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الجمعية العامة مجلس الأمن



مجلس الأمن
السنة السادسة والسبعون

الجمعية العامة

الدورة الخامسة والسبعون

البند 35 من جدول الأعمال

النزاعات التي طال أمدها في منطقة مجموعة بلدان جورجيا
وأوكرانيا وأذربيجان ومولدوفا وآثارها على السلام والأمن والتنمية
على الصعيد الدولي

رسالتان متطابقتان مؤرختان 26 كانون الثاني/يناير 2021 موجهتان إلى الأمين العام ورئيس مجلس الأمن من الممثل الدائم لجورجيا لدى الأمم المتحدة

أتشرف بإبلاغكم بالحكم الذي أصدرته المحكمة الأوروبية لحقوق الإنسان في القضية المتعلقة بالحرب بين روسيا وجورجيا التي اندلعت في آب/أغسطس 2008، وأن أقدم لكم النشرة الصحفية الصادرة عن قلم المحكمة (انظر المرفق الأول)⁽¹⁾ والبيان الصادر عن وزارة خارجية جورجيا بشأن الحكم المذكور أعلاه (انظر المرفق الثاني).

وقضت المحكمة بأن روسيا انتهكت عددا من مواد الاتفاقية الأوروبية لحقوق الإنسان خلال حرب آب/أغسطس 2008. وقضت الدائرة الكبرى المكونة من 17 قاضيا بأن روسيا مسؤولة عن الانتهاكات الجماعية المرتكبة ضد السكان الجورجيين، حيث أنها تمارس سيطرة فعلية على منطقة تسخينفالي وعلى أبخازيا.

وبناء على ذلك، رأت المحكمة أن روسيا تحتل أبخازيا ومنطقة تسخينفالي، اللتين تشكلان جزءا لا يتجزأ من جورجيا. وعلاوة على ذلك، فإن اعتراف المحكمة الأوروبية بهذه الانتهاكات يؤكد أن روسيا قامت بالتطهير العرقي للجورجيين خلال حرب آب/أغسطس 2008.

ووفقا لحكم المحكمة، انتهكت روسيا الحقوق التالية:

(أ) **حظر التعذيب (المادة 3 من الاتفاقية)**. أقرت المحكمة بمسؤولية روسيا عن التعذيب والمعاملة اللاإنسانية والمهينة لأسرى الحرب والمدنيين الجورجيين. وعلى وجه الخصوص، رأت المحكمة أن

(1) تُعَمَّم باللغة التي قُدِّمت بها فقط.



روسيا مسؤولة عن تعذيب أسرى الحرب الجورجيين، وعن احتجاز نحو 160 مدنيا جورجيا ومعاملتهم معاملة
لاإنسانية ومهينة في مركز الاحتجاز في تسخينفالي؛

(ب) **الحق في الحرية والأمن (المادة 5 من الاتفاقية)**. أدى أيضا الاحتجاز غير القانوني
للمواطنين الجورجيين من جانب القوات الروسية وقوات حكومة الأمر الواقع في منطقة تسخينفالي الخاضعة
لسيطرتها إلى انتهاك الحق في الحرية والأمن؛

(ج) **حرية التنقل (المادة 2 من البروتوكول رقم 4 للاتفاقية)**، **والحق في احترام الحياة
الخاصة والأسرية (المادة 8 من الاتفاقية)**، **وحماية الممتلكات (المادة 1 من البروتوكول رقم 1 للاتفاقية)**.
وافقت المحكمة الأوروبية على الحجج التي ساققتها حكومة جورجيا بشأن التطهير العرقي الذي ارتكبه
روسيا، ووجدت أن روسيا مسؤولة عن أعمال الإحراق والنهب والتدمير المتعمدة للقرى الجورجية في منطقة
تسخينفالي والمناطق المحيطة بها. ونتيجة لهذا التطهير العرقي وفي سياق الاحتلال المستمر، طُرد آلاف
الجورجيين من ديارهم بالقوة، وما زالت حريتهم في التنقل وحقوقهم في الملكية وحقهم في احترام الحياة
الأسرية تُنتهك؛

(د) **الحق في الحياة (المادة 2 من الاتفاقية)**. خلصت المحكمة إلى أن روسيا مسؤولة عن
انتهاك الجزء الإجرائي من الحق في الحياة، لأنها لم تحقق في مقتل السكان الجورجيين أثناء الحرب وبعدها.
وستشرف لجنة وزراء مجلس أوروبا على التحقيق في عمليات القتل هذه؛

(هـ) **لم تتعاون روسيا مع المحكمة (انتهاك المادة 38)**. وجدت المحكمة الأوروبية أيضا
انتهاكا للمادة 38 من الاتفاقية من جانب الاتحاد الروسي فيما يتعلق بالالتزام بالتعاون مع المحكمة. وخلافا
لجورجيا، لم يتعاون الاتحاد الروسي مع المحكمة الأوروبية ولم يقدم أدلة كافية على أعمال عدائية فعلية
للمساعدة في إثبات وقائع إضافية بشأن القضية.

وأرجو ممتنا تعميم هذه الرسالة ومرفقيها باعتبارها وثيقة من وثائق الجمعية العامة، في إطار البند
35 من جدول الأعمال، ومن وثائق مجلس الأمن.

(توقيع) كاها إماندزه

الممثل الدائم

**Annex I to the identical letters dated 26 January 2021 from the
Permanent Representative of Georgia to the United Nations
addressed to the Secretary-General and the President of the
Security Council**



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Press Release

issued by the Registrar of the Court

ECHR 028 (2021)
21.01.2021

**Judgment in the case concerning the armed conflict between Georgia and the
Russian Federation in August 2008 and its consequences**

In today's **Grand Chamber** judgment¹ in the case of **Georgia v. Russia (II)** (application no. 38263/08) the European Court of Human Rights held:

by eleven votes to six, that the events occurring during the active phase of hostilities (8 to 12 August 2008) had not fallen within the jurisdiction of the Russian Federation for the purposes of Article 1 of the European Convention on Human Rights;

by sixteen votes to one, that the events occurring after the cessation of hostilities (following the ceasefire agreement of 12 August 2008) had fallen within the jurisdiction of the Russian Federation;

by sixteen votes to one, that there had been an administrative practice contrary to Articles 2, 3 and 8 of the Convention and Article 1 of Protocol No. 1 to the Convention;

unanimously, that the Georgian civilians detained by the South Ossetian forces in Tskhinvali between approximately 10 and 27 August 2008 had fallen within the jurisdiction of the Russian Federation for the purposes of Article 1;

unanimously, that there had been an administrative practice contrary to Article 3 as regards the conditions of detention of some 160 Georgian civilians and the humiliating acts which had caused them suffering and had to be regarded as inhuman and degrading treatment;

unanimously, that there had been an administrative practice contrary to Article 5 as regards the arbitrary detention of Georgian civilians in August 2008;

unanimously, that the Georgian prisoners of war detained in Tskhinvali between 8 and 17 August 2008 by the South Ossetian forces had fallen within the jurisdiction of the Russian Federation for the purposes of Article 1;

1. Grand Chamber judgments are final (Article 44 of the Convention).

All final judgments are transmitted to the Committee of Ministers of the Council of Europe for supervision of their execution.

Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.



by sixteen votes to one, that there had been an administrative practice contrary to Article 3 as regards the acts of torture of which the Georgian prisoners of war had been victims;

by sixteen votes to one, that the Georgian nationals who had been prevented from returning to South Ossetia or Abkhazia had fallen within the jurisdiction of the Russian Federation;

by sixteen votes to one, that there had been an administrative practice contrary to Article 2 of Protocol No. 4 as regards the inability of Georgian nationals to return to their homes;

unanimously, that there had been no violation of Article 2 of Protocol No. 1;

unanimously, that the Russian Federation had had a procedural obligation under Article 2 of the Convention to carry out an adequate and effective investigation not only into the events which had occurred after the cessation of hostilities (following the ceasefire agreement of 12 August 2008) but also into the events which had occurred during the active phase of hostilities (8 to 12 August 2008);

by sixteen votes to one, that there had been a violation of Article 2 in its procedural aspect;

unanimously, that there was no need to examine separately the applicant Government's complaint under Article 13 in conjunction with other Articles;

by sixteen votes to one, that the respondent State had failed to comply with its obligations under Article 38; and

unanimously, that the question of the application of Article 41 of the Convention was not ready for decision and should therefore be reserved in full.

The case concerned allegations by the Georgian Government of administrative practices on the part of the Russian Federation entailing various breaches of the Convention, in connection with the armed conflict between Georgia and the Russian Federation in August 2008.

The Court found that a distinction needed to be made between the military operations carried out during the active phase of hostilities (from 8 to 12 August 2008) and the other events occurring after the cessation of the active phase of hostilities – that is, following the ceasefire agreement of 12 August 2008.

The Court had regard to the observations and numerous other documents submitted by the parties, and also to reports by international governmental and non-governmental organisations. In addition, it heard evidence from a total of 33 witnesses.

The Court concluded, following its examination of the case, that the events occurring during the active phase of hostilities (8 to 12 August 2008) had not fallen within the jurisdiction of the Russian Federation for the purposes of Article 1 of the Convention and declared this part of the application inadmissible. However, it held that the Russian Federation had exercised "effective control" over South Ossetia, Abkhazia and the "buffer zone" during the period from 12 August to 10 October 2008, the date of the official withdrawal of the Russian troops. After that period, the strong Russian presence and the South Ossetian and Abkhazian authorities' dependency on the Russian Federation indicated that there had been continued "effective control" over South Ossetia and Abkhazia. The Court therefore concluded that the events occurring after the cessation of hostilities – that is, following the ceasefire agreement of 12 August 2008 – had fallen within the jurisdiction of the Russian Federation for the purposes of Article 1 of the Convention (obligation to respect human rights).

Principal facts

The application was lodged in the context of the armed conflict that occurred between Georgia and the Russian Federation in August 2008 following an extended period of ever-mounting tensions, provocations and incidents between the two countries.

In the night of 7 to 8 August 2008, the Georgian forces launched an artillery attack on the city of Tskhinvali, the administrative capital of South Ossetia. From 8 August 2008 Russian ground forces penetrated into Georgia by crossing through Abkhazia and South Ossetia before entering the neighbouring regions in undisputed Georgian territory.

A ceasefire agreement was concluded on 12 August 2008 between the Russian Federation and Georgia under the auspices of the European Union, specifying that the parties would refrain from the use of force, end hostilities and provide access for humanitarian aid, and that Georgian military forces would withdraw to their usual bases and Russian military forces to the lines prior to the outbreak of hostilities.

Owing to the delay by the Russian Federation in applying that agreement, a new agreement implementing the ceasefire agreement (the Sarkozy-Medvedev agreement) was signed on 8 September 2008.

On 10 October 2008 Russia completed the withdrawal of its troops stationed in the buffer zone, except for the village of Perevi (Sachkhere district), situated in undisputed Georgian territory, from which the Russian troops withdrew on 18 October 2010.

The Court found it appropriate to examine the military operations carried out during the active phase of hostilities separately from the other events occurring after the cessation of the active phase of hostilities.

Complaints, procedure and composition of the Court

The applicant Government submitted that:

- the military operations by the Russian armed forces and/or South Ossetian forces during the conflict had breached Article 2 (right to life);
- killings, ill-treatment, looting and burning of homes had been carried out by the Russian armed forces and South Ossetian forces in South Ossetia and the adjacent buffer zone, in breach of Articles 2, 3 (prohibition of torture and inhuman or degrading treatment) and 8 (right to respect for private and family life) of the Convention and Article 1 of Protocol No. 1 (protection of property);
- the South Ossetian forces had illegally detained 160 civilians (mostly women and elderly people) in indecent conditions for approximately fifteen days before releasing them all on 27 August 2008, and some of the detainees had also been ill-treated, amounting to a violation of Article 3 and Article 5 (right to liberty and security) of the Convention;
- more than 30 Georgian prisoners of war had been ill-treated and tortured by Russian and South Ossetian forces in August 2008, amounting to a violation of Article 3 of the Convention;
- the Russian Federation and the authorities of Abkhazia and South Ossetia had prevented the return of about 23,000 forcibly displaced ethnic Georgians to those regions, amounting to a violation of Article 2 of Protocol No. 4 (freedom of movement);
- Russian troops and the separatist authorities had looted and destroyed public schools and libraries and intimidated ethnic Georgian pupils and teachers, amounting to a violation of Article 2 of Protocol No. 1 (right to education); and

- the Russian Federation had not conducted any investigations into the events as regards Article 2 of the Convention.

Lastly, relying on Article 13 (right to an effective remedy), the applicant Government complained of a lack of effective remedies in respect of their complaints under Articles 3, 5 and 8 of the Convention, Articles 1 and 2 of Protocol No. 1 and Article 2 of Protocol No. 4.

On 11 August 2008 Georgia lodged an application with the Court against the Russian Federation and requested the application of an interim measure (Rule 39 of the Rules of Court). On 12 August 2008 the President of the Court decided to apply Rule 39, calling upon both High Contracting Parties to comply with their engagements, particularly in respect of Articles 2 and 3 of the Convention. The application of Rule 39 was extended several times.

The application was declared partly admissible on 13 December 2011. On 3 April 2012 the Chamber relinquished jurisdiction in favour of the Grand Chamber. A hearing was held on 23 May 2018.

Judgment was given by the Grand Chamber of 17 judges, composed as follows:

Robert **Spano** (Iceland), *President*,
Linos-Alexandre **Sicilianos** (Greece),
Jon Fridrik **Kjølbro** (Denmark),
Paul **Lemmens** (Belgium),
Yonko **Grozev** (Bulgaria),
Helena **Jäderblom** (Sweden),
Vincent A. **De Gaetano** (Malta),
Ganna **Yudkivska** (Ukraine),
Paulo **Pinto de Albuquerque** (Portugal),
Helen **Keller** (Switzerland),
Krzysztof **Wojtyczek** (Poland),
Dmitry **Dedov** (Russia),
Armen **Harutyunyan** (Armenia),
Gabriele **Kucsko-Stadlmayer** (Austria),
Georgios A. **Serghides** (Cyprus),
Tim **Eicke** (the United Kingdom),
Lado **Chanturia** (Georgia),

and also Johan **Callewaert**, *Deputy Grand Chamber Registrar*.

Decision of the Court

As regards the assessment of the evidence and establishment of the facts, the Court referred to the principles summarised in the case of *Georgia v. Russia* (I). It relied on the observations and numerous other documents submitted by the parties. It also had regard to reports by international governmental and non-governmental organisations. It asked the parties to provide additional reports. The Court also had regard to the statements of witnesses and experts during a hearing held in Strasbourg from 6 to 17 June 2016. It heard evidence from a total of 33 witnesses.

Active phase of hostilities from 8 to 12 August 2008 - Article 2

The Court considered that in the event of military operations carried out during an international armed conflict, it was not possible to speak of “effective control” over an area. The very reality of armed confrontation and fighting between enemy military forces seeking to establish control over an area in a context of chaos meant that there was no control over that area. This was also true in the present case, as the majority of the fighting had taken place in areas previously under Georgian control.

The Court therefore attached decisive weight to the fact that the very reality of armed confrontation and fighting between enemy military forces seeking to establish control over an area in a context of chaos not only meant that there was no “effective control” over that area, but also excluded any form

of “State agent authority and control” over individuals. It thus considered that the conditions it had applied in its case-law to determine the exercise of extraterritorial jurisdiction by a State had not been met in respect of the military operations it was required to examine in the present case concerning the active phase of hostilities in the context of an international armed conflict. That did not mean that States could act outside any legal framework; in such a context, they were obliged to comply with the very detailed rules of international humanitarian law.

The Court concluded that the events occurring during the active phase of hostilities (8 to 12 August 2008) had not fallen within the jurisdiction of the Russian Federation for the purposes of Article 1 of the Convention and declared this part of the application inadmissible.

Occupation phase after the cessation of hostilities (from the ceasefire agreement of 12 August 2008) - Articles 2, 3 and 8 of the Convention and Article 1 of Protocol No. 1

The Court found that the Russian Federation had exercised “effective control”, within the meaning of its case-law (*Loizidou v. Turkey*, *Cyprus v. Turkey*, *Ilaşcu and Others v. Moldova and Russia*, *Al-Skeini and Others v. the United Kingdom*, and *Catan and Others v. the Republic of Moldova and Russia*), over South Ossetia, Abkhazia and the “buffer zone” during the period from 12 August to 10 October 2008, the date of the official withdrawal of the Russian troops. After that period, the strong Russian presence and the South Ossetian and Abkhazian authorities’ dependency on the Russian Federation indicated that there had been continued “effective control” over South Ossetia and Abkhazia.

The Court concluded that the events occurring after the cessation of hostilities (following the ceasefire of 12 August 2008) had fallen within the jurisdiction of the Russian Federation for the purposes of Article 1 of the Convention.

The Court observed that the information appearing in sources including reports by the EU Fact-Finding Mission, the OSCE, the Council of Europe Commissioner for Human Rights, Amnesty International and Human Rights Watch was consistent as regards the existence, after the cessation of active hostilities, of a systematic campaign of burning and looting of homes in Georgian villages in South Ossetia and the “buffer zone”. Such information was also consistent with satellite imagery from 9 October 2008 showing that the houses in question had been burnt. That campaign had been accompanied by abuses perpetrated against civilians, and in particular summary executions. Three Georgian witnesses heard by the Court had also mentioned burning and looting of houses by South Ossetian militias while their villages had been under Russian control, and abuses perpetrated against Georgian civilians.

The Court reiterated that an administrative practice was defined not only by a “repetition of acts”, but also by “official tolerance”: “illegal acts are tolerated in that the superiors of those immediately responsible, though cognisant of such acts, take no action to punish them or to prevent their repetition; or that a higher authority, in face of numerous allegations, manifests indifference by refusing any adequate investigation of their truth or falsity, or that in judicial proceedings a fair hearing of such complaints is denied” (see, for example, *Georgia v. Russia* (I)).

Although some witness statements indicated that at times Russian troops had intervened to stop abuses being committed against civilians, in many cases Russian troops had been passively present during scenes of looting. Despite the order given to the Russian armed forces to protect the population and carry out peacekeeping and law-enforcement operations on the ground, the measures taken by the Russian authorities had proved insufficient to prevent the alleged violations. This could be deemed to be “official tolerance” by the Russian authorities, as was also shown by the fact that the latter had not carried out effective investigations into the alleged violations.

The Court held that it had sufficient evidence in its possession to enable it to conclude beyond reasonable doubt that there had been an administrative practice contrary to Articles 2 and 8 of the Convention and Article 1 of Protocol No. 1 as regards the killing of civilians and the torching and looting of houses in Georgian villages in South Ossetia and the “buffer zone”. Having regard to the seriousness

of the abuses committed, which could be classified as “inhuman and degrading treatment” owing to the feelings of anguish and distress suffered by the victims – who had been targeted as an ethnic group – the Court found that this administrative practice had also been contrary to Article 3 of the Convention. The rule of exhaustion of domestic remedies did not apply where the existence of an administrative practice was established.

There had therefore been a violation of Articles 2, 3 and 8 of the Convention and Article 1 of Protocol No. 1, and the Russian Federation was responsible for that violation.

Treatment of civilian detainees and lawfulness of their detention - Articles 3 and 5

The Court noted that it was not disputed that 160 Georgian civilians, most of whom were fairly elderly and one-third of whom were women, had been detained by South Ossetian forces in the basement of the “Ministry of Internal Affairs of South Ossetia” in Tskhinvali between around 10 and 27 August 2008. Since the Georgian civilians had been detained mainly after the hostilities had ceased, the Court concluded that they had fallen within the jurisdiction of the Russian Federation.

The testimonies of Georgian civilians concerning the conditions of their detention were consistent with the information in the various sources available to the Court. The head of the “detention centre” had acknowledged at the witness hearing that the basement of the “Ministry of Internal Affairs of South Ossetia” had not been designed to accommodate so many detainees. Men and women had been detained together for a certain amount of time, there had not been enough beds and basic health and hygiene requirements had not been met.

Even though the direct involvement of the Russian forces had not been clearly demonstrated, the fact that the Georgian civilians fell within the jurisdiction of the Russian Federation meant that the latter had also been responsible for the actions of the South Ossetian authorities. Although they had been present at the scene, the Russian forces had not intervened to prevent the treatment complained of.

The Court concluded that there had been an administrative practice contrary to Article 3 as regards the conditions of detention of some 160 Georgian civilians and the humiliating acts to which they had been exposed, which had caused them undeniable suffering and had to be regarded as inhuman and degrading treatment. In accordance with the Court’s case-law, the rule of exhaustion of domestic remedies did not apply where the existence of an administrative practice was established.

There had therefore been a violation of Article 3 of the Convention, and the Russian Federation was responsible for that violation.

According to the respondent Government, the Georgian civilians had been detained for their own safety owing to potential attacks from South Ossetians seeking to take revenge on Georgians for the attack on Tskhinvali. That justification, which moreover was factually disputed, was not accepted as a ground for detention. Furthermore, the detainees had not been informed of the reasons for their arrest and detention.

The Court concluded that there had been an administrative practice contrary to Article 5 as regards the arbitrary detention of Georgian civilians in August 2008, and that the Russian Federation was responsible for the resulting violation.

Treatment of prisoners of war – Article 3

The Court observed that cases of ill-treatment and torture of prisoners of war by South Ossetian forces had been mentioned in the various sources available to it. At the witness hearing in Strasbourg, two witnesses had described in detail the treatment that had been inflicted on them by the South Ossetian and also the Russian forces.

The Court considered that it had sufficient evidence to enable it to conclude that Georgian prisoners of war had been victims of treatment contrary to Article 3 of the Convention inflicted by the South Ossetian forces. Even though the direct involvement of the Russian forces had not been clearly demonstrated in all cases, the fact that the prisoners of war fell within the jurisdiction of the Russian Federation meant that the latter had also been responsible for the actions of the South Ossetian forces. Although they had been present at the scene, the Russian forces had not intervened to prevent the treatment complained of.

The Court found that the ill-treatment inflicted on the Georgian prisoners of war had to be regarded as acts of torture within the meaning of Article 3 of the Convention. Such acts were particularly serious given that they had been perpetrated against prisoners of war, who enjoyed a special protected status under international humanitarian law.

The Court concluded that there had been an administrative practice contrary to Article 3 of the Convention as regards the acts of torture of which the Georgian prisoners of war had been victims. There had therefore been a violation of Article 3, and the Russian Federation was responsible for that violation.

Freedom of movement of displaced persons – Article 2 of Protocol No. 4

The information in the different sources available to the Court was consistent regarding the refusal of the South Ossetian and Abkhazian authorities to allow the return of many ethnic Georgians to their respective homes, even if some returns in the region of Akhgori had been authorised. Negotiations were under way in Geneva with a view to finding a political solution. In the meantime, the *de facto* South Ossetian and Abkhazian authorities, and the Russian Federation, which had effective control over those regions, had a duty under the Convention to enable inhabitants of Georgian origin to return to their respective homes.

The Court concluded that there had been an administrative practice contrary to Article 2 of Protocol No. 4.

The situation regarding the inability of Georgian nationals to return to their respective homes had still been ongoing on 23 May 2018, the date of the hearing on the merits in the present case.

There had therefore been a violation of Article 2 of Protocol No. 4 at least until 23 May 2018, and the Russian Federation was responsible for that violation.

Right to education – Article 2 of Protocol No. 1

The Court considered that it did not have sufficient evidence in its possession to conclude beyond reasonable doubt that there had been incidents contrary to Article 2 of Protocol No. 1. There had therefore been no violation of that Article.

Obligation to investigate – Article 2

The Court concluded that the Russian Federation had had an obligation to carry out an adequate and effective investigation not only into the events occurring after the cessation of hostilities, but also into the events occurring during the active phase of the hostilities.

Having regard to the seriousness of the crimes allegedly committed during the active phase of the hostilities, and the scale and nature of the violations found during the period of occupation, the Court found that the investigations carried out by the Russian authorities had not satisfied the requirements of Article 2 of the Convention.

There had therefore been a violation of Article 2 of the Convention in its procedural aspect.

Effective remedies – Article 13

In view of the above conclusions, the Court held that there was no need for a separate examination of the applicant Government's complaint under Article 13 in conjunction with Articles 3, 5 and 8 of the Convention and with Articles 1 and 2 of Protocol No. 1 and Article 2 of Protocol No. 4.

Article 38

After examining the documents submitted to the Court at its request by the applicant Government, the Court found that the applicant Government had complied with their obligation to cooperate under Article 38 of the Convention.

The respondent Government had refused to submit "combat reports", on the grounds that the documents in question constituted a "State secret", despite the arrangements proposed by the Court for the submission of non-confidential extracts. Nor had they submitted any practical proposals to the Court that would have allowed them to satisfy their obligation to cooperate while preserving the secret nature of certain items of information. The Court therefore found that the respondent Government had fallen short of their obligation to furnish all necessary facilities to the Court in its task of establishing the facts of the case, as required under Article 38 of the Convention.

Just satisfaction (Article 41)

The Court held that the question of the application of Article 41 was not ready for decision and consequently reserved it in full.

Separate opinions

Judge **Keller** expressed a concurring opinion; Judge **Serghides** expressed a partly concurring opinion; Judges **Lemmens**, **Grozev**, **Pinto de Albuquerque**, **Dedov** and **Chanturia** each expressed a partly dissenting opinion; Judges **Yudkivska**, **Pinto de Albuquerque** and **Chanturia** expressed a joint partly dissenting opinion; and Judges **Yudkivska**, **Wojtyczek** and **Chanturia** expressed a joint partly dissenting opinion.

The judgment is available in English and French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.

Annex II to the identical letters dated 26 January 2021 from the Permanent Representative of Georgia to the United Nations addressed to the Secretary-General and the President of the Security Council

Statement by the Ministry of Foreign Affairs of Georgia on the judgement of the European Court of Human Rights in the case concerning the August 2008 Russia-Georgia War

The Ministry of Foreign Affairs of Georgia refers to the historic Judgement by the European Court of Human Rights regarding the case concerning the Russia-Georgia war, which legally established the responsibility of the Russian Federation for violations of the fundamental norms of international law and human rights during the August 2008 war and in the period of further occupation of Georgian territories by Russia.

The Judgment of the Strasbourg Court is an unprecedented international victory of the Georgian state and the first international legal assessment of Russia's military aggression in 2008, which ruled that the Russian Federation has been responsible for the abuses committed during the August 2008 war as well as afterwards, in the period of the occupation. The European Court of Human Rights has unequivocally established the responsibility of the Russian Federation for the violations of the fundamental human rights such as: deprivation of the right to life; torture, inhuman and degrading treatment; ethnic cleansing; violation of the right to liberty and security; infringement of the rights to freedom of movement, the right to respect for private and family life and the property rights. The Strasbourg Court found the Russian Federation responsible for deliberate burning, looting and destroying of the Georgian villages, as well as violating the rights of hundreds of thousands of IDPs and refugees to return to their homes.

It is of utmost importance that the European Court of Human Rights ruled that the Russian Federation has been illegally occupying and exercising effective control over Georgia's indivisible regions of Abkhazia and the Tskhinvali region/South Ossetia, and has been violating the 12 August 2008 Ceasefire Agreement. It is noteworthy that the Strasbourg Court also confirmed the fact that the August 2008 war was waged between two states – the Russian Federation and Georgia, and Russia invaded into the territory of Georgia.

The decision of the European Court of Human Rights reaffirmed the strong stance of international law and the international community in support to Georgia's sovereignty and territorial integrity within its internationally recognized borders.

The Judgment of the Strasbourg Court provides the crucial international legal basis for success of further efforts by Georgia and the international community aimed at protecting the rights of people affected by the Russia-Georgia conflict. This decision underscores the importance of the just and peaceful struggle of Georgia on its way to strengthening the sovereignty and territorial integrity of the country. Georgia will continue further pursuit of the policy of peaceful resolution of the Russia-Georgia conflict, utilising all available diplomatic and legal instruments in an effort for de-occupation of Georgia's indivisible regions, reconciliation and confidence-building between the war-torn communities, and unification and peaceful development of our country.