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Follow-up given by Georgia and Russia to Resolution 1647 (2009)

Information report[1]
Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)
Co-rapporteurs: Mr Mátyás EÖRSI, Hungary, Alliance of Liberals and Democrats for Europe, and Mr Luc Van den BRANDE, Belgium, Group of the European People's Party

Summary

In this information report, the co-rapporteurs of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) take stock of the follow-up given by Georgia and Russia to Resolution 1647 (2009), adopted by the Parliamentary Assembly in January 2009. They conclude that, regrettably, Georgia has not yet fully complied with all demands of the Assembly and that Russia has failed to comply with most of the demands of the Assembly and could even be seen as moving further away from the minimum conditions for a meaningful dialogue as mentioned in Resolutions 1633 (2008) and 1647 (2009). Convinced that the establishment of a genuine dialogue is the only way forward for the resolution of the conflict and its consequences, the co-rapporteurs welcome the modest steps taken in this direction within the ad hoc committee of the Bureau of the Assembly on promoting dialogue between the Georgian and Russian delegations through the Assembly. However, the report stresses that the work of this ad hoc committee should not be seen as a substitute for the Geneva negotiations or for a regular assessment by the Assembly of the compliance of both countries with its earlier demands, but as complementary to them.

The report therefore reiterates that both countries should fully comply with the demands made by the Assembly in Resolutions 1633 (2008) and 1647 (2009) and, in addition, asks that both countries implement, without delay, a series of steps to avoid a deterioration of the security situation and stability of the region, as well as to ensure that the minimum conditions for a meaningful dialogue between Russia and Georgia are met. It therefore considers it essential that the Monitoring Committee remains seized on this matter and that the Assembly returns to its assessment of compliance by both countries with Resolutions 1633 (2008) and 1647 (2009) at its October 2009 part-session, also taking into account the findings of the independent international fact-finding mission established by the European Union, if its report has been presented by then.

1. Reference to committee: Resolution 1647 (2009).

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1. Introduction

1. On 28 January 2009, the Parliamentary Assembly adopted Resolution 1647 (2009) on the implementation of Resolution 1633 (2008) on the consequences of the war between Georgia and Russia. In this resolution, the Assembly fully reaffirmed its position taken in Resolution 1633 (2008) with regard to the consequences of the war, including its opinion that both member states had violated human rights and principles of humanitarian law, as well as the Statute of the Council of Europe and specific accession commitments. It also again calls for Russia to withdraw its forces to the positions *ex ante* the war, to allow international monitors into the breakaway regions and to withdraw its recognition of the breakaway regions of South Ossetia and Abkhazia, which was strongly condemned by the Assembly.

2. In addition to reiterating its position, the Assembly considered that, while Georgia had complied with many, but not all, of the Assembly's demands expressed in Resolution 1633 (2008), Russia had regrettably not complied with a significant number of key demands of the Assembly, not even those that were not related to, and therefore had no effect on, the status of the two breakaway regions. In Resolution 1647 (2009), the Assembly welcomed the establishment, by the European Union, of an independent international fact-finding mission on the conflict in Georgia to investigate its origins and its course. However, it expressed its serious concern with regard to the escalation of tensions and provocations along the administrative borders, as well as the ongoing human rights violations and the existence of a human rights protection black hole in South Ossetia and Abkhazia. The Assembly, therefore, formulated a set of additional demands on both Russia and Georgia to ensure full compliance by both states with Resolutions 1633 (2008) and 1647 (2009) and provided a concrete and objective road map to enable both of them to address the consequences of the August 2008 war between them.

3. Finally, in Resolution 1647 (2009), the Monitoring Committee was invited to monitor the follow-up given by Russia and Georgia to Resolutions 1633 (2008) and 1647 (2009) and to report to the Assembly at its April 2009 part-session about the developments in this respect. Taking into account the short period between the January and April 2009 part-sessions, as well as the explicit wish of the Assembly – expressed in both resolutions – that the Monitoring Committee step up its monitoring procedure with respect to both Russia and Georgia, the rapporteurs decided not to make specific visits to Russia and Georgia for the purpose of this report, but, instead, to follow up the issues mentioned in Resolutions 1633 (2008) and 1647 (2009) in the framework of visits to these two countries under the regular monitoring procedure. As a consequence, the co-rapporteurs for Russia's monitoring, Mr Van den Brande and Mr Pangalos, visited Moscow from 9 to 11 March 2009. The co-rapporteurs for Georgia's monitoring, Mr Eörsi and Mr Islami, visited Tbilisi from 24 to 27 March 2009. Where relevant, the findings of the four co-rapporteurs have been included in this report.

4. In Resolution 1647 (2009), the Assembly tasked the Bureau to set up a special ad hoc committee, in which both Georgian and Russian parliamentarians would be invited to participate, to discuss their differences and to develop concrete proposals to address the consequences of the war. At its meeting on 30 January 2009, the Bureau of the Assembly therefore decided to establish an ad hoc committee of the Bureau on promoting dialogue between the Georgian and Russian delegations with the Assembly. This ad hoc committee held its first meeting in Paris, on 12 March 2009, and its second meeting in Valencia, on 30 March 2009.

5. The present information report outlines developments since the January 2009 part-session with regard to the implementation of Resolutions 1633 (2008) and 1647 (2009) by Georgia and Russia. We do not repeat in this report the findings already included in our last report (Doc. 11800), which we presented to the Assembly on 26 January 2009 and which remain relevant.

2. Implementation of the ceasefire agreement and security situation

6. A key requirement of the 12 August 2008 ceasefire agreement is the withdrawal of Georgian military forces to "their usual bases" and of Russian military forces to "the lines they held before the hostilities broke out".

7. While the Russian authorities claim that Georgia is strengthening its troop presence in the areas adjacent to the administrative borders, according to the international monitors the deployment of Georgian troops continues to be in line with the provisions of the 12 August 2008 ceasefire agreement. During the visit of the co-rapporteurs for Georgia's monitoring to Tbilisi from 24 to 27 March 2009, the representatives of the three international monitoring missions (the Organization for Security and Co-operation in Europe (OSCE), the European Union (EU) and the United Nations (UN)) confirmed that there had been no increase of troops on the Georgian side and that the Georgian authorities had started the process of replacing the special police forces with regular police. However, they noted that on both sides of the administrative borders, observation and control posts were being fortified and this was not conducive to decreasing tensions.

8. As already mentioned in our previous report (Doc. 11800), a major cause for Russian lack of compliance with the ceasefire agreement continues to be its assertion that, following its recognition of the independence of South Ossetia and Abkhazia, the deployment of its troops in these two regions is no longer governed by the ceasefire agreement, but by bilateral agreements with the de facto authorities of these regions. We take note, however, of the fact that only Russia and Nicaragua of the 211 UN member states have recognised the "independence" of Abkhazia and South Ossetia.

9. On 2 March 2009, the Abkhaz de facto "Foreign Minister" announced that Moscow and Sukhumi had reached an agreement on the establishment of two Russian military bases in Abkhazia, one in Ochamchire, which would reportedly include a naval base for Russia's Black Sea fleet, and one in Gudauta, which would include an air force base. On 6 March 2009, the Abkhaz de facto "President", Mr Sergey Bagapsh, announced that Russia and the de facto Abkhaz authorities would soon sign a military agreement that would include a forty-nine-year lease for the military base in Gudauta. We regret the recent deployment of heavy armour, as well as the conduct of military exercises close to the administrative border by Russia, which raises tensions. We are seriously concerned about the increased militarisation of the breakaway regions by Russia. This not only violates the ceasefire agreement and is in contradiction to the demands in Assembly Resolutions 1633 (2008) and 1647 (2009), but also increases the tensions in this already very volatile region, undermining its stability.

10. Russia continues to maintain military troops in Perevi, which is outside the administrative boundaries of South Ossetia. Moreover, OSCE military monitors have reported regular violations by Russian helicopters of Georgia's airspace on the southern part of the administrative border with South Ossetia.

11. Regrettably, international monitors continue to report tensions and provocations along the administrative borders. The situation in the areas around Perevi and the Akhalgori district in particular remain tense. Despite the ongoing tensions and provocations, the overall security situation along the administrative borders has been relatively stable and all sides consider the possibility of a renewed outbreak of clashes and hostilities at this particular moment rather remote.

12. On 10 February 2009, an OSCE military monitoring patrol was detained by South Ossetian forces outside the administrative boundaries of South Ossetia. Moreover, on 11 February, OSCE monitors reported that warning shots were fired at them by South Ossetian forces. On 29 March 2009, in an act strongly condemned by OSCE and EU observers, a bomb blast, caused by what appeared to have been a tripwired mine, killed a Georgian policeman and injured four others. A second bomb was set off when a rescue team arrived, injuring a further two Georgian policemen. We strongly condemn such actions against police officers, civilians and unarmed international monitors and call upon the de facto authorities and Russia to bring them to an immediate halt. In addition, these incidents underscore the need for access of international monitors to both sides of the administrative borders, as well as the rapid implementation of the incident prevention and response mechanisms that were agreed upon in Geneva.

13. In a positive development, on 18 February 2009, all participants in the Geneva talks agreed on "proposals for joint incident prevention and response mechanisms". These mechanisms will involve weekly meetings, or more often when necessary, between representatives of structures with responsibility for security

and public order in the relevant areas, as well as representatives of the international monitoring organisations, according to their mandate (UN and EU in respect of Abkhazia and OSCE and EU in respect of South Ossetia). The discussions of these two mechanisms could include, but are not limited to:

– identification and regular review of potential risks, sharing of information and co-ordination of relevant measures;

– free access for humanitarian aid;

– follow-up to incidents that occur, including an exchange of information on the circumstances of their occurrence, and the rapid sharing of information on the outcome of investigations into such incidents, as appropriate through agreed joint visits;

– regular provision of information by international missions on the findings of their routine patrols.

14. We welcome the agreement on incident prevention and response mechanisms reached at the Geneva meetings as an important instrument to reduce the tensions along the administrative borders and as a mechanism to avoid further escalations that could lead to renewed clashes and hostilities. However, we also note that, to this date, these mechanisms have not yet been implemented, contrary to the agreement reached in Geneva that they should be convened "shortly" after the Geneva talks on 17 and 18 February 2009. In an interview on 13 March 2009, the head of the EU Monitoring Mission, Ambassador Haber, indicated that one of the main obstacles to the implementation of these mechanisms was the provision for "joint visits", which would imply access of international monitors to the breakaway regions, to which the de facto authorities object.

15. While the working group on security issues in the Geneva talks has shown progress with the agreement on incident prevention mechanisms, the second working group, focused on humanitarian issues and freedom of movement, has not yet achieved any tangible results. The next round of Geneva talks is foreseen to take place during spring 2009 and is expected to focus on "principles of non-use of force" and on "how to establish new security mechanisms". We welcome the fact that, after initial difficulties in finding new dates, the next round of talks is now scheduled to take place on 18 and 19 May in Geneva.

16. We call upon Russia to fully implement the ceasefire agreement, and all parties to implement, without delay, the agreement on joint incident prevention and response mechanisms.

3. International monitoring missions

17. Despite earlier indications that Russia would veto an extension of the mandate of the United Nations Observer Mission in Georgia (UNOMIG), which was due to expire on 15 February 2009, the United Nations Security Council adopted, on 13 February 2009, Resolution 1866 (2009) in which it extended the mandate of UNOMIG until 15 June 2009. This extension ensures, at least temporarily, the presence of UN observers in Abkhazia, in line with the Sarkozy-Medvedev agreement of 8 September 2008.

18. On 12 February 2009, the Permanent Council of the OSCE unanimously adopted Decision 883, in which it extended the mandate of the OSCE military monitors in Georgia until 30 June 2009, which has ensured, temporarily, the continued presence of OSCE monitors in the areas adjacent to the administrative border with the region of South Ossetia. However, this extension of the mandate of the military monitors did not affect the mandate of the OSCE Mission to Georgia itself, which was not extended in December 2008. This was the consequence of a veto put by Russia, as a result of which the OSCE Mission to Georgia is currently closing down.

19. We welcome the extension of the mandates of the UNOMIG and OSCE military monitoring missions, which allow the continuing presence of monitors in Georgia, as, *inter alia*, demanded by the Assembly. However, we would like to stress that these extensions are only a short-term technical reprieve and not a long-term durable solution for the presence of UN and OSCE monitors in Georgia, including in the breakaway regions. Given the importance of the presence of international monitors for the security and stability of the region, as well as for the transparency of the situation to the international community, we find it unacceptable that their presence remains in question and put in doubt. We would therefore strongly reiterate the demand by the Assembly, expressed in Resolution 1647 (2009), that all parties agree upon a formula for the renewal of the mandate of both the UN and OSCE missions, including their monitoring components, without prejudice to the status of the two breakaway regions.

20. The Russian authorities and the de facto authorities continue to refuse access by OSCE monitors to South Ossetia, in violation of the Sarkozy-Medvedev agreement and Assembly demands, as well as access by EU monitors to South Ossetia and Abkhazia, as requested by the EU and the international community, including by the Assembly in Resolutions 1633 (2008) and 1647 (2009). Indeed, when adopting Decision 883

in the OSCE Permanent Council, several delegations, including the Czech delegation on behalf of the European Union, made statements in which they stressed that OSCE observers should be able to carry out their duties in the entire Georgian territory, including in South Ossetia. According to the Russian authorities, the question of access is strictly within the remit of the de facto authorities, who accuse the EU and OSCE missions of being biased against them and therefore are not inclined to allow them access to South Ossetia and Abkhazia. This refusal to give access to international observers to South Ossetia and Abkhazia negatively affects the overall security situation and stability in these volatile regions, which could potentially lead to renewed confrontations. As mentioned above, the position of Russia and the de facto authorities of South Ossetia with regard to access of international monitors also impedes the implementation of the urgently needed joint prevention and response mechanisms that were agreed upon in the Geneva talks. We reiterate our call to all parties, and especially the Russian authorities, to accept a formula for a continued, long-term mandate of the OSCE and UN missions, including their observation missions, that would not prejudice the status of the two breakaway regions.

4. Investigation into the precise circumstances surrounding the outbreak of the war, as well as into alleged violations of human rights and international law in the course of the war and its aftermath

21. The investigation by the independent international fact-finding mission into the conflict between Russia and Georgia is well under way. Since its establishment, its experts have visited Moscow, Tbilisi, as well as the breakaway regions of South Ossetia and Abkhazia. The report of this fact-finding mission is expected in summer 2009. We regret statements in the Georgian press by some Georgian officials, referring to articles published by some members of the fact-finding mission prior to taking up their tasks, which seem to cast doubts on the impartiality of these members. This is not helpful for the conduct of the work of the fact-finding mission.

22. As mentioned in our previous report (Doc. 11800), more than 3 300 applications have been filed with the European Court of Human Rights by ethnic South Ossetians against Georgia. On 16 January 2009, the Court announced that it would urgently examine seven applications of South Ossetians against Georgia, which it considers to be representative of the over 3 300 similar applications that have been filed with it. These cases have now been communicated to the Georgian Government under Rule 54, paragraph 2.*b* of the Rules of Court. In addition, the Georgian non-governmental human rights organisation “The 42nd Article of the Constitution” has assisted Georgian citizens in filing applications with the Court against Russia in relation to the war. On 18 March, we were informed by the Court that over 100 cases had been filed against Russia, involving approximately 600 Georgian applicants. Moreover, as we reported earlier, Georgia has filed an inter-state application against Russia with the European Court of Human Rights and, on 12 August 2008, following a request by the Georgian authorities, the European Court of Human Rights indicated interim measures to Russia and Georgia under Rule 39 of the Rules of Court.

23. Evidence and witness testimonies reproduced in several reports by the OSCE and by organisations such as Amnesty International and Human Rights Watch give credence to the claims that both Russia and Georgia committed violations of human rights and international humanitarian law in the course of the war and that Russia closed its eyes to, and possibly abetted, violations of human rights and international humanitarian law by the de facto authorities during the aftermath of the war. It is the responsibility of the state concerned to investigate violations of human rights and international humanitarian law committed by persons under its de facto jurisdiction.

24. As mentioned in our previous report (Doc. 11800), the General Prosecutor’s Office of Georgia has opened an investigation into deliberate violations of international humanitarian law in the course and aftermath of the war, irrespective of the side which has allegedly committed such violations. However, according to the Georgian authorities, this investigation is hindered by the lack of access of the competent Georgian authorities to the former conflict zone inside the breakaway region of South Ossetia. While we understand the difficulties encountered by the Georgian General Prosecutor’s Office in the conduct of the investigations, we nevertheless expect that the investigation will be completed within a reasonable timeframe.

25. The Investigative Committee of the General Prosecutor’s Office of Russia has finalised an investigation into genocide committed by Georgian troops against Russian citizens, as well as into crimes committed against the Russian military. During the visit of the co-rapporteurs for Russia’s monitoring to Moscow from 9 to 11 March 2009, the deputy head of the Investigative Committee confirmed that the committee did not plan to open an investigation into alleged violations of human rights and international humanitarian law during the war by Russian citizens or Russian military forces.

26. To our knowledge, neither the investigation of the General Prosecutor's Office of Georgia nor that of the General Prosecutor's Office of Russia have to date resulted in any persons being charged.

5. Humanitarian consequences of the war

27. The developments with regard to the humanitarian consequences of the war are dealt with in a separate report by the Committee on Migration, Refugees and Population. We will therefore not extensively deal with these issues in the context of this report.

28. On 28 October 2008, the Georgian Parliament adopted the Law on Occupied Territories of Georgia. In his report to the Committee of Ministers, the Commissioner for Human Rights expressed his concern that some of the provisions of this law may be at odds with principles of international human rights law, including with the European Convention on Human Rights. For this reason, the Monitoring Committee, at its meeting on 17 December 2008, decided to submit this law to the European Commission for Democracy through Law (Venice Commission) for opinion. The Venice Commission adopted its opinion (CDL-AD(2009)15) on the Law on Occupied Territories of Georgia at is 78th plenary session, in Venice, on 13 and 14 March 2009.

29. The Law on Occupied Territories of Georgia prohibits the entry of foreigners or stateless persons to the territories from any other direction than from two entry points on the undisputed territory of Georgia. Entry from any other direction, especially from the north via Russia, without a special authorisation from the Georgian Government would constitute a criminal offence under Georgian law. No a priori explicit exceptions are made in the law for humanitarian aid or emergency situations. In this respect, the Venice Commission noted that, under the Hague and Geneva conventions, an occupying power is obliged to provide aid and shelter to the population in the occupied territories and that it must not be hindered in fulfilling this duty. Moreover, the Venice Commission recalls that, in Security Council Resolution 1866 (2009), which is binding on both Russia and Georgia under Article 25 of the UN Charter, the Security Council calls for "facilitating and refraining from placing any impediment to humanitarian assistance to persons affected by the regional conflict, including refugees and internally displaced persons, and further calls for facilitating their voluntary, safe and dignified and unhindered return". In addition, this resolution provides for the need "to ensure without distinction, … the right of persons to freedom of movement". In its opinion, the Venice Commission is concerned that irregular entry (that is, without prior authorisation from the Georgian Government) for humanitarian purposes and in emergency situations could run counter to these principles. It therefore concluded that the criminalisation of irregular entry into the occupied territories under the law, which makes no explicit exceptions for emergency situations or humanitarian aid, should not contradict the rule of customary international law that the well-being of the population in occupied areas has to be a basic concern for those involved in a conflict.

30. Based on the same principles of customary international law, namely that the well-being of the population in occupied areas has to be a basic concern for those involved in a conflict, the Venice Commission concluded that the restriction and criminalisation of irregular economic activities under the law should explicitly exempt those related to humanitarian aid and those that are necessary for the survival of the population in the occupied territories.

31. Moreover, the Venice Commission expressed concerns, *inter alia,* with respect to the retroactive application of the law for property transactions, which may run counter to international law, including Article 1 of Protocol No. 1 to the European Convention on Human Rights (protection of property). In addition, the retroactive application of provisions fixing criminal liability is neither compatible with the Georgian Constitution (Article 42, paragraph 5) nor with international human rights standards (Article 7 of the Convention). Moreover, criminal sanctions for irregular economic activities can also be applied to "related persons", which is considered problematic by the Venice Commission.

32. The law explicitly forbids international air traffic, maritime traffic, railway traffic and international automobile transportation of cargo on the occupied territories. The Venice Commission considered that the blanket limitation of the freedom of navigation and overflight may run against the legal regime of navigation and overflight in the exclusive economic zone.

33. While welcoming the mechanisms established by the Georgian authorities for the recognition of certificates and similar documents issued by the de facto authorities, the Venice Commission considered that these simplified procedures should be guaranteed through an explicit provision in Georgian law.

34. We call upon the Georgian Parliament to speedily amend the Law on Occupied Territories of Georgia, in close co-operation with the Venice Commission, in order to ensure that the concerns outlined in its opinion are fully addressed. We welcome the fact that the Georgian authorities have expressed their clear intention to

co-operate closely with the Venice Commission in order to address all concerns raised in the latter's opinion, especially with a view to ensuring that this law would not hamper the provision of essential humanitarian aid to the civilian population in the breakaway regions.

35. Russia and the de facto authorities continue severely to restrict the freedom of movement between the breakaway regions and the rest of Georgia, including with respect to humanitarian aid and the right to return of internally displaced persons (IDPs). We would like to stress that the observations made by the Venice Commission in its opinion on the Law on Occupied Territories of Georgia with regard to the principles of international law and the respect of freedom of movement are, in our opinion, equally applicable to the restrictions put in place by Russia and the de facto authorities of Abkhazia and South Ossetia on access of humanitarian aid. The refusal to allow access of humanitarian aid from the undisputed territory of Georgia to the two regions therefore would also appear to run counter to the principles of customary international law.

36. We call upon Georgia, Russia and the de facto authorities to allow immediately full and unimpeded access of international aid to the breakaway regions irrespective of the direction from which it comes. We reiterate that for a more detailed analysis and recommendations on the humanitarian aspects reference is made to the report of the Committee on Migration, Refugees and Population.

6. Additional demands by the Assembly

37. In Resolutions 1633 (2008) and 1647 (2009), the Assembly called upon all parties to work towards the creation of a new peacekeeping format and internationalised peacekeeping force. In the view of the Assembly, the establishment of such a new peacekeeping format and internationalised peacekeeping force is essential for the security and stability in the region. We note that the establishment of new security mechanisms is on the agenda for the next round of talks in Geneva, but no new date for these talks has been agreed upon. No progress has therefore been achieved with regard to this important demand of the Assembly.

38. As mentioned above,[2] the ad hoc committee of the Bureau on promoting dialogue between the Georgian and Russian delegations met for the first time in Paris, on 12 March 2009. Regrettably, the Russian delegation could not be represented at this meeting for logistical reasons. The Georgian delegation was represented at this meeting and declared its support for initiatives taken by the Assembly to facilitate the dialogue between the Russian and Georgian delegations. The Georgian representatives stressed, however, that such dialogue would be difficult, if not impossible, if Russia continued not to comply with the demands of the Assembly, in particular with the minimum conditions for a meaningful dialogue as outlined in Resolution 1633 (2008) and recalled in Resolution 1647 (2009). For that reason, the work of the ad hoc committee should not replace ongoing debates in the plenary of the Assembly. Moreover, they warned that the ad hoc committee should not duplicate the efforts of the Geneva talks or be used as a pretext not to make progress in these talks.

39. The members of the ad hoc committee agreed that the work of the committee should not be seen as a substitute for the Geneva talks, but complementary to them. However, they stressed that they hoped that Georgian participation in the work of the ad hoc committee would not be conditional on Russia's first complying with all demands of the Assembly since a continuing dialogue was essential. It was agreed that both Georgian and Russian delegations would be asked to provide a list of items for possible discussion by the ad hoc committee.

40. The second meeting of the ad hoc committee took place in Valencia (Spain) on 30 March 2009 immediately before the meeting of the Monitoring Committee. We welcome the fact that members from both the Russian and Georgian delegations participated in its work, which is a start, albeit modest, of a dialogue between the two delegations, as called for by the Assembly. The main topics for the discussions during the second meeting of the ad hoc committee were the priorities for the ad hoc committee, as well as an initial exchange of views on the modalities for the possible participation of representatives of the Abkhaz and South Ossetian communities in its work. Further consultations with both delegations on the list of agreed topics, as well as the modalities for participation of members of the Abkhaz and South Ossetian communities are under way with a view to a further meeting of the ad hoc committee

2. . See also above, paragraph 4.

7. Conclusions

41. We regret that Georgia has not fully complied with Resolutions 1633 (2008) and 1647 (2009), and that Russia has failed to comply with most of the key demands of the Assembly. Furthermore, Russia even could be seen as moving further away from the minimum conditions for a meaningful dialogue as mentioned in the above mentioned resolutions, as well as in terms of providing an improved security situation in the region.

42. While we welcome the continued presence of OSCE and UN monitors as a result of the short-term technical extensions of their respective mandates, we would like to stress that this is not the long-term solution for the demand expressed by the international community, including the Assembly, that OSCE and UN observers should continue to be present in Georgia, including in the breakaway regions. We therefore reiterate the Assembly's demand for all parties, especially the Russian authorities, to agree on the continuation of the mandate for the UN and OSCE missions in Georgia, including their monitoring missions, without prejudice to the status of the two breakaway regions.

43. Taking into account the tense situation along the administrative borders, we deeply deplore the continuing refusal of Russia and the de facto authorities to allow full and unimpeded access for OSCE monitors to South Ossetia and for EU monitors to South Ossetia and Abkhazia. We also note and regret that this refusal would appear to impede the implementation of the urgently needed incident prevention and response mechanisms that were agreed upon during the Geneva talks in February 2009.

44. We fully support the conclusions of the Venice Commission in Opinion CDL-AD(2009)15 with regard to the Law on Occupied Territories of Georgia and call upon the Georgian Parliament to adopt, in close consultation with the Venice Commission, the necessary amendments to the law in order to address the concerns expressed in this opinion.

45. In line with the opinion of the Venice Commission, we consider that any restrictions placed, by whatever side, on the entry of humanitarian aid into the two breakaway regions runs counter to customary international law. We therefore call upon Georgia, Russia and the de facto authorities to immediately lift any restrictions on the points of entry for humanitarian aid into these regions.

46. We continue to be convinced that the establishment of a genuine dialogue is the only way forward for the resolution of this conflict and the long-term stability in the region. We therefore regret that the Russian delegation, even if for logistical reasons, could not send a representative to the first meeting of the ad hoc committee of the Bureau on promoting dialogue between the Georgian and Russian delegations. We welcome the fact that both Russian and Georgian delegations were represented at the meeting of the ad hoc committee in Valencia, and express our hope that this will continue to be the case at subsequent meetings of the ad hoc committee. However, we would like to stress that the work of this ad hoc committee should not be seen as a substitute for the Geneva negotiations, or for a regular assessment by the Assembly of the compliance of both countries with the demands made by the Assembly in Resolutions 1633 (2008) and 1647 (2009), but as complementary to them.

47. We stand fully by, and fully reaffirm the position and demands of the Assembly expressed in Resolutions 1633 (2008) and 1647 (2009) which give an objective and concrete road map to all parties to address the consequences of the August 2008 war between Russia and Georgia. However, we recognise that the full implementation of the Assembly's demands may take more time than available within this relatively short reporting period. We are strongly convinced that the Assembly should follow closely, and assess regularly, the progress made by both countries with regard to compliance with the demands made in the relevant resolutions and reports on this subject. We therefore recommend that the Assembly returns to its assessment of the compliance with Resolutions 1633 (2008) and 1647 (2009) during its October 2009 part-session, also taking into account the findings by the international fact-finding mission established by the European Union, if this report has been presented by then. We reiterate the position of the Assembly that both countries should fully comply with the demands made in Resolutions 1633 (2008) and 1647 (2009). In addition, in order to avoid a deterioration of the security situation and stability in the region, as well as to ensure the minimum conditions for a meaningful dialogue between Russia and Georgia, we consider that the following should be implemented without delay:

– immediate reversal of the further militarisation of the two breakaway regions by Russia;

– immediate implementation of the incident prevention and response mechanisms agreed upon in the Geneva talks, including the possibility for joint visits;

– immediate halt, by both sides, of any actions that could undermine the security and stability in the region;

– immediate agreement on the next date of the Geneva negotiations;

– immediate withdrawal by all parties of any restrictions on the points of entry for humanitarian aid into South Ossetia and Abkhazia, and full respect of the right of return of IDPs as a result of this conflict;

– full and unimpeded access of international monitoring missions, including – within their respective mandates – for the OSCE and EU, to South Ossetia and Abkhazia;

– participation of both Russian and Georgian delegations in the work of the ad hoc committee of the Bureau on promoting dialogue between the Georgian and Russian delegations.

48. We consider it essential that the Monitoring Committee remains seized of this matter and will continue to report on a regular basis on the implementation of Assembly Resolutions 1633 (2008) and 1647 (2009), as well as the recommendations made in this report, in close synergy with the regular monitoring procedure for these two countries.

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Reporting committee: Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee).

Reference to committee: Resolution 1647 (2009).

Information report approved by the committee on 27 April 2009.

Members of the committee: Mr Serhiy **Holovaty** (Chairperson), Mr György **Frunda** (1st Vice-Chairperson), Mr Konstantin **Kosachev** (2nd Vice-Chairperson), Mr Leonid **Slutsky** (3rd Vice-Chairperson), Mr Aydin Abbasov, Mr Avet **Adonts**, Mr Pedro **Agramunt**, Mr Miloš **Aligrudić**, Mrs Meritxell Batet Lamaña, Mr Ryszard Bender, Mr József Berényi, Mr Luc **van den Brande**, Mr Mevlüt **Çavuşoğlu**, Mr Sergej Chelemendik, Ms Lise Christoffersen, Mr Boriss Cilevičs, Mr Georges **Colombier**, Mr Telmo Correia, Mrs Herta Däubler-Gmelin, Mr Joseph **DebonoGrech**, Mr Juris **Dobelis**, Mrs Josette Durrieu, Mr Mátyás **Eörsi**, Ms Mirjana **Ferić-Vac**, Mr Giuseppe Galati, Mr Jean-Charles **Gardetto**, Mr József Gedei, Mr Marcel Glesener, Mr Charles Goerens, Mr Andreas **Gross**, Mr Michael **Hagberg**, Mr Holger Haibach, Ms Gultakin Hejibayli, Mr Michael **Hancock**, Mr Davit **Harutyunyan**, Mrs Olha **Herasym'yuk**, Mr Andres **Herkel**, Mr Kastriot Islami, Mr Mladen **Ivanić**, Mr Miloš Jevtić, Mrs Evguenia Jivkova, Mr Emmanouil Kefaloyiannis, Mr Hakki Keskin, Mrs Katerina Konečná, Mr Jaakko **Laakso**, Mrs Sabine Leutheusser-Schnarrenberger, Mr Göran Lindblad, Mr René van der Linden, Mr Eduard **Lintner**, Mr Pietro Marcenaro, Mr Bernard **Marquet**, Mr Dick Marty, Mr Miloš **Melčák**, Mr Jean-Claude **Mignon**, Mr João Bosco **MotaAmaral**, Mrs Yuliya Novikova, Mr Theodoros Pangalos, Mr Alexander Pochinok, Mr Ivan **Popescu**, Ms Maria **Postoico**, Mr Christos **Pourgourides**, Mr John **Prescott**, Mrs Mailis **Reps**, Mr Andrea **Rigoni**, Mr Ilir Rusmali, Mr Armen Rustamyan, Mr Indrek **Saar**, Mr Oliver Sambevski, Mr Kimmo **Sasi**, Mr Samad Seyidov, Mr Christoph **Strässer**, Mrs Chiora **Taktakishvili**, Mr Mihai **Tudose**, Mrs Özlem Türköne, Mr Egidijus **Vareikis**, Mr José Vera Jardim, Mr Piotr **Wach**, Mr Robert **Walter**, Mr David **Wilshire**, Mrs Renate Wohlwend, Mrs Karin S. **Woldseth**, Mrs Gisela **Wurm**, Mr Boris Zala, Mr Andrej **Zernovski**.

NB: The names of the members who took part in the meeting are printed in **bold**.

Secretariat of the committee: Mrs Chatzivassiliou, Mr Klein, Ms Trévisan, Mr Karpenko.