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Development of Events

The Russian aggression targeted against the sovereignty and territorial integrity of Georgia did not start in August 2008. By August 2008, the Russian Federation and the illegal de-facto separatist regimes protected by it already had control over a significant part of the Georgian territory in the Abkhazian Autonomous Republic and the Autonomous Region of South Ossetia.

Before 2004

At the end of 1980s the anti-soviet, anti-communist movement became very active in the countries of the Warsaw Agreement, including the former USSR republics. In October 1990, multi-party elections of the supreme government body – the Supreme Council – took place in Georgia for the first time in 70 years. The governing Communist party lost the elections. On March 31, 1991 a referendum on Georgia's independence was held on the whole territory of Georgia, including the Abkhazian Autonomous Republic and the former Autonomous Region of South Ossetia. 98% of the citizens participating in this referendum supported Georgia's independence. After this, the Supreme Council issued the Act of Independent Statehood of Georgia.

Abkhazia

In August 1992, in order to protect the railroad from constant robbery and to free members of the State Council seized hostage, in agreement with the Government of the Abkhazian Autonomous Republic, the Georgian military forces entered the territory of Abkhazia. Provoked by the Russian Federation, illegal Abkhaz formations opened fire against the government army. After this, the hostilities lasted for about one year, with active participation of informal armed groups from the Russian Federation and regular Russian army¹, including military aviation.

During the active military confrontation, cease-fire agreements were signed three times, under the guarantees of the Russian Federation. According to the agreement conditions, the military forces of the Georgian government left certain territories (once the city of Gagra and twice the city of Sukhumi). The last agreement of the largest scale was signed in Sochi, in July 1993, under the guarantees of the Russian Federation. According to the Agreement, the Georgian party removed practically all heavy military equipment and artillery from the territory of the Abkhazian

¹ *GEORGIA/ABKHAZIA: VIOLATIONS OF THE LAWS OF WAR AND RUSSIA'S ROLE IN THE CONFLICT*, Human Rights Watch, Vol. 7, No. 7, March 1995, <http://www.hrw.org/legacy/reports/1995/Georgia2.htm>

Autonomous Republic. Considerable part of the civil population returned to Sukhumi and other settled areas. The academic year started at schools and high education institutions.² In parallel, intensive armament of the Russian and Abkhazian parties was going on, for they were preparing to renew military operations. In September 1993, without any preconditions, provocations or any other reasons, with immediate participation of the Russian military forces,³ the separatists started an attack. Ten days later Sukhumi surrendered and 75% of the population was banished. There is a lot of strong evidence that the separatists, the Russian army units and armed groups of Russian citizens - “volunteers”, formed with participation of Russian officials, committed many crimes against humanity with regards to the local civilian population and prisoners of war.⁴ At the same time, all three cease-fire agreements were violated by the separatists with direct support and instigation by the Russian Federation.

As a result of the military conflict, about 400 000 people (i.e. 75% of the pre-war population of the Abkhazian Autonomous Republic) were banished from their houses. Majority of the displaced people were ethnic Georgians (about 250,000 people), but the repressions also took place against Armenians, Greeks, Estonians,

² In order to remove the heavy military machines Georgia paid a rent to the Russian Federation for using Russian ships.

³ Баеанец Виктор Николаевич, *Генштаб Без Тайн* (Варгиус: Москва, 1999) URL:

<http://militera.lib.ru/research/baranets1/index.html> - in this publication, Mr. Victor Baranets - the former Head of the Information-Analytical Division of the Russian General Headquarters stated that “it was impossible to deny the accusations made by the Georgian party about supply of weapons to the Abkhazian separatists from Gudauta military base, immediate participation of the Russian landing troops in the war and use of the Russian military aviation.” As an example, he gives a detailed description of staged “theft” of weapons from Gudauta military base and many cases of using the Russian aviation against Georgia. Only Regiment N 345 of the Russian landing forces lost 24 soldiers, one of whom was Vitali Wolf, who received the Order “Hero of Russia” for fighting against Georgia. This information can also be found at the official site of the regiment: <http://www.combat345.ru/biography0310.html>. A very odious person of that period General Aleksei Sigutkin also speaks openly about his participation in the military actions in Abkhazia against Georgia. Today Aleksei Sigutkin, who is a member of the Russian “Duma” from Pskov and Deputy Chairman of the Security Council, proudly states in his biography that he had “participated in the Abkhazian war” (see official site of General Aleksei Sigutkin - <http://www.sigutkin.ru/biography>).

⁴ [Kevin Fedarko, J.F.O. McAllister/Washington and Yuri Zarakhovich/Sukhumi](http://www.time.com/time/magazine/article/0,9171,979327,00.html), „Siege of Sukhumi“ *TIMES*, 04.10.1993, URL: <http://www.time.com/time/magazine/article/0,9171,979327,00.html> Also see: Svetlana Chervonnaya, *Conflict in The Caucasus: Georgia, Abkhazia and Russian Shadow*, (Gothic Images: Glastonbury, 1996); Svante Cornel, *Small Nations and Great Powers: A Study of Ethnopolitical Conflict in Caucasus* (Curzon: London, 2000).

Jews and Ukrainians.⁵ According to various estimates from 10,000 to 30,000 civilians died in the conflict.⁶ It must be noted that the events that took place after 1993 were recognized as full scale ethnic cleansing at three summits of OSCE country leaders (in 1994 – in Budapest, in 1996 – in Lisbon and in 1996 – in Istanbul), including Russia. The ethnic cleansing and the right of the displaced population to return to their homes was also recognized by the United Nations in numerous resolutions of the UN Security Council and the Resolution of the General Assembly issued on May 15, 2008.

On May 14, 1994, Georgian and Abkhazian parties signed in Moscow an Agreement on cease-fire and separation of parties In compliance with this Agreement the CIS peacekeeping forces were put in charge of preserving peace in the area (in reality these forces consisted only from the military units of the Russian Federation). The mandate of peacekeeping forces included:

1. Monitoring of the cease fire implementation;
2. Creation of favorable conditions for safe and legitimate return of IDPs;
3. Implementation of the above actions without any violation of the territorial integrity of Georgia.

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⁵ C. Dale “The Dynamics and Challenges of Ethnic Cleansing: The Georgia—Abkhazia Case,” *Refugee Survey Quarterly*.1997; Issue 16 pp. 77-109. Also Dov Lynch, *The Conflict in Abkhazia, Dilemmas in Russian 'Peacekeeping' policy* (London: The Royal Institute of International Affairs, 1998) page 15

⁶ Bruno Coppieters, David Darchiashvili, Natela Akaba eds, *Federal Practice: Exploring Alternatives for Georgia and Abkhazia* (Brussels: VUB University Press, 1999) page 32

On January 19, 1996, the Council of the CIS Country Leaders made a decision about regulation of the Georgian-Abkhazian conflict. According to this document the CIS countries disapprove the destructive position of the Abkhazian party that hinders conflict regulation and safe and dignified return of IDPs; they stated that the CIS would not allow: import of weapons, military equipment and machines to the conflict zone; entering of the conflict zone by their citizens for joining armed groups acting on the territory; implementation of transactions with the Abkhazian government in the fields of trade, economy, finance, transport etc.; establishment of official contacts with the representatives or officials of de-facto government bodies created on the territory of Abkhazia.

According to the information provided by the Office of the State Minister on Reintegration Issues, during the period from 1993 till March 2008, the UN Security Council issued 38 resolutions and the General Secretary of the UN made more than 70 reports about Georgia which contained explicit statements about the integrity of the territory of Georgia, the rights of the IDPs to return and property rights of the IDPs. Regardless these facts, the de-facto government in Sukhumi and representatives of the Russian Federation constantly ignored the efforts of international institutions, including the UN, targeted to achieve peaceful resolution of the conflict⁷.

Tskhinvali Region

The communist government of the Republic of Georgia approved the State Program of the Georgian Language for the whole territory of Georgia. This caused a wave of anti-Georgian demonstrations in Tskhinvali region in August, 1989. In response, about 15 000 Georgian citizens from different regions organized a demonstration near the city of Tskhinvali. At the city entrance the road was blocked by armed Ossetians and Regiment N 8 of the USSR army. As a result of the confrontation there were the first victims: 6 people died, 27 people received shooting wounds and 140 people were hospitalized. From October 1989 the protests became stronger.

In 1990, the Supreme Council of Georgia announced that formation of regional parties was illegal. In September of the same year the Separatist organization “Adamon Nikhas”, directly supported by the State Security Council (KGB), announced “full independence of the South Ossetia within the USSR”. In response, the national government of Georgia abolished the Autonomous Region of the

⁷ Web site of the Office of the State Minister on Reintegration Issues
http://www.smr.gov.ge/ge/abkhazia/conflict_chronology

South Ossetia based on two arguments: 1) the Autonomous Region was created in 1922, against the will of the local Georgian population and against the interests of Georgia; 2) in other places of Georgia the number of ethnic Ossetians was significantly higher than the number of Ossetians living in the Autonomous region; At the same time, the main reason of the conflict was Georgia's unconcealed aspiration to receive independence from the USSR and the adamant decision of the USSR government not to allow such separation.

Starting from January 1991, internal military units entered the territory of Tskhinvali Region, giving a start to military actions. The conflict was not very intense, continued for several months and took away the lives of total 1 000 people from both sides.

On June 24, 1992, Dagomis Agreement was made between Georgia and the Russian Federation. The main purpose of the Agreement was to ensure cease-fire. Besides, the conflict zone was divided into control zones; A Joint Control Commission was formed with participation of the representatives of Georgia, South Ossetia, the Russian Federation and North Ossetia. OSCE also participated in the work of the Joint Commission. Joint peacekeeping forces were formed consisting of Georgian, Ossetian and Russian military units. The commander-in-chief of the Joint peacekeeping forces was a Russian General.

Until 2004 the situation in both conflict regions remained unstable. In spite of the presence of the Russian peacekeepers murder, kidnapping and violations of human rights and freedoms had a regular nature. The Georgian villages, civil population and law enforcement bodies were under constant attack. According to the information of the Ministry of Internal Affairs:

- In the period from 1992 till August 8, 2008, 150 civilians and policemen died in Tskhinvali Region, within the responsibility zone of the Russian peacekeepers;
- In the period from 1994 through 2007, on the territory of Abkhazia controlled by the Russian peacekeepers there were 991 cases of murder, 294 cases of physical injury, 1527 cases of kidnapping, 223 cases of setting fire to houses, 21 cases of rape, 716 attacks against representatives of the law enforcement bodies.

The Commission believes that the statistical data cannot be complete because the Georgian law enforcement bodies have very limited access to the information on the above territories. At the same time, there are reasons to assume that it was within the interests of the Russian peacekeepers to conceal the facts.

As a result of direct interference of the Russian Federation, Mr. Ludwig Chibirov, who had a liberal attitude towards Georgia, was removed from the de-facto government and replaced by Edward Kokoiti.

Distribution of Passports of the Russian Federation

From 2002 Russia started giving citizenship and passports of the Russian Federation to population living on the territories of the Abkhazian Autonomous Republic and so called South Ossetia. This was carried out in violation of the international law and the laws of the Russian federation:

- Passports were not distributed by the Consulates accredited by Georgia;
- The periods required by the legislation of the Russian Federation for receiving passports were not observed. The Federal Law on Citizenship of the Russian Federation⁸ provides for simplified procedures of receiving Russian citizenship. Namely, in compliance with Paragraph 14.1(b) of the Law, a simplified regime of receiving the Russian citizenship is extended to persons who were citizens of the USSR, lived or still live in the countries that were previously part of the USSR, did not receive citizenship of these countries and therefore do not have any citizenship.

It must be noted that according to the organic Law of Georgia on Citizenship of Georgia (25.03.1993) the absolute majority of the population of the Abkhazian Autonomous Republic are citizens of Georgia because they did not refuse to accept the Georgian citizenship within six months after enactment of this law.

Therefore, distribution of passports of Russian citizens among the Abkhazian population is illegal because nobody submitted documents proving that they have not received Georgian citizenship.

At the same time, such distribution of passports is a direct violation of the Agreement signed between Russia and the EU on simplified visa regime. The Agreement regulates the rules of issuing passports of the Russian Federation and specifies the list of institutions authorized to issue passports, which certainly does not include military authorities. According to the official data of the Russian Federation, at present the population of Abkhazia equals 220 000, 80% of which has Russian passports, while the population of South Ossetia equals 100 000, 90% of which has Russian passports.

⁸ 31.05.2002 N 62-Φ3

2004 – March, 2008

In May-June 2004, the Georgian Government started police operation against widespread smuggling in Tskhinvali Region. As a result, there was confrontation between the separatists and the troops of the Ministry of Interior of Georgia. These forces occupied two important heights around Tskhinvali – Tsveriakho and Tliakani. With support of partner states a cease-fire agreement was reached and the internal troops retreated and the abovementioned positions were occupied by peacekeepers (later on the territory was handed over to the formations of the Ossetian Separatists, in violation of the Agreement). According to the statement made by the Extraordinary and Plenipotentiary Ambassador of Georgia to the Russian Federation Erasti Kitsmarishvili, at that time, in the Georgian Government, only the Minister of Interior of Georgia Irakli Okruashvili supported the idea of continuing military operations but President Saakashvili and the Prime Minister Zhvania did not agree with him⁹.

According to the explanations given by the executive authorities of Georgia, at that time terrorist and sabotage acts implemented by Russian intelligence officers and separatists became very frequent:

- Explosions of power transmission lines Kartli-2 and Liakhvi near the Shavshvebi village on October 9, 2004¹⁰;
- Explosion of the main railroad at Grakali – Metekhi section on the same day;
- Explosion at the radio station of the oil pipeline near the Chorchana village, on November 17, 2004;
- A terrorist act that took place on February 1, 2005, near a police station in Gori, causing death of three policemen.

On December 6, 2005, at OSCE Ministerial in Ljubljana, 55 countries, including the Russian Federation, supported the plan of peaceful resolution of the conflict presented by the President of Georgia.

In October 2006, three shells of “Grad” type were fired in the direction of Kodori gorge from the territory of Abkhazia, namely from Tkvarcheli Region.

⁹ see the shorthand report of the evidence given to the Commission by Extraordinary and Plenipotentiary Ambassador of Georgia to the Russian Federation Erasti Kintsmarishvili
http://www.parliament.ge/index.php?lang_id=GEO&sec_id=1322&info_id=21493

¹⁰ *Explosion Hits Transmission Line* <http://www.civil.ge/eng/article.php?id=8025&search=kartli-2>

Administration of the Temporary Administrative-Territorial Unit on the territory of the former Autonomous Region of South Ossetia

On November 12, 2006, simultaneously two referendums and Presidential elections were conducted in Tskhinvali.

The first referendum and elections were conducted by the separatists only on a part of the territory of the former Autonomous Region. Only up to 52 000 ethnic Ossetians participated in the process (of which 20 000 did so in the North Ossetia, in Vladikavkaz).

The second referendum and elections covered the whole territory of the former Autonomous Region and up to 54000 voters participated, Ossetians as well as Georgians.

The results of the “Alternative” referendum showed that 95% of the population supported the idea of beginning negotiations about federal organization of Georgia and elected the former Prime Minister and the Minister of defense of the separatist government Dimitri Sanakoev as their “President”.

Dimitri Sanakoev started negotiations with the Georgian party for peaceful regulation of the conflict. In May 2007, the Parliament issued a resolution to form a temporary administration within the Tskhinvali Region and to appoint Mr. Sanakoev as the Head of the Temporary Administration.

On March 11, 2007, military helicopters of the Russian Federation shot an anti-tank shell in the upper Abkhazia. An administrative building was damaged. According to the assessment of the UN Mission in Georgia the attack could be carried out by the Russian aviation¹¹.

On August 7, 2007, two bombers of the Russian Federation (presumably SU 24 type) flew into the Georgian airspace. They shot “air-to-surface” type of missiles in Tsitelubani (in 65km distance from the capital of Georgia Tbilisi).

The Russian Federation suspended the Agreement on Ordinary Armament in Europe.¹²

¹¹ UNOMIG Report on Kodori Attack, <http://www.civil.ge/eng/article.php?id=15426>

¹² Agreement on Ordinary Weapons in Europe –was signed in 1990 to limit number of heavy weapons in Europe (tanks, military machines, artillery equipment, military airplanes).

On July 14, 2007, the President of the Russian Federation Vladimir Putin suspended the Agreement on Ordinary Armament in Europe. The reason given by Russia was that instant measures are necessary in order to ensure the safety of the Russian Federation. The danger was installation of defense missile systems in Poland and Check republic¹³.

Suspension of the above Agreement gave Russia an opportunity to preserve its military base in Gudauta and not to reduce the number of military personnel in the North Caucasus, at Georgia's Northern border. These were exactly the armed forces used against Georgia during the military aggression.

Destruction of Armed Groups

On September 20, 2007, the Georgian special force destroyed an armed group of 10 people in Kodori gorge. The group was planning to attach the road connecting upper Abkhazia with the rest of Georgia.

The Head of the group and his deputy who died during the mutual shooting were Igor Muzavatkina¹⁴ and Arthur Zorin¹⁵ - both served in the military forces of the Russian Federation.

Conflict Escalation from March 2008

The wide specter of targeted actions, carried out by the Russian Federation since March 2008, made new escalation of the conflict inevitable. E.g.:

On March 6, 2008, the Russian Federation unilaterally stopped to be a party of the CIS Decision on Regulation of the Georgian-Abkhazian Conflict. Even though Russia had been actively supplying weapons and people to the separatist regime even before this action, after the above date the process became absolutely open and obvious.¹⁶

¹³ *Russia suspends arms control pact*, BBC NEWS Service, <http://news.bbc.co.uk/2/hi/europe/6898690.stm>

¹⁴ Vice Colonel of the Russian army; former participant of the joint peacekeeping forces who worked in the border troops of the de-facto Abkhazian Ministry of Security, based on a contract (information of the Ministry of Internal Affairs of Georgia).

¹⁵ Major of the army; former participant of the joint peacekeeping forces (information of the Ministry of Internal Affairs of Georgia)

¹⁶ *О выходе Российской Федерации из режима ограничений, установленных в 1996 году для Абхазии*, МИНИСТЕРСТВО ИНОСТРАННЫХ ДЕЛ РОССИЙСКОЙ ФЕДЕРАЦИИ, 06.03.2008, http://www.mid.ru/brp_4.nsf/sps/648830C5AF867590C32574040046B653

On March 21, 2008, the lower Chamber of the legislative body of the Russian Federation (Duma) issued a resolution giving a recommendation to the executive authorities to recognize independence of Abkhazia and Tskhinvali Regions¹⁷.

On April 16, 2008, President Putin signed a Decree based on which the Russian authorities started establishing direct legal and diplomatic relations with separatist regimes of Abkhazia and South Ossetia¹⁸. The international community, including EC, OSCE, NATO, USA, Great Britain, France, and Germany disapproved this action. The international community demanded from Russia to annul the Decree, but without any result¹⁹.

On April 20, 2008, at 10:00 a Russian destroyer entered the territory of Georgia and launched a remotely controlled aircraft “Hermes-450” over the village of Gadida in Gali Region. This fact was verified by the UN Monitoring Mission in Georgia²⁰.

Increase of the Number of Military Forces of the Russian Federation in Abkhazia²¹

On April 17, 2008, 300 Russian soldiers entered the military base in Ochamchire Port on several “Ural” type trucks.

The same day, one military car ZIL-131, two anti-aircraft systems with 15 containers of missiles and four GAZ-66 cars loaded with special communication equipment entered the territory of the base.

Before April 29, 2008, the Russian peacekeeping forces consisted of 2000 soldiers. According to the Russian authorities, as of May 4, 2008 the number of troops in Abkhazia was increased up to 2 500 soldiers but according to the information of

¹⁷ <http://www.civil.ge/eng/article.php?id=17433&search=eu>

¹⁸ <http://www.civil.ge/eng/article.php?id=17638>

¹⁹ <http://www.civil.ge/eng/article.php?id=18753&search=18-24%20july>

²⁰ *REPORT OF UNOMIG ON THE INCIDENT OF 20 APRIL INVOLVING THE DOWNING OF A GEORGIAN UNMANNED AERIAL VEHICLE OVER THE ZONE OF CONFLICT*
http://www.unomig.org/data/other/080526_unomig_report.pdf

²¹ *Georgia and Russia: Clashing over Abkhazia*, International Crisis Group, Europe Report N193, 5 June, 2008

the Ministry of Interior of Georgia the actual number of Russian troops exceeded 4 000.

At the end of April, one echelon consisting of 30-32 train wagons crossed the Georgian-Russian border at the river Psou. The echelon brought 26 units of camouflaged heavy military equipment, including landing troop fighter cars (БМД), D-30 type howitzers etc.

The echelon also had 4 passenger wagons with soldiers from Novorossiysk military base. The military equipment was unloaded in Ochamchire. Part of the troops and equipment was sent to Tkvarcheli, while the other part – to Gali region.

Dislocation of Landing Troops in Abkhazia

The additional peacekeeping troops in Abkhazia consisted of landing divisions from Pskov and Novorossiysk and consisted of 545 soldiers. They were armed with artillery equipment prohibited under the Moscow Treaty of 1994.

This fact was verified by the official publication of the Ministry of Defense of the Russian Federation “Krasnaia Zvezda” of July 9, 2008.

Increase of the Russian military forces in the separatist regions received a sharply negative assessment²².

Entry of the “Chechnya Troops” of the Main Intelligence Agency (ГРУ) of the Ministry of Defense of the Russian Federation

During the same period, about 250 Chechen fighters of the Vostok Battalion (of the Main Intelligence Agency of the Ministry of Defense of the Russian Federation) entered the territory of Georgia. They started patrolling in the area of Gali villages: Gudava, Primorsk, Meore Otobaia and Sida. In May, additional soldiers of the battalion were dislocated near Tskhinvali, on the Tsveriakhlo Mountain.

During April–June the Russian Federation additionally transported to Abkhazia: 3 anti-aircraft complex installations of BUK type; 40 D-30 type howitzers; 10 BM-21 GRAD type systems; 20 anti-aircraft guns; 120 anti-tank artillery; 2 helicopters MI-24.

²² *Increase in Troops by Russia in Abkhazia, ‘not Wise’ – Solana*, <http://www.civil.ge/eng/article.php?id=17724>

Additional military specialists arrived in Abkhazia for operating the above equipment: 50 aviation experts; 30 military experts, 100 communication and anti-aircraft defense experts.

Construction of New Check Points

On May 1, 2008, in Ochamchire and Tkvarcheli regions, illegal check-points were urgently opened on almost all roads of strategic importance, including Nakargali, Arasdzikh and Akarmara.

In violation of the Agreement of 1994, Russia did not allow Georgian and international observers to carry out monitoring of the new check-points, or to inspect Bombora Military Base in Gudauta.

Based on Putin's order transportation of troops to the Abkhazian territory was intensified in May²³. Members of the European Parliament criticized mobilization of the Russian military forces in Abkhazia²⁴.

Entry of Military Engineering Troops

On May 31, 2008, the Ministry of Defense of the Russian Federation moved into the Abkhazian territory Division N31 of Volgograd railway troops – 400 military servicemen. These troops started preparation of railway platforms for transportation of military equipment and construction materials from Russia to Ochamchire.

The Russian Government blamed Georgia for military preparations while actually Russia itself was preparing the infrastructure for a military aggression²⁵. By June, with the help of the Russian Federation three big military barracks and infrastructure for military airplanes and other equipment was built at Bombora military base.

On June 6, 2008, in the military airdrome of Gudauta, several SU-25 and SU 27 destroyers appeared in full military alertness.

²³ *Russia Gives Some Details on Troop Increase in Abkhazia*, <http://www.civilgeorgia.ge/eng/article.php?id=17786> and <http://www.civil.ge/eng/article.php?id=17724>

²⁴ *MEPs debate the situation in Georgia amid escalating tension in the region*, Press release, European Parliament, 07.05.2008, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+IM-PRESS+20080507IPR28481+0+DOC+PDF+V0//EN&language=EN>

²⁵ <http://www.civil.ge/eng/article.php?id=18825&search=military%20basis>

Arrest of Illegal Weapons

On June 17, 2008, the Georgian police stopped military cargo mainly consisting of 20 anti-tank remote control missiles being secretly transported by the Russian military to Zugdidi military base without any official documents of origin or destination of the cargo.

On July 1, 2008 a ship with a crew of 250 people left Sochi Port and sailed to Gagra.²⁶

Russian Armament on the Separatist Territories

According to the information of the Ministry of Interior of Georgia, by that time a considerable number of the Russian regular troops were dislocated on the territories of Abkhazia and South Ossetia. In Abkhazia the Russian military troops were dislocated at the following military basis: Bombora, Ochamchire, Okhurei, and Sukhumi. The Russian military were also dislocated in Lata, Tsebelda, Akarmarasa, and Babushera. This included not only soldiers but also military machines and aviation.

Even before the start of the conflict, after such an increase of the number of Russian troops in the separatist regions, the Russian military presence in Georgia received all characteristic features of a military occupation. The attitude of the international community towards such actions was sharply negative.²⁷

July 2008

Starting from July 2008 the tension in Tskhinvali Region has become even worse. On July 3 there was an attack against the Head of the Temporary Administration Dimitri Sanakoev during which three policemen were injured.

On July 8, the day when the US State Secretary Condoleezza Rice visited Georgia, four Russian military jets entered the airspace of Georgia once again. This time the Ministry of Foreign Affairs of the Russian federation did not deny the fact²⁸. By recognizing the fact the Russian Federation checked how acute the reaction of the international community could be in case of unauthorized violation of the airspace

²⁶ <http://www.civilgeorgia.ge/eng/article.php?id=18661&search=july>

²⁷ *Increase in Troops by Russia in Abkhazia 'not Wise' – Solana*, <http://www.civil.ge/eng/article.php?id=17724>

²⁸ *Russia Confirms its Aircraft Intruded into Georgia*, <http://www.civil.ge/eng/article.php?id=18748&search=18-24%20july>

of an independent sovereign country. Unfortunately partners limited themselves with expression of concern. The Russian Federation evaluated this as a “Green Light” (“No Objection”) for more radical actions in future.

*Military Maneuvers in the North Caucasus*²⁹

From July 15 till August 3 2008, large scale military maneuvers “Caucasus-2008” was going on in the North Caucasus military region. The maneuvers were unexampled for the last 20 years. Landing troops from Pskov and Novorossiysk were trained in the area next to Mamisoni and Rocky mountain passes, in immediate vicinity of the Georgian-Russian border.

8 000 soldiers and 700 armored vehicles mainly from the North Caucasus region participated in the maneuvers. This included: landing troops, air forces, anti-aircraft forces, fleets of the Black and Caspian seas, the Federal Bureau of Security, internal troops of the Ministry of Interior. In parallel with the maneuvers, in Abkhazia and Tskhinvali regions, anti-Georgian brochures were disseminated called “Know your Enemy”. After the end of the maneuvers the participating troops did not return to the places of their original dislocation.

Peaceful Initiatives

In order to receive full understanding of conflicts that took place on the territory of Georgia and the dynamics of their resolution, it is important to review main peaceful proposals made since 1990 up to these days and the attitude of the parties towards these proposals.

„Boden’s Document”

In 2002, in order to promote the negotiations and peaceful resolution of the conflict, Special Representative of the General Secretary of the United Nations Dieter Boden submitted a document on “The Principles For Division Of Competences Between Tbilisi And Sukhumi”³⁰. According to this document division of competences between Tbilisi and Sukhumi was based on the principle of a wide autonomy within Georgia. These principles were:

²⁹ <http://www.civil.ge/eng/article.php?id=18782&search=military%20basis>

³⁰ Website of the State Minister of Reintegration http://smr.gov.ge/ge/abkhazia/documents/bodens_document

1. Georgia is a sovereign state based on the legal norms. The borders of Georgia, approved on 21 December 1991 may not be the subject of alteration unless it complies with the Constitution of Georgia.
2. Abkhazia is a sovereign entity, based on the legal norms, established within the Georgian state. Abkhazia has a special status within the state, which is based on the federal agreement and determines the common competences thereby constituting the guarantees of rights and interests of the multinational population of Abkhazia.
3. Distribution of competences between Tbilisi and Sukhumi is based on the Federal Agreement – Constitutional law; Abkhazia and Georgia observe the provisions of the Federal Agreement. Federal Agreement shall not be subject to changes and amendments without mutual consent of both sides.
4. Distribution of competences between Tbilisi and Sukhumi will be determined, among others, on the basis of Declaration of Measures on political settlement of the Georgian-Abkhaz conflict of 4 April 1994. The rights and competences of Abkhazia will be recognized within a broader scope than it was in 1992.
5. The Constitution of Georgia shall be changed in accordance of distribution of competences determined in the Federal Agreement; to this end it will be possible to use the Declaration of Measures on political settlement of the Georgian-Abkhaz conflict of 4 April 1994, namely its paragraph 7 concerning the ‘right to joint measures’.
6. The Constitution of Abkhazia, on the base of which it’s possible to lay the Constitution of Abkhazia of 26 November 1994, should be changed in accordance with the agreement on distribution of competences between Tbilisi and Sukhumi, as it is determined in Federal Agreement.
7. Both, the Constitution of Georgia, as well as the Constitution of Abkhazia should consist of similar provisions with regard of protection of fundamental rights and freedoms of everyone, eliminating discrimination against the rights of national minorities. Both, in the Constitution of Georgia, as well as in the Constitution of Abkhazia nothing shall violate indisputable rights to save return to their homes for all displaced people in conformity to the International Law.
8. The Georgian state and Abkhazia should agree the composition and activity of the Constitutional Court, which shall be guided by the Constitution of Georgia, the Constitution of Abkhazia and the Federal Agreement ‘on Basic principles of Division of Competences between Tbilisi and Sukhumi’.

The UN Security Council considered this Document to be an important, positive step made towards peaceful resolution of the Abkhazian conflict³¹. Unfortunately, the Abkhazian party absolutely refused to conduct a dialogue regarding this document³².

From the beginning of 2004 Georgia started an active search for a new approach for peaceful resolution of the conflict. The Government of Georgia and international partners started a number of peaceful initiatives. All proposals were rejected by the Russian Federation and the separatist regimes.

1. Initiative of the Georgian Government with Respect to Peaceful Resolution of the Conflict in South Ossetia³³

In March of 2005 the Georgian party presented a Draft Agreement with Respect to Peaceful Resolution of the Conflict in Tskhinvali Region. The same year the plan presented at the OSCE Ministerial in Ljubljana was supported by all member states, including the Russian Federation.

This peaceful proposal of the Georgian Government offered much wider autonomy to Tskhinvali Region than the one it enjoyed during the Soviet period.

The document provided for:

- Wide autonomy guaranteed under the Constitution of Georgia;
- The population of South Ossetia will elect the regional legislative and executive bodies;
- Possibility to receive education in the Ossetian language;
- The right to determine the economic policy of the Region; locally elected authorities;
- The representation of South Ossetia at all legislative, executive and judicial branches of the Georgian government shall be ensured under the Constitution;
- The Law on Property Restitution shall be put into effect with respect to the population, who suffered damages in the conflict of 1990-1992, regardless their ethnic origin³⁴.

³¹ UN Security Council Resolution, S/RES/1393 (2002), 31 January, 2002, http://www.unomig.org/data/file/364/1393_02.pdf

³² UN Security Council Press Release, SC/7651, <http://www.un.org/News/Press/docs/2003/sc7651.doc.htm>

³³ See the web page of the President of Georgia <http://www.president.gov.ge/?l=G&m=0&sm=5>

³⁴ The Law of Georgia on Restitution of Property of the Population who Suffered Damages in the Conflict on the territory of the Former Autonomous Region of South Ossetia - (adopted in 2006)

Implementation of this plan has also become impossible because of the negative position of the Russian Federation.

2. The Initiative of the President of Georgia Presented to the UN General Assembly (2006)

On September 22, 2006, the President of Georgia Mikheil Saakashvili presented a new plan of peaceful conflict resolution at the UN General Assembly in New York. The proposed package provided for:

- Demilitarization of Abkhazia and South Ossetia. The demilitarization process would be conducted with active support and participation of the UN, OSCE and EC;
- Peacekeeping police force would be dislocated in both conflict zones;
- Rehabilitation of the economy in the conflict zones with active participation of the central Georgian Government;
- Implementation of measures targeted to restore trust between the parties.

At the same time President Saakashvili expressed the wish to implement this plan in close cooperation with the Russian Federation and its active involvement.

3. Memorandum of 2007

In March 2007 the Georgian party offered a Draft Memorandum to the South Ossetian Party. The goal of this document was complete and final political resolution of the conflict in Tskhinvali region. It provided for demilitarization of the conflict zone and acceleration of the negotiation process. Once again, the document could not be signed because of the negative position of the Russian Federation.

4. Initiatives in April 2008

In April 2008 the President of Georgia came up with a wide and consistent plan of settling the conflict in Abkhazia.

Political Representation in the Highest Government Bodies of Georgia:

The President of Georgia offered to the Abkhazian party institutionalization of political rights:

- The right to occupy the position of the Vice president of Georgia; the position would be created specially for the Abkhazian representation;
- Rights to occupy positions in the Parliament, ministries, local self-government bodies and other government structures.

The Veto right with regards to legal issues related to Abkhazia: representatives of Abkhazia would have a guaranteed right to veto any decisions related to:

- the constitutional status and rights of Abkhazia;
- protection of the Abkhazian culture, language and ethnicity.

Guaranteed rights of culture and education freedom:

The Abkhaz population would have full freedom and support for developing Abkhaz culture, language and nationality;

Joint establishment of a free economic zone:

This zone would be established in Gali and extended to other conflict zones, including Ochamchire Port. The zones would be controlled by Abkhazian and Georgian officials, without interference of other persons and parties.

International guarantees for ensuring federalism, wide autonomy and security:

The President of Georgia offered the representatives of Abkhazia full safety guarantees and called upon the international community to develop mechanisms for such safety. He also urged Russia to keep stop participation in the conflict in the role of the conflict party and to start acting as a mediator together with other members of the international community.

For the successful implementation of the presented plan, in order to work on peaceful regulation of the Abkhazian conflict, the President of Georgia issued a Decree on formation of a Working Group at the ministerial level. The goal of the Group was to develop an action plan. It consisted of the following members: Minister of Foreign Affairs, Minister of Justice, Minister of Economic Development, State Minister on Reintegration Issues and the Chairman of the National Security Council.

5. The Initiative of June 2008

On June 23, 2008, Deputy Minister of Foreign Affairs Grigol Vashadze visited Moscow and submitted to the Government of the Russian Federation a package of

proposals for peaceful regulation of the Abkhazian conflict. The Proposal provided for:

- transfer of the dislocation points of the Russian peacekeepers to the sites along the Kodori river;
- Creation of free economic zones in Ochamchire and Gali;
- Return of displaced population to the above regions;
- Implementation of activities targeted to restore the relations;
- Dialogue regarding the political status.

Similar to the previous cases, the response of the Russian Federation was again negative.

1. Peace-Plan of the Minister of Foreign Affairs of Germany

In July 2008 Frank Walter Steinmeier, Minister of Foreign Affairs of Germany, presented a plan of peaceful settlement of the Abkhaz conflict. The plan envisaged renunciation of the use of force, agreement on return of the Internally Displaced Persons, practical projects aiming at confidence building and political resolution of conflicts in future through negotiations. Russian and separatist sides by end of July refused to take part in the meetings relating with the above plan and requested to delay it till September 2008.

2. OSCE Proposal

At the end of July, 2008, Alexander Stubb, Acting President of the OSCE, proposed to the sides to hold peaceful negotiations in Helsinki at the beginning of August. The separatists rejected this proposal too.

According to the statement made by the Speaker of Parliament, David Bakradze, the Georgian side did its best to have direct and intensive communication with both, Abkhaz and Ossetian sides. The example of this is David Bakradze's visit to the town of Sukhumi³⁵ in the status of the State Minister for Conflict Resolution and his talks with the Minister of Foreign Affairs of the government of the separatist regime Sergei Shamba. After the meeting Mr. Bakradze expressed his

³⁵ *Senior Georgian, Abkhaz Officials Resume Contacts*, <http://www.civil.ge/eng/article.php?id=16102>

hope that the positions would be brought together, although no practical results had followed. In May, 2008, Irakli Alasania, Permanent Representative of Georgia in the UN met with Sergei Bagapsh in Sukhumi. According to the statement of the Georgian authorities this was an example³⁶ of readiness for the direct dialogue with the separatist authorities. “Despite the whole range of very serious ethical and political problems accompanying relations with those people who are responsible for ethnic cleansing, we were ready to hold talks with them in the interests of the state and tried to find acceptable ways for both sides and move the process of conflict resolution”³⁷.

With the initiative of Sweden and support of European Union, high officials of Georgia³⁸ and representatives of the de facto government of Abkhazia³⁹ met each other on 15-17 June.⁴⁰ At the meeting the Abkhaz side categorically rejected any kind of agreement with Georgia. According to the statement of the First Deputy Minister of Foreign Affairs, Giga Bokeria⁴¹, the message of the Abkhaz side was that they did not want to negotiate because of the following reasons:

- Russia is close and “stands with tanks”, whilst the West is far away and illusive;
- Russian money is materially flowing in and there is no control over how it is spent, whilst western support implies accountability and monitoring of expenditure;
- In this case they do not have to control different ethnic groups imposed by the western countries with the representational democracy, and to think about protection of the interests of different groups.

Representatives of executive authorities spoke about how difficult it was to make direct contacts with both Abkhaz and Ossetians. The facts investigated by the commission clearly confirm that neither in Abkhazia, nor in Tskhinvali region representatives of separatist regimes have independent positions and that they are

³⁶ www.civil.ge, <http://www.civil.ge/eng/article.php?id=17815&search=Alasania>

³⁷ რეფ. შპორტხანდ რეპორტ ოფ ტჰე ევიდენცე გივენ ტო ტჰე ჩომმისიონ ბე შპეაკერ ოფ არლიამენტ, ავიდ აკრადზე ჰტტპ://www.პარლიამენტ.გე/ინფო.პპპ?ლანგ-იდ= &სეც-იდ=1329&ინფო-იდ=21481

³⁸ The delegation of the authorities of Georgia consisted of: Alexandre Lomaia, Secretary for the National Security Council of Georgia; Irakli Alasania, Representative of Georgia to the 4 UN; State Minister for Reintegration Temur Yakobashvili; Deputy Minister of Foreign Affairs, Giorgi Bokeria and Deputy Chairman of the Parliamentary Committee for Defence and Security, Nikoloz Rurua.

³⁹ The members of the delegation were: “Minister of Foreign Affairs” of the de facto government, Sergei Shamba; Vice Premiere Leonid Lakerbaia; Minister for Taxation, Vakhtang Pipia

⁴⁰ *Secret Abkhaz-Georgian Talks in Sweden*, <http://www.civilgeorgia.ge/eng/article.php?id=18588>.

⁴¹ ref. Evidence of the First deputy Minister of Foreign Affairs, Giga Bokeria
ჰტტპ://www.პარლიამენტ.გე/ინფო.პპპ?ლანგ-იდ= &სეც-იდ=1329&ინფო-იდ=21522

under full control of the officials of Russian Federation. The following fact is a vivid example of the above stated – the core positions in the *de facto* authorities of the both separatist regimes were occupied by the officials of different rank of the Russian Federation⁴².

Positions of Russian Federation and Separatist Regimes

The President of Georgia Mikheil Saakashvili, Chairman of the Parliament of Georgia David Bakradze, Minister of Foreign Affairs of Georgia Eka Tkeshelashvili, Deputy Ministers of Foreign Affairs of Georgia Giorgi Bokeria and Grigol Vashadze, all stated at the listening session of the Commission that neither Russia, nor *de facto* authorities of the regions had proposed any particular initiative for peaceful resolution of the conflict. According to the information obtained from the aforementioned persons, high officials of the Russian Federation, including the statement of the President, Georgia is better aware of what kind of compromises it has to make in order to satisfy Russia's wishes.

The Commission considered the oral proposal of the *de facto* President of Abkhazia Sergei Bagapsh "The Key to the Future". The document envisages:

- "Georgia to apology for the mistakes in the past";
- Renunciation of political and economic pressure on Abkhazia;
- Signing of the agreement about peace and cease-fire under the guarantee of the UN Security Council;
- Refusal from politization of economic issues, especially of that of the railway rehabilitation project (It should be admitted that the Georgian side

⁴² According to the information of the Ministry of Internal Affairs the *de facto* government of Abkhazia consisted of the following:

Abkhazia - In accordance with the Decree of 30 April, 2008, of the *de facto* President of Abkhazia, former head of the Russian PK Staff, Aleksandr Pavlyushko, was appointed as a *de facto* Deputy Minister of Defence; Since March, 2005, Head of the General Staff of the *de facto* Minister of Defence of Abkhazia Anatoli Zaytsev, former high official in the Ministry of Defence of Russia.

Tskhinvali Region – Yuri Morozov, Russian businessman has been the Prime Minister of South Ossetia since 4 July, 200; Mikael Mindzaev, former Colonel of the Militia of North Ossetia, has been the Minister of Internal Affairs of South Ossetia since 25 April, 2005; Anatoli Barankevich, Russian high official, has been Secretary of the National Security Council since 11 November, 2006. Boris Atoev, former officer of the Russian security services, has been Head of KGB of South Ossetia since 9 November, 2006; Vasili Lunev, former Russian high official, Major General, has been the Minister of defence of South Ossetia since 1 March, 2008.

did not mind rehabilitation of this section of the railway. There were certain steps made in this direction to achieve an agreement⁴³. Unfortunately, this idea was not realised due to the vague position of the Abkhaz side)⁴⁴.

Mainly two kinds of criticism has been recorded with regard of this initiative. On the one hand the proposal in fact neglected the issue of return of the refugees. At the same time, the document was based on the principle of full independence of Abkhazia. It is obvious that bringing of the status to the foreground made it impossible to implement this plan. It has to be underlined that the plan proposed by both, the Georgian side and the so called Steinmeier Plan raised the question of the status only at the final stage of the peaceful process.

According to the statement made by the representatives of the Georgian authorities, the only demand of both, Russian Federation and *de facto* authorities of Abkhazia was a signature of a document on cease-fire. This was meant by Erasti Kitsmarishvili, the Extraordinary and Plenipotentiary Ambassador of Georgia to Russia, when he spoke at the session of the Commission about “Alasania’s peaceful proposal”. According to him this document was prepared when the Permanent Representative of Georgia to the UN Irakli Alasania met with the *de facto* President of Abkhazia Sergei Bagapsh⁴⁵. Mr. Kitsmarishvili could not present information on other aspects of the document. The Commission have found out that he did not speak about any concrete, consistent plan.

According to the statement of the First Deputy Minister of Foreign Affairs of Georgia Giorgi Bokeria,⁴⁶ the regimes of cease-fire and of non-resumption of fire had already been implemented on the basis of achieved agreements in the cases of both Abkhazia⁴⁷ and Tskhinvali region⁴⁸. The Georgian side associated the conclusion of a new agreement with the implementation of the old one, which implies, on the one hand, return of the IDPs and refugees and on the other, provision of security guarantees by the Russian Federation for safe return of IDPs.

⁴³ *Abkhaz Railway Consortium Set up*, www.civil.ge <http://www.civil.ge/eng/article.php?id=12496>

⁴⁴ *Abkhaz Politicians at Odds over Railway*, www.civil.ge
<http://www.civil.ge/eng/article.php?id=12958&search=railway%20rehabilitation>

⁴⁵ *Georgia’s UN Envoy Meets Abkhaz Leader in Sokhumi*,
<http://www.civil.ge/eng/article.php?id=17815&search=Alasania>

⁴⁶ ref. Shorthand report of the evidence given by the First Deputy Minister of Foreign Affairs, Giga Bokeria, to the Commission. http://www.parliament.ge/index.php?lang_id=GEO&sec_id=1329&info_id=21522

⁴⁷ Geneva Memorandum of Understanding, 1 december, 1993, see attachment 1; Moscow Bilateral Agreement on Cease fire and Separation of sides, 14 May, 1994

⁴⁸ Dagomis Agreement between Georgian and Russia, 24 June 1992

It is obvious that high officials in Russia do not want conflict resolution, as in this case they would not be able to “divide et impera” in order to maintain the influence over the region. From the summer 2008 the European Union starts unexampled involvement in the process of resolution of the conflicts existing on the territory of Georgia. This is proved by the peace-making visit to Batumi and Sukhumi⁴⁹ of Javier Solana, High Commissioner for the Foreign and Security Policy of the European Union, as well as the Peaceful Plan proposed by the Minister of Foreign Affairs of Germany, Franz Walter Steinmeier. In order to start negotiations on this document the Minister first arrived in Tbilisi and then visited the head of the separatist regime of Abkhazia, Sergei Bagapsh. According to the conclusion of the Commission, the above mentioned positive dynamics would have speeded up peaceful resolution of conflicts, which was in the interests of Georgia. From 2004 one of the priorities of Georgia was intensive involvement of Europe in the process of conflict resolution. Russian Federation identified increased activeness of the European Union as a loss of Russia’s control over the conflict regions and correspondingly set as an object to hinder this process and then smash it at all through aggression and increased military contingent in these regions.

Agression Forerun

On 28 July separatist groupings opened fire against the OSCE observers and peace keepers, moving in the direction of the village of Chorbauli⁵⁰.

On 29 July, before hostilities, the separatists started bombing the villages with mixed ethnic population. They also bombed Georgian peacekeepers and their check-points. They used forbidden weapons for that - large-calibre artillery. The same day the separatists opened fire to the OSCE observers working together with the Peacekeepers⁵¹.

On 1 August near Tskhinvali (Eredvi-Kheiti road) five policemen were injured due to the exploded lorry. On the same day the Ossetian separatists opened fire against Lower Niqozi, Upper Niqozi, Avnevi, Ergneti and Eredvi in the direction of the Georgian policemen and peacekeepers. In the village of Nuli one person was injured and numerous houses damaged. The Georgian side opened reciprocal fire. Although, little bit later it was stopped at the command⁵².

⁴⁹ Solana: EU Seeks Deeper Engagement in Abkhazia, <http://www.civilgeorgia.ge/eng/article.php?id=18485>

⁵⁰ Georgia reports Shootout in S. Ossetia, <http://www.civilgeorgia.ge/eng/article.php?id=18854&search=july>

⁵¹ OSCE Mission to Georgia Spot Report: Firing Incident in Sveri/Andzisi Area in the Georgian-Ossetian Zone of Conflict

⁵² <http://www.civilgeorgia.ge/eng/article.php?id=18868&search=august>

On 2 August, when shooting in the direction of the Georgian villages, six peaceful citizens and a representative of the Ministry of Internal Affairs were injured⁵³.

On 3 August the separatist government started evacuating population from Tskhinvali and adjacent villages. The evacuation had lasted for two days.

On August 4, late at night, Ossetian separatists opened fire in the direction of the Georgian peacekeepers' check-point located on the height of Sarabuki; as a result, two soldiers were wounded.

Use of forbidden weapons (artillery over 80 mm calibre) in the conflict zone (according to Dagomys Agreement) during hostilities is also confirmed by General Marat Kulakhmetov, Commander of the Joint Peacekeeping Forces.

On 5 August Ossetian separatists shoot 3 shells from the village of Ubiati at the guard-post of the Georgian police in the village of Nuli.

On 4-5 August a group of journalists and diplomats visited Georgian villages of Tskhinvali region. According to the explanation made by the representatives of the executive authorities the aim of this visit was to see the damage caused by the artillery bombardment of the separatists and warn them about possible escalation to the critical point⁵⁴.

On 6 August, according to the information of the local television, about 150 volunteers came in from the Northern Caucasus. Local information programmes informed that the persons employed at the construction works of the military base of Tskhinvali were released; shops and stores were closed.

At about 16h00 the separatists opened fire from the villages of: Prinevi, Ubiati, and Khetagurovo at the Georgian villages of Eredvi, Prisi, Nuli and Avnevi.

Artillery bombardment lasted till midnight. The law-enforcement structures of Georgia opened a reciprocal fire.

⁵³ <http://www.civilgeorgia.ge/eng/article.php?id=18872&search=august>

⁵⁴ ref. Shorthand report of the evidence given by the State Minister for Reintegration, Temur Yakobashvili, to the Commission. http://www.parliament.ge/index.php?lang_id=GEO&sec_id=1322&info_id=20958

The evidence of the eye-witnesses coincide with the report published on 5 August by the monitoring group. The above mentioned group consisted of military observers and representatives of the Peacekeeping unit of Russia. This report was signed by the commander of the Joint Peacekeeping Forces in the region, General Marat Kulakhmetov, who endorsed the facts of attack to the Georgian villages and of the application of bombardment prohibited under the Dagomis agreement. The report also mentions that the Ossetian separatists for bombing used the weapons already banned in 1992.

The fact of bombing of Georgian villages was confirmed by the information⁵⁵ published on the web-page of the Radio Liberty, as well as by the Russian human rights organisation “Memorial”. According to the statement made by Orlov, head of the organisation, the armed forces of the South Ossetia opened fire against peaceful population residing in the Georgian villages. The shooting was carried out from the places of dislocation⁵⁶ of Russian Peacekeepers in Tskhinvali.

In the evening of *6 August* the President of Georgia tried to contact with the President of the Russian Federation. The Ministry of Foreign Affairs of Russia refused to arrange telephone communication of the presidents with the pretext that the situation at the given moment was premature for that. The Commission considers that this was the last chance to avoid military escalation, which was rejected by the Russian side.

Military Operations

7 August

On 7 August from approximately 00.00 hours artillery attack on the villages Eredvi, Prisi and Vanati became more intensive. At the same time they started attack to the Sarabuki heights, as a consequence of which two Georgian Peacekeepers were wounded.

⁵⁵ *Eyewitness Accounts Confirm Shelling Of Georgian Villages*,
http://www.rferl.org/content/Eyewitness_Accounts_Confirm_Shelling_Of_Georgian_Villages/1349256.html

⁵⁶ *Georgia calls on EU for independent inquiry*, Luke Harding, Guardian, November 19, 2008,
<http://www.guardian.co.uk/world/2008/nov/19/georgia-russia-eu-media-inquiry>

According to the telephone conversation records, obtained by the Ministry of Internal Affairs of Georgia, information about mass intrusion into the territory of Georgia by the Russian regular army at 03:30 is confirmed. The records make it obvious that 20 hours prior reciprocal actions of the Georgian armed forces, the armed forces of Russian Federation occupied Roki tunnel and intruded into the territory of South Ossetia. The telephone conversation is between a certain person called Gasiev and the head of “Border Guard Structure”, and is about movements of the Russian army in the direction of Tskhinvali region. Relevant official structures of the United States have verified authenticity⁵⁷ of the above mentioned records.

It’s worth to be mentioned that the Russian Federation does not reject its mass military intrusion into the territory of Georgia before the active phase of military operations. Russian officials insisted that the recorded conversation is about planned rotation of Russian Peacekeeping Forces. It should be stressed that on the basis of the Dagomisi Agreement (then in force), any kind of movements should happen in the daylight, and all sides of the Joint Peacekeeping Forces should be informed 10 days prior, including the relevant representative of the Government of Georgia and the OSCE.

By 11h00 Ossetian band formations renewed artillery attack in the direction of the Georgian villages (Nuli, Avnevi, Vanati). Three Georgian policemen were injured. Georgians killed two separatists⁵⁸.

At about 13h00 the National Security Council of Georgia held a session in Saguramo, where the Minister of Internal Affairs of Georgia reported about intrusion of a huge regular army of the Russian Federation into the territory of Georgia.

At about 14h00 a check point of the Georgian Peacekeepers in Avnevi was bombed from Khetagurovo; as a result, two Georgian peacekeepers and eight peaceful citizens died⁵⁹.

⁵⁷ *Georgia Offers Fresh Evidence on War’s Start*, New York Times, September 15, 2008

<http://www.nytimes.com/2008/09/16/world/europe/16georgia.html?partner=rssnyt&emc=rss>

⁵⁸ <http://www.civil.ge/eng/article.php?id=18924&search=august> and

<http://www.civil.ge/eng/article.php?id=18938&search=august>

⁵⁹ Phone conversation interception of separatist militia confirming the death of Georgian military servicemen and civilians is available

At about 14h00 the Ministry of Foreign Affairs of Georgia made a statement about intrusion of a huge number of regular army and equipment of the Russian Federation into the territory of Georgia.

At about 14h00 the relevant structures of Georgia received information that additional regular army of Russia was ready and waiting for a command to start in the direction of Georgia.

At the same time in agreement with the commander of the armed forces of Georgia, according to the command of the Head of the Joint Staff Zaza Gogava, and in order to stop attacks from the separatists side, the Georgian armed forces started moving towards the administrative border⁶⁰ of Tskhinvali region.

On 7 August Temur Yakobashvili,⁶¹ Special Representative of the President of Georgia, arrived in the town of Tskhinvali in order to meet with the representatives of *de facto* authorities there. According to the Georgian side this had been agreed already on 5 August, although the Ossetian side at the last moment refused to meet⁶² and referred to the possibility of a delay. In Tskhinvali Mr. Yakobashvili met with General Murat Kulakhmetov⁶³, Commander of the JPKF. According to Mr. Yakobashvili the General had told him that the separatists did not listen to him and carried out artillery attacks from the sites close to the place of the latter's dislocation, "стреляют из подтишка"⁶⁴. According to the commander of the Peacekeepers it was impossible to contact either Kokoiti or Chochiev. The Special Representative of Russian Federation, Popov, at last managed to speak to Kokoiti. The OSCE report makes it clear that Popov tried to ensure the Ossetian side in urgent need of a meeting, but in vain⁶⁵. After this meeting, at about 16h00 Kulakhmetov proposed to Yakobashvili that the Georgian government made a statement about unilateral ceasefire⁶⁶.

⁶⁰ Shorthand report of the evidence given by the Head of the United Staff, Zaza Gogava, to the Commission.
http://www.parliament.ge/index.php?lang_id=GEO&sec_id=1329&info_id=21053

⁶¹ Representatives of the separatist regimes refused to communicate with the State Minister for Reintegration, Temur Yakobashvili, because of the title of the Ministry. The President of Georgia, in order to avoid artificial obstacles, gave the Minister a title of the Representative of the President of Georgia

⁶² <http://www.civil.ge/eng/article.php?id=18898>

⁶³ *State Minister Meets Chief Russian Peacekeeper*,
<http://www.civil.ge/eng/article.php?id=18926&search=Iakobashvili>

⁶⁴ რეგ. Shorthand report of the evidence given by the Special Representative of the President, Temur Yakobashvili to the Commission. პტტპ://წწწ.პარლიამენტ.გე/ინდეხ.პპპ?ლანგ-იდ= &სეც-იდ=1329&ინფო-იდ=21004

⁶⁵ *Update on the situation in the zone of the Georgian-Ossetian conflict*, Spot Report: Update on the situation in the zone of the Georgian-Ossetian conflict, Vienna, August 7, 2008, Annex 10

⁶⁶ <http://www.civil.ge/eng/article.php?id=18897&search=august>

At 17h00 Yakobashvili telephoned General Kulakhmetov and told him about the decision of the government of Georgia on unilateral cease-fire. At 18h40 Yakobashvili held a press conference and informed the population about the decision of the government.

At 19h10 President Saakashvili made a statement on TV about cease-fire and called upon the separatists to have peaceful negotiations. After this fire was ceased in the conflict zone.

At 20h30 shelling of Avnevi started from Khetagurovo. Anatoli Barankevich, Secretary of the National Security Council of the separatist government, stated on the local TV that armed formations of Cossacks were moving towards South Ossetia to help Ossetians in their fight against Georgians.

On 7 August the President of Georgia contacted the President of Lithuania Adamkus, President of Poland Kachinski, Minister of Foreign Affairs of Sweden Bildt, and General Secretary of NATO Scheffer, and provided them with the information about extremely escalated situation in Georgia.

At about 22h00 separatists opened fire at the villages of Prisi and Tamarasheni. The fact of opening the fire is confirmed in the report⁶⁷ presented by the OSCE Observers on 8 August.

At 23h30 the separatists opened fire at every check-point of the Georgian Peacekeepers on the territory adjacent to Tskhinvali region (in the villages of Tamarasheni and Kurta). They totally blotted out the police station in Kurta.

At 23h30 the Government of Georgia received information about additional 150 units of equipment intruding from the Russian Federation through the Roki tunnel in the direction of Tskhinvali.

At 23h35 the Head of the Joint Staff of the Armed Forces of Georgia, Brigade general Zaza Gogava, receives the information from the President of Georgia about adoption of martial law. After this the Commander-in-chief of the armed forces of Georgia gives the following commands to the Head of the Joint Staff:

- Prevent intrusion of the regular army of the Russia Federation into the territory of Georgia;

⁶⁷ *OSCE Spot Report*, Vienna, August 8, 2008

- Suppress the weapon emplacements existing in Tskhinvali region, where the Georgian villages are attacked from;
- Ensure security of the population of the region.

The armed forces of Georgia, for the first time after the attacks of the Russians and separatists on 7 August, at 23.50 carried out military operations and drew armed forces and equipment into the territory of the conflict zone.

At about 24h00 the Head of the Georgian Peacekeeping Operations Staff, Mamuka Kurashvili, made a statement to the representatives of mass media that the armed forces of Georgia started restoring the constitutional order in Tskhinvali region. The Head of the Joint Staff Zaza Gogava stated that this was not the position of the Ministry of Defence and consequently the Brigade General Kurashvili got a notice from the Head of the Joint Staff. Mamuka Kurashvili himself confirms the information delivered by Zaza Gogava. As the Head of the Peacekeeping Operations Staff stated, this was an emotional statement and the emotion was caused by the military attack⁶⁸ of the opponent against the local Peacekeeping Forces.

On 8 August Georgian armed forces occupied the following villages: Tsinagara, Orchosani, Didmukha, Muguti, romi, Dmenisi and Artsevi. Artillery attack was carried out from the occupied heights towards the Dzara road as well as Khetagurovo village, where the Russian armed forces were entering.

According to the information of the Joint Staff of the Armed Forces of Georgia, Georgian villages and armed forces were attacked from Tskhinvali outskirts, especially from the “Verkhni Gorodok” (South-West part of Tskhinvali), where the Peacekeeping Forces Staff of the Russian Federation was dislocated. This fact is confirmed by the article published in one of the Ossetian information websites. It is describing how successfully one of the Ossetian fighters carried out correction of fire from the roof of the building of the Peace Keeping Forces of the Russian Federation. This is said in the report⁶⁹ of the Russian human rights organisation “Memorial”.

At 11 am the Georgian army occupied heights around Tskhinvali, after which the special divisions of the Ministry of Internal Affairs started entering Tskhinvali.

⁶⁸ Shorthand report of the evidence given by the Head of the United Staff, Zaza Gogava, to the Commission.
 პტტპ://წწწ.პარლიამენტ.გე/ინდუხ.პპპ?ლანგ-იდ= &სეც-იდ=1329&ინფო-იდ=21053

⁶⁹ *Georgia calls on EU for independent inquiry*, Luke Harding, Guardian, November 19, 2008,
<http://www.guardian.co.uk/world/2008/nov/19/georgia-russia-eu-media-inquiry>

According to the Head of the Joint Staff and Minister of Internal Affairs the aim of this operation was:

- Evacuation of the population from the villages to the north from Tskhinvali, since it was impossible to bring them out through the byroad, as the latter had constantly been under artillery attacks;
- Suppress weapon emplacements in Tskhinvali.

According to the Head of the Joint Staff Zaza Gogava, they carried out artillery shooting in Tskhinvali from the “DANA” type precise artillery mount and the attack was directed towards the “Ministry of Defence”, “Ministry of Internal Affairs” and other government institutions of the separatists.

On 8 August, by 14h00, the law enforcement structures of Georgia were controlling nearly the whole of the town. By 15h00 the Head of the temporary administration of Tskhinvali region and the Mayor of Tbilisi declared 3-hour long moratorium on military operations. As the representatives of the executive authorities declared, they managed to bring out the civil population from the conflict zone. According to them at that very time the armed forces of Russian Federation carried out artillery attacks both through “Grad” type artillery mounts and aviation. The Minister of Internal Affairs presented to the Commission video evidence materials⁷⁰.

On 9 August the Parliament of Georgia ratified the President’s Act about declaring Martial Law.

On 10 August at 17h30 the Ministry of Internal Affairs of Georgia delivered a Diplomatic Note about cease-fire to the Embassy of the Russian Federation in Georgia. Despite this fact Russian armed forces continued bombing and occupation of the territories of the country. In the following three days Russian aviation and tactic missiles bombed the territory of Georgia 32 times.

On 10 August Russian warships entered the port of Ochamchire and carried out missile and aviation attacks to the Upper Abkhazia. The same day Russian armed forces occupied Zugdidi.

On 12 August Russians attacked Poti Port and Zugdidi Administration buildings.

⁷⁰ ref. Presentation provided by the Minister of Internal Affairs:
http://81.95.174.252/index.php?lang_id=GEO&sec_id=1322&info_id=21527http://81.95.174.252/index.php?lang_

Six Point Agreement

As a result of the mediatorship of the French President Nicolas Sarkozy the Presidents of Georgia and Russian Federation signed the following principles:

- 1) Non-use of force;
- 2) Stop all military actions;
- 3) Free access to humanitarian aid;
- 4) Georgian troops return to their regular places of dislocation;
- 5) Russian troops return to the lines they held before the start of the military operation; Before an international solution is worked out Russian peacekeepers are taking up an additional security measures;
- 6) The start of an international discussion on the security and stability situation in South Ossetia and Abkhazia.

however, according to the information of the executive authorities, after signing up this document the following points are neglected. Russia: (1) brought additional armed forces into both regions (Tskhinvali and Abkhazia); (2) revealed its plan to increase its military bases in both regions; (3) Occupied the territories of Georgia, including Akhalkalaki, which were under the control of Georgia before war and which never had been within the conflict zone; (4) Forced Georgian population to leave Kodori Gorge and, what is the most alarming, recognized the independence⁷¹ of the legitimate territories of Georgia.

In addition to bombing, Russians occupied such populated territories beyond the conflict zone, as – Beloti, Shindisi, Khaishi, Ganmukhuri, Atotsi, Pakhulani, Mejvriskhevi, Ruisi and Tsveri.

On 15 August, when the agreement of cease-fire was signed, Russians continued occupying the populated territories of Georgia. They crossed the Abashistskali river, occupied Igoeti, Khashuri and Surami.

⁷¹ <http://georgiaupdate.gov.ge/>

The Fact of Starting the Military Aggression

According to the statements of the representatives of the authorities of Georgia, the delivery of Russian armament and regular army to the territory of Tskhinvali through Roki tunnel started on 7 August, early in the morning. The Commission verified this information from other sources. Information published in the Russian mass media denies the version of the Russian Federation as if Russian armed forces started to intrude into Georgia only on 8 August.

life.ru 04.08.2008

According to the information published on the website, Pskov paratroopers division dislocated near Roki and Mamisoni passes, despite the completion of the wide-scale military training “Caucasus-2008”. Moreover, on 2-3 August, the divisions of the 58th Army as well as that of 76th Air-forces of Russia were dislocated near the border⁷² of Georgia. The above mentioned dislocation of the armed forces started on 2-3 August. The same is confirmed by the article⁷³ published in the newspaper *Krasnaya Zvezda* of 11.09.2008.

news.ru 11.09.08⁷⁴

On the website you can read about movements of the 58th Army and the article says that on 7 August Russian military forces received a command to move in the direction of Tskhinvali. The 135th regiment entered Tskhinvali region before midnight, i.e. before the Georgian army started its attack towards Tskhinvali.

Пермские Новости 15.08.08

The fact of Russia starting the war is proved by the interview with the Russian soldier and his parent, published in the daily newspaper *Пермские Новости* of 15 August. The soldier admits that their 58th Army was on the territory of South Ossetia from 7 August.

Комсомольская Правда 17.08.08

⁷² Российская армия подошла к границе Южной Осетии, <http://life.ru/news/27624/>

⁷³ СМИ: Российские войска вошли в Южную Осетию еще до начала боевых действий, <http://newsru.com/russia/11sep2008/voshli.html>

⁷⁴ <http://www.newsru.com>

Комсомольская Правда is publishing an interview given by the Sergeant of the Regiment No 693 of the 58th Army, Alexander Plotnikov⁷⁵, given in Rostov, after he had been wounded. According to Plotnikov their sub-division already at the beginning of August knew that there had to be a war, although no one spoke about this officially. He admits that their sub-division had been sent to the mountains⁷⁶ near Tskhinvali before the war broke out.

Московский Комсомолец 02.09.08

In the article published in *Московский Комсомолец* of 2 September, journalist Vadim Rachkovski says that he agrees with Saakashvili's statement that the 693rd regiment of the 58th Army had moved in the direction of South Ossetia on 7 August, or may be even earlier. However, Rachkovski does not see anything significant in this, since this is not the first case⁷⁷ of the armed forces dislocating.

According to *BBC Monitoring World Media Monitor*, Sergei Bagapsh, separatist leader of Abkhazia admitted on 7 August that the Russian battalion entered the conflict zone. He made this statement at the session of the National Security Council and this was broadcasted by the State Channel of the Russian television *Rossiya (Rossiya TV, Moscow, in Russian 1600 gmt 7 Aug 08)*⁷⁸.

Reuter journalist Sayd Tsarnaev personally arrived in Tskhinvali on 7 August. His statement, published in the "Radio Liberty" website, says that there were 48 Russian journalists and 50 more other persons in the hotel of Tskhinvali, who had come there 3 days prior Tsarnaev's arrival in Tskhinvali, as if they had know beforehand what was supposed to happen. Before he arrived in Tskhinvali he met a person at the border who was evacuating his family from Tskhinvali⁷⁹. That very night armed conflict between the Russian Federation and Georgia started⁸⁰.

The statements made by the Russian experts prove that Russian Federation started the military aggression.

The fact of planning of the military operation by Russian Federation is confirmed by Vladimir Putin's ally and economic adviser *Andrey Illarionov*. The fact, that

⁷⁵ <http://www.kp.ru/daily/24147/364238/>

⁷⁶ <http://www.permnews.ru/story.asp?kt=2912&n=453>

⁷⁷ <http://voinode1.livejournal.com/33871.html?thread=916559#t916559>

⁷⁸ BBC World Monitor is a subscription service. No link can therefore be given

⁷⁹ RADIO FREE EUROPE/RADIO LIBERTY

⁸⁰ <http://www.globalsecurity.org/military/library/news/2008/08/mil-080823-rferl02.htm>

he was quite close to the President Putin and had an access to the wide-range of information increases the degree of credibility of the information provided by him.

According to Illarionov's statement⁸¹, Russia started preparations for the Russian-Georgian war 4 years ago, after the Georgian government smoothly solved problems existing in Adjara Autonomous Republic. During this period Russian authorities carried on propaganda against Georgia and at the same time carried out militarisation of South Ossetia. 60% of the budget of this unrecognized republic was spent on armament, to which the Russian Federation added the military equipment brought in from its territory.

As the experts explain, the Russian-Georgian war aimed at changing the democratically elected authorities in Georgia. This fact is not denied by the Russian officials either.

According to Illarionov's statement, Russian military forces started their military operations on the territories of South Ossetia and Abkhazia before 7 August. On 1 August it started bombing Georgian villages. On 3 August Kokoiti started evacuating the populatoin from South Ossetia. On 6 August Russian military divisions were already on the territory of South Ossetia and occupied the Roki tunnel. By then Russian 58th Army had already been mobilised at the Georgian border. Russian authorities sent there 9000 soldiers and 700 units of equipment.

Pavel Felengauer, Military Expert

Russian military expert Pavel Felengauer on 20 June spoke about expected actions of the Russian authorities. According to Felengauer the Cremlin was planning to start the war in Georgia in order to get rid of the existing Georgian authorities. According to the information at his disposal the military operations were supposed to start in August or September, as in winter it is impossible to cross the territories of the Caucasus because of cold and snow. Felengauer presumed that conflict would start from the Upper Abkhazia or Tskhinvali region and the aggression would overwhelm the whole of the territory of Georgia.

⁸¹ *Russia prepared war with Georgia and It was started by Russia, Andrey Illarionov,*
<http://digitalcaucasus.blogspot.com/2008/10/andrej-ilarionov-russia-prepared-war.html>

In order to prove the above mentioned assumption the expert refers to the following fact – before the August events Russian Generals and diplomats ceased negotiations with Georgia⁸².

After the investigation of facts the Commission came to the conclusion that the above period of August showed to the best advantage for Russia in order to start military aggression due to the following reasons:

1. Undue attention from the international community

The vast majority of the officials in the international organisations, United States and Europe are on leave in the month of August. Moreover, attention of the leaders of the states is focussed on the opening of Olympics in Beijing. In such circumstances the authorities of the Russian Federation hoped that international community would fail to react in case of aggression.

2. Favourable climat conditions for military operations

According to the statement of the Minister of Internal Affairs the weak spot of the Russian aviation is a cloudy weather. According to the forecast the best weather in 2008 was supposed to be from 5 till 25 August.

The Range of the Military Aggression

Totally the following were used in the aggression against Georgia:

- More than 40.000 military servicemen;
- More that 3.000 units of armored equipment;
- More that 2500 units of military vehicles.

According to the information of the Georgian authorities Russian aviation, starting from 8 August, bombed 32 civil and military sites on the territory of Georgia and

⁸² [Russian analyst predicted Russian invasion 2 monthes before!](http://virtualcollector.blogspot.com/2008/08/russian-analyst-predicted-russian.html), Newspaper "Rezonansi", Interview with Pavel Felgenhauer,
<http://virtualcollector.blogspot.com/2008/08/russian-analyst-predicted-russian.html>

homes⁸⁵. According to the data of 12 September of the the *United Nations High Commissioner for Refugees (UNHCR)* there were 192 000 IDPs registered as a result of Russian-Georgian conflict. 127 000 of them are on the territory of Georgia, 30 000 – on the territory of Tskhinvali region and 35 000 left for North Ossetia⁸⁶. By 27 October part of them – 32 570 IDPs – still cannot return to their places of residence.

Facts of Ethnic Cleansing and Harassment

After occupation of the territory of Georgia by Russian Federation, international organisations and media confirmed the facts of ethnic cleansing, as well as of gross violation of human rights and harassment on the territory of Georgia, namely, in Tskhinvali, Gori, Kareli districts, as well as in Kodori Gorge. Russian and Ossetian soldiers carried out mass destruction of Georgian villages, burning down the houses and mugging the Georgian population.

Statements made by the Ossetian Separatists

Representatives of the separatist authorities did not hide their wish to expel the Georgian population from the villages that is proved by the statements made by them:

- The fact of destruction of Georgian villages was personally proved by the separatist leader Eduard Kokoiti in the interview given to the *Komersant* newspaper on 15 August. He said that ethnic cleansing of Georgians aims at ousting all ethnic Georgians from Tskhinvali region⁸⁷.
- The “Speaker of Parliament” of the separatist government Znaur Gasiev stated to the newspaper *Komsomolskaya Pravda* that “we shall give to arson every house” and that they would do everything to prevent Georgians to return in Tskhinvali (22.08.2008).

Representatives of the international organisation for human rights protection *Human Rights Watch* witnessed the facts of burning, mugging and destroying of

⁸⁵ <http://hrw.org/english/docs/2008/08/13/georgi19607.htm>

⁸⁶ <http://www.unhcr.org/georgia.html?page=news&id=48ca8d804>

⁸⁷

Interview with the South Ossetian Separatist leader Eduard Kokoity with Russian newspaper “Komersant” from 15 .08.08; No144, and Interview with the Speaker of South Ossetia Separatist parliament Znaur Gasiev with newspaper “Komsomolskaia Pravda” from 22.08.08, <http://www.kommersant.ru/doc.aspx?fromsearch=ef093ba1-b275-41da-8576-5d73596075da&docid=1011783> and <http://kp.ru/daily/24150/366813>

Georgian villages by the Ossetian armed forces in Tskhinvali region⁸⁸. The report describes the facts of attacks⁸⁹, murders, robbery and mugging of the peaceful population. These facts are also discussed by the international NGO Amnesty International⁹⁰. According to the Russian human rights organization “Memorial”⁹¹ part of the Georgian villages were nearly all burnt down or damaged. One can clearly observe the facts of annihilation of the villages of ethnic Georgians on the photos of UNOSAT of the United Nations Organization⁹².

Situation in the Buffer Zones

Aggression of Russian Federation went beyond the borders of Abkhazia and Tskhinvali region and also carried out occupation of other territories of Georgia. According to the International Humanitarian Law, Russia, as a part of conflict, is liable to ensure peace and security on the territories occupied by it. Otherwise, it should be responsible for breaching the laws of war.

According to AI, after Ossetian band formations backed by the army of Russian Federation destroyed Georgian villages in the conflict region, robbed ethnic Georgian population, they moved to the villages outside the conflict zone – in Gori and Kareli districts. In the “buffer zones”, controlled by the Russian military forces, robbery, attacks and terror on ethnic basis of the peaceful population, was a normal thing⁹³.

⁸⁸ *Human Rights Watch: Russia inflating casualty figures*, Tom Partfitt, [The Guardian](http://www.guardian.co.uk/world/2008/aug/14/georgia.russia1), August 14, 2008
<http://www.guardian.co.uk/world/2008/aug/14/georgia.russia1>

⁸⁹ Akhlagori Hospital medical personnel told to the representatives of Human Rights Watch, that at the beginning of November the citizen of the village of Kanchaveti, ceratin Tamaz, was brought to the hospital with bruises and other multiple injures. He was in a very difficult condition. According to him several armed persons tried to steal his sheep. After resistance the armed persons beat him brutally and he was taken to the hospital.

On 20 November representatives of Human Rights Watch attended a funeral, which was hindered by aggressive, supposedly drunk Russian soldiers. They threatened musicians. Mrs Tokshina is demanding from the Russian authorities to react on similar facts.

Akhlagori Hospital medical personnel told to the representatives of Human Rights Watch, that in mid November they had a patient at the hospital, 83 years old Ilo, citizen of the village of Korintha, who was brutally beaten by men in military uniforms because he kept the portrait of Saakashvili, his President, on the wall of his house.

⁹⁰ <http://www.amnesty.org/en/library/asset/EUR56/007/2008/en/4dfeef19-6a25-11dd-8e5e-43ea85d15a69/eur560072008eng.html>

⁹¹ Memorial“ Human Rights Center 11.09.2008

⁹² <http://unosat.web.cern.ch/unosat/>

⁹³ <http://www.amnesty.org/en/news-and-updates/news/the-human-cost-of-war-in-georgia-20081001>

According to the conclusion of 22-29 August 2008 of the Commissioner for Human Rights of the Council of Europe Thomas Hamarberg⁹⁴, the situation in the buffer zones is out of control, which further increases the number of IDPs.

Melic Caylan of the Wall Street Journal (WSJ) saw the annihilated villages, dead bodies and burnt cars, as well as the St. Nikozi Church⁹⁵ robbed and destroyed as a result of Russian aggression. According to the information of International Herald Tribune (IHT) total impunity is prevailing in the “buffer zones” controlled by the Russians. The emptied villages are catching one’s eyes. Nearly all ethnic Georgians have left their houses. The shops and pharmacies do not work. Ossetian separatists with the content of Russian military rob and burn the houses of ethnic Georgians, - says the “Herald Tribune”.

Russian military had been preventing observers from the OSCE and UNHCR for 10 days to enter the ‘buffer zones’ in order to hide unlimited lawlessness prevailing there. They did not want anyone to see situation there. A wide spectrum⁹⁶ of the international media confirms the facts of ethnic cleansing of Georgian population, violation of human rights, demeaning of dignity and harassment.

AI refers to the shortcomings made by the armed forces of Georgia, especially regarding the aimless artillery attack, which, according to them, caused significant damage to the ethnic Ossetian civil population and Tskhinvali. They have also fixed one fact of an attempt to take a hostage. At the same time, the questioning of the population made it clear that Georgian soldiers duly treated women and children.

Thomas Hamarberg saw the collective center of IDPs in Tbilisi. After investigating the site and according to the evidences of the IDPs living in the centre the

⁹⁴ ლებორტ ონ უმან ლივკტს ინ ტჰე ცონფლიცტ ზონე ბე ტჰე ჩომმისიონერ ოფ უმან ლივკტს თჰომას ამჰაერბერგ, 08.09.2008, შტრასბურგ (Vლადიკავკაზ, თსკჰინვალი, ორი, თიბლისი ანდ ოსცოწ, 22-29 უგუსტ, 2008)

⁹⁵ The Wall Street Journal, 24.09.2008

⁹⁶ **REUTERS** 01 October 2008; **RADIO FREE EUROPE** 30 September 2008; **THE ECONOMIST** 25 September 2008; **THE WALL STREET JOURNAL** 24 September 2008; **DAILY TELEGRAPH** 15 September 2008; **CHICAGO TRIBUNE** 14 September 2008; **ASSOCIATED PRESS** 14 September 2008; **INTERNATIONAL HERALD TRIBUNE** 11 September 2008; **REUTERS** 11 September 2008; **THE GUARDIAN** 4 September 2008; **THE NEW YORK TIMES** 2 September 2008; **BBC** 31 August 2008; **ASSOCIATED PRESS** 30 August 2008; **FINANCIAL TIMES** 30 August 2008; **THE TIMES OF LONDON** 30 August 2008; **ASSOCIATED PRESS** 29 August 2008; **THE TIMES OF LONDON** 28 August 2008; **BBC NEWS** 25 August 2008; **LOS ANGELES TIMES** 24 August 2008; **Le Monde** 28 August 2008; **Le Monde** 28 August 2008; **La Croix** 19 August 2008

Commissioner admitted in the conclusion that IDPs had to survive in very difficult conditions⁹⁷. There were cases when IDPs were forced to return. According to the Commissioner a certain part of the IDPs was reluctant to return as there were no guarantees of safety for them as well as due to the unexploded cluster bombs and mines.

Thomas Hamarberg has noted in his conclusion that it is essential to protect fundamental human rights and all those rights which are indicated in the European Convention on Human Rights (ECHR). It presented 6 principles for the protection of human rights and safety of the population:

- 1) Ensure the return of the IDPs. This principle implies provision of safety of the returned persons and urgent repair of the damaged houses in order to bring them to the condition of convenience for living. These persons should be kept informed. No one should be forced to return.
- 2) To ensure IDPs with accommodation before their return. This principle envisages to provide both material, social and psychological assistance to the IDPs;
- 3) To ensure demining of all territories; neutralization of all plastic bombs, shells or other dangerous explosives; marking of all dangerous places. Both sides are liable to declare what kind of weapons they used, where and when;
- 4) To stop attacks, robbery and raids; to institute proceedings against those committing crime and punish correspondingly; solve problems existing in “buffer zones”;
- 5) To free hostages and war prisoners and ensure their security; hold negotiations on the above issue and, if needed, involve international community efforts;
- 6) To involve international observers and representatives in the process of conflict resolution; extend representation of the OSCE Mission; support activities of UNHCR, UNICEF, and ICRC; protect minorities in the above mentioned regions.

The Decision of the International Court of Justice of 15.10.2008

After the August events, on August 12, 2008, based on the “International Convention on Elimination of all Forms of Racial Discrimination” (CERD), Georgia entered a claim against Russia to the International Court. At the Court the

⁹⁷ By 29 August

Georgian side stated that Russia is responsible for ethnic cleansing and support of separatist groups existing on the territory of Russia.

On September 8-10 the oral hearing of the case was held, Georgia presented all the available evidence (testimonies, conclusions of international NGOs, satellite photographs, etc.).

On August 15, 2008, the Court made a decision on temporary measures. Namely, the Court stated that the both parties will refrain from any form of racial discrimination; the both parties will not impede the provision of the humanitarian assistance; and the both parties will respect each other's rights⁹⁸.

Facts of violation of humanitarian norms

The Armed Forces of Georgia

International Nongovernmental Organizations – *Human Rights Watch (HRW)* and – *Amnesty International (AI)*⁹⁹ distribute information that there were facts of indistinguishable civilian targets bombing from Georgian side.

According to AI information, bombing of Tskhinvali by Georgian Armed Forces on August 7 and 8 caused significant damage to the city, caused civilian victims, however, representatives of the both organizations declared that it was not a goal of the Georgian Armed Forces do damage civilian population. Their goal was to suppress the fire points of the adversary. The Ossetian units choose their location nearby civilian population that is direct violation of the international Humanitarian Law. Attacks on the Georgian units were conducted from residential buildings in the center of the city. It is mentioned in the report of the Organization that despite the fact that population was not the target of Georgian units, their artillery shots, especially with “Grad”¹⁰⁰ type devices were not accurate, in certain cases they missed the target for 100-150 meters and injured civilian population. AI declares that bombing by Georgia of Dzara road that was used to bring in the Russian troops, could cause victims among civilian population, since the same road was

⁹⁸ *International Court of Justice Grants Georgia's Request to Order Russia to Stop Ethnic Cleansing*, Foley Hoag US NEWSWIRE, Oct. 17, 2008

See attachment 21, www.icj-cij.org

⁹⁹ *Civilians in the Line of Fire: The Georgia Russia Conflict*, Amnesty International Report, November 2008, http://www.amnesty.org.uk/uploads/documents/doc_18989.pdf

¹⁰⁰ By the testimony of the Chief of Joint Staff Col Zaza Gogava, only accurate targeting artillery weapon “Dana” was used for suppression on fire points in Tskhinvali.

used for evacuation of the Ossetian population. At the same time, AI has no accurate information if there was any civilian population on the Dzara road during the Georgian Armed Forces artillery attack.

It is mentioned in the HRW report that when taking vil. Khetagurov, Georgian units used “Grad” type artillery devices that caused small number of casualties among civilian population. At the same time, by the information provided by the Ossetian population, Georgian soldiers thought that the village was empty. The interviewed witnesses refused any kind of violence or disparagement. AI conclusion proves the same.

The information distributed on August 8 by the Ministry of Defence of Russian Federation about killing of 2000 civilians is not proved. The HRW representatives declare that this number is overstated and not true. Later, on August 21, the Prosecutor General of Russian Federation named the new number of killed – 133¹⁰¹. At the same time the NGO “Memorial” and HRW reports make clear that the great majority of separatist victims were among the members of armed units and not among civilian population¹⁰². This propaganda of Russian Federation was aimed on even more strengthening the conflict by arising desire for violence among Ossetian troops¹⁰³.

The Armed Forces of Russian Federation

The AI representatives received the information about the facts of deliberate attacks on the civilian population from Russian side:

- On August 12, on the central square of Gori as a result of the bomb explosion a journalist from the Netherlands and seven Georgian citizens were killed. The fact of killing of one journalist from the Netherlands and wounding of the other is proved by the statement¹⁰⁴ of the Minister of Foreign Affairs of the Kingdom of the Netherlands. As a result of research made by appropriate agencies was found out that Storimans was killed as a result of bombing of Gori with cluster bombs by Russian Air force. The

¹⁰¹ <http://www.interfax.ru>, 20.08.2008

¹⁰² [Georgia/Russia: Update on Casualties and Displaced Civilians](#), Human Rights Watch

¹⁰³ *Russia exaggerating South Ossetian death toll, says human rights group*, Tom Parfitt, Guardian, 13 August 2008, <http://www.guardian.co.uk/world/2008/aug/13/georgia>

¹⁰⁴ *Dutch cameraman was killed by Russian cluster bomb*, Press- release, Ministry of Foreign Affairs of Netherlands, <http://www.minbuza.nl/en/news/newsflashes,2008/10/Dutch-cameraman-was-killed-by-Russian-cluster-bomb.html>

Minister of Foreign Affairs, Mr. Verhagen gave very strong evaluation to this fact and stated that the use of such bombs is inadmissible, especially in the places with peaceful population.

- AI has the information about Russian aircraft bombing of Georgian peaceful population in the process of evacuation.
- The AI representatives talked with two casualties. They said that on August 12, at 11.00 they were shot by Russian soldiers nearby Akhagori from close distance.

Cluster Bombs

HRW¹⁰⁵ has strictly criticised Georgian, as well as the Russian sides for use of cluster bombs. By the information of organizations, 17 civilians were killed and tens were wounded due to the use of those bombs. The most of them were victims of blows conducted from the Russian side.

Cluster bombs used by Georgian Army were found in the villages Tirdznisi and Shindisi. According to the data of the Organizations, there were no Russian units at that time on the territory. Probably, the bombs were there due to the technical defects of the artillery devices. As a result, one person was killed and two were injured.

The Ministry of Defence of Georgia could not explain how these bombs happened to be at these places. According to its explanation, cluster bomb attack was conducted between Tskhinvali and Rocki tunnel were the live force of Russia and its technical equipment was brought in. At the same time, the Ministry expressed readiness to cooperate with the international organizations to research the issue.

The Russian Government refuses use of cluster bombs, however AI and HRW representatives heard testimonies and saw factual evidence, according to which, cluster bombs were used in Kvemo Kviti, Tirdznisi, Tkviavi, Pkhenisi, Kekhvi, Ruisi, Akhagori and also Gori downtown (as a result, Dutch journalist was killed).

According to the information from the Minister of Internal Affairs, Russian Federation used ballistic rockets “Iskander” SS-26 and “Tochka U” SS-21 against

¹⁰⁵ [Georgia: More Cluster Bomb Damage Than Reported](http://www.hrw.org/en/news/2008/11/04/georgia-more-cluster-bomb-damage-reported), Human Rights Watch, November 4, 2008, <http://www.hrw.org/en/news/2008/11/04/georgia-more-cluster-bomb-damage-reported>

Georgia. This data is confirmed by Russian NGO “Memorial” and information published in the international¹⁰⁶ and Russian¹⁰⁷ Media means.

The Commission studied Iskander type cluster bombs and remnants of ballistic rockets dropped in Gori downtown and Poti. Unfortunately, due to the occupation of Tskhinvali region by Russian Federation, the members of the Commission had no possibility to research facts of indistinguishable artillery bombing by the Georgian Armed Forces and cluster weapons’ use on the ground.

Legal evaluation of the military aggression conducted by Russia and its consequences.

Russia explained the start of the conflict by four main reasons: 1. To stop aggression of Georgia towards the population of South Ossetia; 2. To stop and avoid the ethnic cleansing; 3. To protect citizens of Russia and 4. To protect citizens, living in South Ossetia based on the Peacekeeping Agreement (Agreement of 1992).

1. To stop aggression. This argument was unduly used by Russian Federation, since according to the international law, a violation of a state’s sovereignty, territorial integrity and political independence by another country is considered as aggression (UN Security Council Resolution of December 14, 1974).

2. The fact of ethnic cleansing from the Georgian side was not proved by any observer, and despite military movement through Tskhinvali, these activities were not evaluated as ethnic cleansing by anyone. Thus, this issue is also excluded and, on the contrary, there is an issue of ethnic cleansing performed by Russia against citizens of Georgia, especially against ethnic Georgians. Georgia has already appealed to the International Court of Justice and asked to evaluate Russian aggression. Appeal is also sent to the Human Rights European Court based on the articles 2 and 3 of the Convention.

¹⁰⁶ *Russia moves SS-21 missiles into Georgia: US defense official*, Agency France Press, August 18, 2008, <http://afp.google.com/article/ALeqM5hjzs8qJNzCluzDwTXuyYWibfO9g>

¹⁰⁷ *На грузинское село в Южной Осетии упала тактическая ракета*, Елена Милашина, 09.09.2008, Новая газета, <http://www.novayagazeta.ru/news/318493.html>

3. Protection of the Russian citizens. Rising of the issue of “protection responsibility” as a reason of protection of Russian citizens does not correspond the requirements and practice of the international law. As a matter of fact protection responsibility exists for the country that has to protect its citizens and asks other states to help it. Other kind of interference is admissible only in the case where the state has ability or desire to protect its citizens. This tool is not used, when the state makes decision without any agreement, to protect its citizens outside its borders. Such actions are qualified as “defence” according to the article 51 of the UN Charter. In this case Russia had to take measures beforehand and had to prove the fact that Georgia caused danger to the citizens living in South Ossetia and this danger was actual.

Mentioning of the “protection responsibility” is not correct also because there was no UN Security Council resolution that would give Russia the right of interference. In 2005 the position of General Assembly on this issue was clearly shown. Namely that interference, based on the protection responsibility, should occur only based on the resolution of the Security Council.

4. Erroneous is also appeal to the Peacekeeping Agreement. According to the Peacekeeping Agreement Russia is assigned a function of monitoring. The Agreement was completed between the Presidents of Russia and Georgia and the leaders of Autonomous units acceded. The goal of the Agreement was to stop the conflict and perform demilitarization in the region of the conflict, withdrawal of armed troops and bringing the Peacekeepers in. There was nothing written about military interference in the Agreement and that is why it is not relevant to the situation.

5. The five parameters are identified for the use of force by international standards and the force can be used in case of occurrence of these parameters (Hague Convention, 1970), but only by interference of of the UN Security Council. One state cannot make such decision.

5.1 The seriousness of threat. No reliable international source proves international crime committed by Georgia; based on this, the interference does not satisfy a criterion of a serious threat.

5.2 Interfernece as a main goal. It is clear now, that the main goal of the military operation was not a peacekeeping and protection of the population of South Ossetia, but had more far-reaching goals.

5.3 Use of military force as a last effort. Russia used military force immediately, without trying to use international tools. It only once addressed the Security

Council, but the resolution was not carried at that day on August 7, since Russia did not support consideration of Georgian territorial integrity by the resolution.

5.4 The Principle of the proportional interference. Any military interference should be proportional, that was indisputable violated by Russia.

5.5 Interference should bring more positive results than harm. This criterion was not satisfied as well.

Correspondingly, the intervention of Russia can be considered as a rough violation of the article 2 of the UN Charter

Violation of legislation of the Russian Federation

According to the constitution of Russian Federation, use of the Armed Forces outside the country, is admissible only with consent of the upper chamber of the legislative body¹⁰⁸ – the Council of Federation. Based on the study of the facts, the Commission made a conclusion that the Council did not issue an appropriate Act neither during the military activities nor after them.

The legal evaluation of the recognition of the independence of Abkhazia and Tskhinvali region

On August 26, 2008, the President of Russia signed the Decree recognizing the independence of separatist regions – Abkhazia and so called South Ossetia (Tskhinvali region). To prove the legitimacy of made decision, the President of Russia brings the UN Declaration of 1970 and the OSCE Conclusion Act of 1975. It is known, that in these very legislative Acts there are the 10 Principles of the international law given, that are the most important origin of the contemporary international law, its inner basis, they are overall recognized and universal; all the states have to keep the requirements of these Principles.

Now let us see how the Decree of August 26, 2008 meets the overall acknowledged rules and principles of international law.

1. The Decree of the President of Russia, first of all contradicts the Principle of inviolability of state territorial integrity.

Historically an legally Abkhazia and so called South Ossetia are integral parts of Georgia. According to the article 2 of the Constitution of Georgia, the state territory of Georgia is identified as of December 21, 1991, including territories of Abkhazia and so called South Ossetia.

¹⁰⁸ Constitution of Russian Federation , article 120, paragraph 1

Georgia restored its state independence, lost in the last century as a result of Russian aggression and occupation (1921), based on referendum conducted on March 31, 1991 on the whole territory of Georgia, including Abkhazian autonomous republic and former South Ossetia autonomous region. Majority of citizens who had a voting right, including those in the named regions, supported independence of Georgia. Based on this Georgia became a member of the UN with borders, with the territorial conditions that it had when the state independence was restored i. e. including Abkhazia and so called South Ossetia. The territorial integrity of Georgia is recognized by the world states commonwealth including the Russian Federation and international organizations.

The Principle of inviolability of state territorial integrity is violated by the Decree of the President of Russia by recognition of the independence of these two regions, that means taking away from Georgia the territories of these two regions without consent of Georgia.

2. The Decree of the President of Russia contradicts the Principle of inviolability of state borders.

According to this Principle, states consider each other's borders inviolable; and they will refrain from any violation of these borders, will not try to reconsider them and will not have territorial claims. States should refrain from any requests or activities that aim to occupy or usurp the part or the whole territory of any state. The principle of borders inviolability admits only change of borders on a voluntary basis as a result of agreement of the interested states.

The violation of this Principle by the Decree of the President of Russia is that by recognition of independence of the two separatist regions, Russia has unilaterally, without any agreement with Georgia, changed the state borders of Georgia.

According to the international law, any attempt to violate this Principle is considered as a crime.

3. The Decree of the President of Russia contradicts the Principle of non-interference into internal affairs of other states.

According to this Principle no state or group of states has right of direct or indirect interference by no reason into internal and foreign affairs of other state;

armed interference and any kind of interference or any type of threatening against being the subject of law or political, economical or cultural basis are inadmissible.

The violation of this Principle by the Decree of the President of Russia is that by recognition of the independence of two separatist regions of Georgia – Abkhazia and so called South Ossetia, Russia self-voluntarily made decision on the status of regions of other state – Georgia, that is to be decided by Georgia only. The Decree of the President of Russia is aimed against political basis of the state of Georgia.

The statement of the President of Russia that recognition of the independence of the two separatist regions of Georgia happened because Georgia “left no hope for Ossetians, Abkhazians and Georgians to peacefully live together in the same state”, can not be considered as a base for the Decree of the President of Russia, since such statement itself, made by the highest official of a state, is rough violation of the Principle of non-interference into internal affairs of other states; no state, including Russian Federation has right to decide territorial-state structure and determine, whether these or those nations will or will not live together in one state.

The violation of the abovementioned Principle is considered as an intervention by the contemporary international law.

4. The Decree of the President of Russia contradicts the Principle of sovereign equality of states.

According to this Principle, every state, despite the size of its territory and number of its population, political, economical or military strengths is equal in front of the international law. Based on this, states have to respect sovereign equality of each other, and all the rights of their sovereignty, including rights of legal equality, territorial integrity, freedom and political independence of each state. No state has right to enforce its rule over other state or put itself to the privileged situation.

The violation of this Principle by the Decree of the President of Russia is that by recognition of independence of the two separatist regions, i. e. by issuance the unilateral Act, Russia proved that it does not consider Georgia as a subject legally equal in rights and puts itself into privileged situation damaging Georgian sovereignty.

5. The Decree of the President of Russia contradicts the Principle of peaceful resolution of international controversies.

According to this Principle, every state has to solve its international controversies with other states by peaceful means, not to create any threat to international peace, security and justice. According to this, states that are parties of international controversy and also other states, have to refrain from any activity that may complicate the situation as much as causing threat to the protection of international peace and security.

Russia, that from the very beginning was the participant and the party of the conflicts inspired by separatist forces armed and managed by Russia in Abkhazia and Tskhinvali region, for about 15 years rejected all the proposals of peaceful resolution of these conflicts proposed by the Government of Georgia, UN, OSCE and other international organizations. Against this background the unilateral recognition of the independence of the two separatist regions by the Presidential Decree will not support peaceful management of Russian-Georgian relationship (as requested by the abovementioned Principle of the international law), but, on the contrary, will worsen the present complicated relations so much, that there will be a real threat to protection of international peace and security.

6. The Decree of the President of Russia contradicts the Principle of equality and self-determination of nations.

According to this Principle every nation has right of self-determination, based on which they freely form their political status and freely provide their economical, social and cultural development.

At the same time, exercising of the right of self-determination should not result in the separation or violation of territorial integrity of sovereign and independent state. Each state should refrain from any action that is aimed on partial or whole violation of national unity and territorial integrity of other state.

The president of Russia followed only the first part of this Principle when he named it as a base for recognition of independence of Abkhazia and so called South Ossetia at the referendums, conducted by these separatist regimes, where Abkhazian and Ossetian peoples wills were expressed about independence of their recognized republics and based of which their leaders appealed to Russian Federation with the request to recognize their independence.

Neither referenda, conducted in the separatist regions, nor requests of their leaders will be legitimate for the following reasons: referenda in these separatist regions were conducted after the ethnic cleansing, after which, for example from Abkhazia, about 250 000 Georgians, about 100 000 people of other nationality and half of Abkhazian population (about 40 000 Abkhazians) were driven out; that is why, referendum conducted after the ethnic cleansing may not express the will of people living in Abkhazia and so called South Ossetia and the will of Abkhazians and Ossetians themselves. Nor so called Presidential and Parliamentary elections, conducted among the population, left after ethnic cleansing are legitimate. Acts and appeals, issued by these *de facto* leaders have no legal force. The clear proof of it is the OSCE Istanbul Declaration (1999), where it is said: “We deem it illegal and inadmissible, to conduct so called Presidential elections and referendum this year in Abkhazia, Georgia”. As we have already mentioned, this declaration was received with participation and confirmation of Russian Federation itself. The self-determination of nations should be performed by participation of the given state in the Constitutional system, based on the respect of its territorial integrity. That is why, during the conflict in Chechnya, where plenty of peaceful population was killed, Western countries expressed their concern about the disproportional use of force, but they always mentioned that this was internal affair of Russia. That is why International Commonwealth of nations refuses recognition of states self-established by separatists as a result of ethnic cleansing and requests definition of the status of Abkhazia and Tskhinvali region as integral parts of Georgia only within the internationally recognized borders

Let us remember the document about Georgia recently adopted by the EU on September 1, 2008. In this document, the European Union condemns Russian unilateral decision on recognition of the independence of Abkhazia and South Ossetia and calls upon the other countries not to recognize the declared independence. At the same time the EU states that the peaceful resolution of the conflict of Georgia should be based on the protection of the independence, sovereignty, and territorial integrity of Georgia, recognized by the international law.

Taking the abovementioned into consideration, the violation of the Principle of equality and self-determination of nations with the Decree of the President of Russia is expressed through the fact that on the basis of illegitimate referendum conducted among the population remaining after the ethnic cleansing in the separatist regions with the alleged motivation of falsely understood right to self-

determination, recognition of the independence of two separatist regions of Georgia – Abkhazia and so called South Ossetia – violated the territorial integrity and political unity of the sovereign state of Georgia.

7. The Decree of the President of Russia, contradicts the Principle of conscientious performance of liabilities, identified by the international law

According to this Principle, states have to conscientiously perform liabilities, resulting from overall recognized rules and principles of the international law and also the liabilities that they have taken according to international law treaties or other agreements. Based on this, a state has no right to avoid performance of liabilities, that result from the rules of international law, and also has no right to name own inner rules of law or any other condition as a reason of failure to perform. State has to adjust its legislation and administrative rules in accordance with the international law liabilities.

Not only overall recognized rules and principles of international law are violated by the Decree of the President of Russia, but also international treaties and agreements, made with participation of Russia, where Russia recognizes sovereignty, territorial integrity and inviolability of borders of Georgia (Moscow declaration “On Protection of Sovereignty, Territorial Integrity and Stability of Borders of Commonwealth of Independent States’ member states” of April 15 of 1994).

8. The Decree of the President of Russia, contradicts the Principle of cooperation between states.

According to this Principle states, despite difference of their political, economical and social systems, have to cooperate with each other in different fields of international relations to protect international peace and security.

The violation of the abovementioned Principle is that by the fact of recognition of Abkhazia and so called outh Ossetia, Russia proves its benevolence and support of aggressive separatism, prefers cooperation with the *de facto* Governments of self-constituted republics, founded as a result of ethnic cleansing, instead of cooperation with Georgia as a neighboring, sovereign, UN member state to protect international peace and security.

9. The Decree of the President of Russia contradicts the Principle of respect of human rights and main liberties.

According to this Principle states recognize the overall importance of human rights and main liberties the respect of which is the substantial factor of peace, justice and welfare and is necessary for development of friendly relationship and cooperation between countries .

The violation of this Principle by the Decree of the President of Russia is that after recognition of independence of Abkhazia and so called South Ossetia, it will be impossible to eliminaty results of ethnic cleansing, hundreds of thousands of Georgian refugees will loose the right to return to their houses, return their property, right to vote and execution of other human rights. Even more, the Decree of the President of Russia gave start to the new wave of ethnic cleansing of Georgian population who stayed in the region. Due to this, lives and other main human rights of tens of thousands of Georgian citizens became unprotected.

As it was mentioned above, the President of Russia named as one of the reasons of issuance of his Decree, facts of massive violation of human rights and facts of genocide commited by the Government of Georgia in the region of conflict and thus justified Russian intervention to the neighboring country. The main part of the Principle of respect of human rights is provision that prohibits use of coercive measures to protect human rights in another state. This is possible only in case when the UN competent body considers that in the specific state massive and systematic violation of human rights occurs that is considered as violation of international law. No competent body of the UN made any decision and correspondingly, did not give any right to Russia to fight the facts of human rights violation in the neighboring country with military force.

Peacekeepers located by Russia in Abkhazia and so called South Ossetia, instead of completion of peacekeeping mission, became active supporters of separatist regime and actually operated as border guards of these regions.

10.The Decree of the President of Russia contradicts the Principle of prohibition of force threatening and use of force.

The violation of this Principle is proved by the letter about events in Tskhinvali region of the Chairman of the Constitutional Court of Russia V. Zorkin, published in the newspaper “Rossiiskaya Gazeta”. V. Zorkin calls military actions conducted by Russia in Georgia the operation of peace enforcement and writes that in common, operations like this are conducted with the UN Security Council sanction, but in this case if Russia waited for the special mandate from the UN, many peaceful people would be killed, mainly citizens of Russia. According to the President of Russia and the Chairman of the Constitutional

Court of Russia V. Zorkin, Russia has the right to bring in Army, Air Force and Navy to any country, bomb centers of population, destroy the infrastructure and occupy territories of the country by reason of protection of Russian citizens (however, those, living in Tskhinvali region and Abkhazia became Russian citizens by illegal distribution of Russian passports) or violation of human rights. This is a complete profanation of respect of human rights and rough violation of the Principle of prohibition of force threatening and use of force.

Aggression that is the crime against the peace is considered to be the most dangerous activity of use of force. Aggression is the use of Armed Forces of the country against the sovereignty, territorial integrity and political independence of another country. Starting from August 7, 2008, activities performed by Russia towards Georgia may be evaluated only as military aggression and occupation of the territories of Georgia that again caused turning out of about 25 000 of Georgians from Upper Abkhazia and 30 000 – from Tskhinvali region – as ethnic cleansing. Many peaceful citizens are killed and their houses destroyed. The ethnic cleansing in international law is considered to be a crime against humanity and expression of genocide. In recent times genocide and ethnic cleansing are the main tools of aggressive separatism. Separatism is the supreme form of organized crime. Russia with the idea of fighting for independence supports and justifies separatism, ethnic cleansing, killing of population, destroying of property and foundation of state by illegal way.

According to the rules of international law, Georgia is not only authorized but liable with all means, including enforcement to stop any fact of genocide and ethnic cleansing, especially when facts of ethnic cleansing are proved by competent international organizations.

Based on this, the order of the President of Georgia on protection of the civilian population and start of special military operation has to be considered necessary.

On August 25, 2008 in the address to the President of Russia, Katholikos Patriarch of whole Georgia, Elia the II said: “Recognition of the independence of Abkhazia and Tskhinvali region by Russia, supports separatism in the world and that is why the international community has to rise the voice against it. Separatism is contagious, centrifugal, terrible force that destroys the very basement of a state and if it has a serious chance, chaos will be on the Earth.

Small nations are in every state and if they want to achieve a political independence, naturally endless wars will start”.

Activities of the Government of Georgia during the war and deficiencies revealed

According to the Commission, failure to officially delegitimize Russian “Peacekeepers” can be considered the main deficiency in the period before August. The invited persons reported the Commission, that the Government, in regard of this issue, starting from spring 2008 (this issue was discussed on high political level in March-April), took into consideration advices of allies and did not take this step that is confrontational in our allies’ opinion, to avoid risk of abrupt escalation and further tension of the situation. In the context of international relations of Georgia the constructive approach to the issue of “Peacekeepers” could not stop Russian Federation. Russian Federation used its “Peacekeepers” contingent as a full scale participant of the aggression against Georgia – on the one hand they used the “facts” of attack on the “Peacekeepers” as one of the reasons to start aggression and on the other hand – the attack on Georgian population was conducted from their headquarters.

From the hearings, conducted by the Commission it becomes clear, that the Government of Georgia did not expect and was not ready for the aggression that in big scale that was conducted from Russian side against Georgia in August 2008. The Intelligence services and the National Security Council members had alerts about possible attack on Upper Abkhazia or Tskhinvali region Georgian villages, but **the entrance of Russian active forces through the Rocki tunnel on August 7 and especially the escalation of aggression from the side of Russian Federation turned to be of unexpected scale.**

The fact is to be mentioned, that during months all the appropriate officials had the information about expected escalation and complication of the situation, but the appropriate analysis of the expectable threat failed to be done, the large scale military exercises conducted by the Russian Federation next to Georgian borders by the end of June and increased number of skirmishes in the conflict zone were understood as a traditional wave of provocations. Correspondingly, it is clear that the National Security Council failed to timely plan activities that would be adequate to the expected situation and after, starting from August 7, they had to act in a force-majeure situation. **Even more, the Concept of National Security,**

erroneously, as it is clear now, admitted the threat of large scale intervention from Russian Federation with very low probability. By the explanation of the representatives of the Government, all the important allies of Georgia put issue to exclude high probability of Russian attack from all the conceptual documents as a confrontational approach.

On August 7 the National Security Council members had an information about bringing in of additional military contingent from Russia through Rocki tunnel; the information about this was distributed by the Ministry of Foreign Affairs on August 7 by afternoon. **However, now it can be said, that intensity of the information delivery both to wide international audience and inside the Country, was not appropriate. The Government, during the first hours, only quickly informed the international governmental and diplomatic groups on the August 7 intervention.** By the explanation, the reason for this is that after the August 7 morning intervention, during the first hours, Georgia tried to localize the conflict from the political point of view parallel to military localization of the intervention at the conflict zone. However, on August 8 Russian attack and bomber aircrafts acted on the whole territory of Georgia.

Parallel to the complication of the situation, the Government created several centers for the management of the situation. The members of the National Security Council met at a permanent basis. At the Parliament of Georgia according to the situation, Parliament members' groups were created to work on rising issues (help to refugees, logistics, study of facts of aggression and ethnic cleansing, relation with Media, etc.). They operated in economical, foreign and security directions. Despite the fact that such force-majeure technique had its practical result – it was managed to provide an uninterrupted supply of the whole Country with food products, fuel, medicines during the crisis, there was no lack of food products or financial panic – it is to be said, that **formalized, established way of the Governmental management during the emergency situations means acting with different tools.**

It is to be mentioned, that there is a Regulatory Act in the Country – the Decree of the Government of Georgia on creation of the special Governmental Commission, which identifies functions and activities of the members of the Government during the crisis and emergency situations. **No such Commission was created in regard of the August events** that caused a non coordinated activity of the members of the Government.

The clear example of negligence to act according the established rule is a **non adequate activity of the leadership of Abkhazian legitimate structures in the period of aggression**. For example, decisions on the evacuation of the population and Police units from Kodori gorge had to be solely made by the Minister of Internal Affairs Ivane Merabishvili; and the Chairman of Autonomous Republic of Abkhazia, Malkhaz Akishbaya could not manage to go up to Upper Abkhazia to Kodori gorge at all; the Chairman of the Supreme Council of Abkhazia, Temur Mzhavia left Kodori gorge on August 9. Study of the activities of the legitimate government is beyond the competence of the temporary Commission, that is why the stenogram of Mr. Akishbaya's testimony will be sent to the prosecutor's office of Georgia for legal response on the mentioned fact.

The Head of Foreign Intelligence Special Service Gela Bezhuashvili reported the Commission that in the period after war, he found the **information, important from the point of view of the economical security of the country**, that he passed to the Minister of the Economical Development. Later Mr. Bezhuashvili corrected this information and said that the recipient of the information was the Minister of Energetics. Research of how adequate the response of the Minister of Energetics and decisions made based on this information were, is beyond the competence of the Commission and these materials are sent to the Prosecutor's Office of Georgia for legal response on this issue.

Vulnerabilities of the **Ministry of Foreign Affairs** were also revealed. There is no plan developed or any written instruction for the Ambassadors to act in the emergency situations, there is no adequate control over their activities. The proof of it are the explanatory notes of the Ambassador Extraordinary and Plenipotentiary of Georgia to Russian Federation requested by the Commission from the Ministry of the Foreign Affairs, that do not reflect any threat expected from Russia that proves negligence of the Ambassador. **There are significant deficiencies of HR policy**. During the August war there was a case when the Ambassador Extraordinary and Plenipotentiary to Czech republic Lado Tchipashvili stopped performance without permission. Beyond any criticism is the activity of the Ambassador Extraordinary and Plenipotentiary to Russian Federation Erasti Kitsmarishvili. When Georgia called the Ambassador from Russian Federation for consultation, after Russia violated the air space of Georgia on July 10, he, the acting ambassador, criticised his country in public and after August 6 never contacted the Ministry of Foreign Affairs even to receive an information.

From the same Ambassador the Commission received the information about the political group existing in Georgia that **by distribution of disinformation** about the US position, **incited the Governmental officials to restore the territorial integrity of Georgia by coercive methods**. To check this information the Commission listened to the President of Georgia, representatives of the Ministry of Foreign Affairs, the Minister of Internal Affairs and the Minister of Defence who did not confirm the existence of such group. The stenogram of testimony of the former Ambassador Erasti Kitsmarishvili was sent to **the Prosecutor's Office of Georgia to take legal response on the fact**.

Serious deficiencies were revealed in the field of Defence. Based on the information received from the Chief of the Joint Staff it was clarified that there were problems **in the system of military communication**. Despite the fact that the Army was equipped with the appropriate contemporary technical equipment, there were not enough trainings conducted to provide use and uninterrupted operation of the technical equipment and this was seen during the military operations.

It is worthy to be separately mentioned the **system of reservists**. The military operations revealed **complete inadequateness of this system at every level** – at the level of functional concept as well as at the levels of planning, preparation and operations completion.

During the first hours of military activities, **due to the insufficient readiness in terms communication strategy of the ministry of Defence and no coordination in terms of release of information**, the non coordinated statement of General Mamuka Kurashvili about “establishment of so called constitutional order” afterwards was used against Georgia in propaganda campaign, however Mr. Kurashvili acknowledges this fact and explained to the Commission that he was under physical and psychological stress.

There was no adequate strategic planning in the Ministry of Defence. The loss of the definite part of the armament was caused by the deficiencies of the officers' HR policy. It is also to be mentioned here, that some of the officers graduated the training course only several weeks prior to the Russian aggression. The Joint Staff had no developed organized plan of withdrawal and had to make decisions in operational mode. This fact shows the poor planning of military operations conducted by the Joint Staff.

During recent years Georgia actively conducted military procurement including those for Air defence. Despite the fact that huge importance of this direction for the

National Security was adequately evaluated by the Defence of Georgia, and additional money was allocated, **additional procurement was not conducted due to the reasons irrespective of Georgia**. Hence, the poor means of the Air defence were maximally used. Study of the mentioned deficiencies is beyond the competence of the temporary Commission, that is why the mentioned issue is to be reviewed by the trust group of the Parliament.

According to the Commission, study of the information given by the Chief of the Joint Staff about the **issue of the evacuation of the Building of the Ministry of Defence** is beyond the competence of the temporary Commission, and is subject of separate agency research. The received information will be sent to the Prosecutor's Office of Georgia for legal response on the mentioned fact.

The answers given by the officials on the questions asked about the Civilian Defence during the work of the Commission show that **the Civilian Defence system does not function adequately and no adequate attention is paid to it**. What about the Plans of Civilian Defence, they mainly do not exist or are just formal – only the Ministry of Health, Labour and Social Security makes the exclusion. During the war activities, Mission I and Mission II of Civilian Defence – notification and evacuation identified by the I additional Protocol of Geneva Convention were fulfilled with significant deficiency.

It is worthy of separate mentioning by the Commission that **the Ministry of Health, Labour and Social Security was the only agency, that acted according the previously developed “Plan of Civilian Defence”**. There is a special Department within the Ministry that provides management of Health resources in the emergency situations. They quarterly check the existing reserves, medical personnel is trained to act in the emergency situations; there was a stock of medicines and blood for 12 000 people; 111 ambulance vehicles, 14 resuscitation vehicles and 43 medical facilities were employed during Russian aggression; 2 300 people were hospitalized, out of those only 3 badly wounded died in medical facilities.

It is to be mentioned, that the **all the high ranking officials of executive and legislative authority of Georgia who were abroad in August on their vacation, came back to the Country at the very beginning of military activities** and nobody left the Country without special task of the President or the Prime-minister (Minister of Energetics travelled to Azerbaijan, Minister of Foreign Affairs visited Brussels).

The commission did not work out specific recommendations for personnel changes, since during the period of working of the commission the Prime-minister, the Secretary of the National Security Council, the Minister of Defence, Minister of Foreign Affairs, the Chief of Joint Staff, military commanders of different ranks and levels, high ranking diplomats left their positions due to such changes.

Recommendations

Since the Russian aggression will be considered to be completed after reintegration of Abkhazia and Tskhinvali region in Georgia and the threat to the sovereignty and independence of Georgia is still big, timely analysis and elimination of the revealed defects is the most important goal of the Georgian Government.

To eliminate the defects revealed in the context of the August war, the Commission developed the following the recommendations:

1. The National Security Council to review the Concept of Security of the Country in order to adequately consider the existing risks;
2. The National Security Council to develop the adequate system of early threat notification;
3. The National Security Council and the Government to develop and summarize the Concept of the Crisis Management Unified Center;
4. The National Security Council and the Government and the appropriate Ministries to develop adequate strategies of communication during crisis;
5. The National Security Council and the Government to review the Concept of Civilian Defence and develop the threat adequate plans of Civilian Defence;
6. To basically review systems of reservists' preparation and mobilization;
7. The Ministry of Defence to take measures for uninterrupted operation of communication systems;

8. The Government of Georgia to take all the possible measures to make up a deficiency of air defence and report results to the trust group of the Parliament on the regular basis;
9. Action directions in crisis situations to be developed for the diplomatic representatives of Georgia;
10. To pay the specific attention to the issue of attraction of the qualified personnel to the diplomatic service and its development;
11. The appropriate committees to be involved into the monitoring of completion of these recommendations;
12. The mentioned systemic problems put up a necessity of crisis changes of personnel in the appropriate agencies among both the military and the diplomatic officials.

Conclusion

On August 7, 2008, after taking over the direct control on the Roki tunnel from Ossetian separatist groups, columns of Russian Federation military forces started massive entrance to the territory of Georgia. At the same time a large-caliber artillery devices started firing at Georgian villages in Liakhvi and Prone gorges.

On August 7, the readiness was declared in the Armed Forces and at 7 p.m. the President of Georgia performed the last try to avoid the war – made public statement – declared unilateral cease fire in the region of conflict.

After separatists did not cease fire, and entrance of Russian military columns through the Roki tunnel did not slow down, the President of Georgia ordered the Chief of the Joint Staff to employ the Armed Forces of Georgia.

The President of Georgia issued the following orders:

- **To stop the intervened military columns;**
- **To suppress the fire points of the adversary;**
- **To protect the citizens.**

The Armed Forces of Georgia and units of the Ministry of Internal Affairs started the operation. To suppress the fire points located in Tskhinvali and Java, aviation and artillery were used.

Starting from the morning August 8, the Army, Navy and Air Force of Russian Federation started military activities on the whole territory of Georgia. The massive offence was conducted on Upper abkhazia. All the regions of Georgia were bombed during days.

Russia named „genocide of Ossetians by Georgians“ as a reason for the large scale intervention and presented the version of „killing of 2000 peaceful Ossetian citizens“, but later, when all the authoritative international organizations and states declared these facts were invented¹⁰⁹, they were taken out from the Russian version too.

As a result of the opposition of the forces, inadequate in regard of quantity and armament, the Georgian forces, according to the order, withdrew to defend the Capital. Despite self-sacrificing fighting of the active forces of Georgia, based on the military situation, it was necessary to withdraw, to defend the last outpost of statehood – Tbilisi.

After the 5 days battle, the military activities were stopped due to the active international interference.

The occupational troops of Russian Federation occupied part of regions of Upper abkhazia, Samegrelo, Shida Kartli, big and small Liakhvi, Prone gorges, Shida Kartli, Mtskheta-Mtianeti, took control over the main road of the country.

Later, after the active international interference, according to the cease fire Agreement, initiated by the President of France Nicolas Sarkozy, Russian Federation withdrew occupational troops from some of the territories of Georgia.

At present, forces of Russian Federation continue to occupy the territories of Georgia. The unlawful occupation extends both to the territories occupied as a result of the XX century 90-ies' events and the territories additionally occupied while 2008 August aggression that make 20 percent of internationally recognized territory of Georgia. Puppet separatist regimes are founded by Russia and with the direct participation of Russian governmental officials.

There were facts of rough violation of human rights, violence towards peaceful population and journalists, robbery, tormenting and shooting of prisoners by representatives of Russian active forces and Ossetian armed groups on the occupied territory. The Commission appeals to the Prosecutor's Office of Georgia to take measures provided by legislation of Georgia against guilty, including representatives of law enforcement agencies, Armed Forces or the Government of Georgia, if the facts of rough violation of human rights are proved.

Russian Federation, contempting the international law, recognized the two independent states on the territory of Georgia – Abkhazia and South Ossetia. Readiness for the same action, out of the subjects of international law, was expressed only by Nikaragua.

The attack of Russia on Georgia was being prepared for years. After unilateral suspension of conventional armament agreement, withdrawal from the embargo regime of separatists support with weapons, after the policy of providing of any kind of open assistance for them, Russia performed military aggression.

Georgia temporarily lost *de facto* control over the occupied territories, but managed to keep its independence and statehood.

Despite the hardest stroke received, Georgia has to continue its development as a sovereign, democratic, civilized state and resolve conflicts with Russian Federation and separatist regimes, ruled by it, by peaceful international tools.

By means of Euro Atlantic integration that was confirmed by referendum of European and Georgian peoples and enhancement of democratic reforms, Georgia has to create firm guarantee of its future security.

This attack against Georgia from Russia, unlike permanent provocations of recent years, was an expression of a completely new scale aggression that caused **immediate and clear danger to the sovereignty of Georgia and security of the population**. Unity of factors of massive military intervention and artillery bombing demonstrated that Russian Federation together with military separatist groups started military activities on the territory of Georgia, and Georgia was forced to **conduct defensive war** to stop these activities.

During the August events the Government of Georgia by its actions managed to stop Russian military aggression. At the same time, significant systemic and

personnel defects were revealed. The Commission believes that these problems should be responded in a sequential and efficient way.