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Visit of the Presidential Committee to Russia to discuss the implementation of Assembly Resolution 1633 (2008) on "the consequences of the war between Georgia and Russia"

Addendum to the report
President of the Assembly
Rapporteur: Mr Lluís Maria de PUIG i OLIVE, Spain, Socialist Group

1. Following the adoption of Assembly Resolution 1633 (2008) on "The consequences of the war between Georgia and Russia", the Bureau of the Assembly, at its meeting on 3 October 2008, decided to place on the agenda of the Standing Committee meeting in Madrid, on 27 November 2008, an item on "the follow-up given to Resolution 1633 (2008)" and to include in the preliminary draft agenda of the Assembly 's January 2009 part-session a report on the implementation of Assembly Resolution 1633 (2008). The Monitoring Committee was seized on this matter for report and the Political Affairs Committee and the Committee on Legal Affairs and Human Rights for opinion. The Bureau also asked the Committee on Migration, Refugees and Population to prepare a report on the "humanitarian consequences of the war between Georgia and Russia" which could also be debated during the January 2009 part-session. In addition, the Bureau decided to instruct the Presidential Committee to visit Tbilisi and Moscow to discuss with the authorities, at the highest level, the implementation of Assembly Resolution 1633 (2008) and to report back to the Standing Committee on the follow-up given to this resolution.

2. The visit to Tbilisi took place from 30 to 31 October 2008. The findings of the Presidential Committee following this visit are contained in my memorandum to the Bureau of the Assembly of 14 November 2008 (AS/Bur (2008) 81). The visit of the Presidential Committee to Russia was foreseen to take place on 13 and 14 November 2008. However, these dates coincided with the EU-Russia Summit in Nice. Many of the high-level meetings requested therefore could not take place, resulting in a programme that would not meet the requirements set by the Bureau for this visit. It was therefore decided to postpone the visit to Moscow to 18 to 20 January 2009.

3. During the visit to Moscow, from 18 to 20 January 2009, the Presidential Committee met with the Speaker of the State Duma, Mr Boris Gryzlov; the Chairman of the Council of Federation, Mr Sergey Mironov; the Minister for Foreign Affairs, Mr Sergey Lavrov; the Deputy Secretary of the Security Council, Mr Yury Zubakov; the Ombudsman of the Russian Federation, Mr Vladimir Lukin; the Deputy Chief of General Staff of the Ministry of Defence, Mr Anatoly Nogovitsyn; as well Mr Konstantin Kosachev, Chairman, and members of the Russian Delegation to the Assembly.

4. At the end of the visit, I made a statement in which I welcomed the frank discussions with the Russian authorities and their willingness to engage in a constructive and open dialogue with the Assembly. The text of my statement is attached to this memorandum.

5. In the view of the Russian authorities, Resolution 1633 (2008), adopted by the Assembly in October 2008, is strongly biased against Russia and fails to take into account the Russian position of the events in August. The Minister for Foreign Affairs informed us that the Russian authorities therefore were not inclined to implement its recommendations and demands. I stressed that, in our view, Resolution 1633 (2008) provides a

fully transparent, impartial and concrete roadmap to address the consequences of the war, not only for the parties concerned, but also for the Assembly itself. I therefore expressed my regret that, as a result of the Russian position, very few demands of the Assembly have been met by the Russian authorities.

6. The Russian authorities reiterated their position that they will not reconsider their recognition of the independence of Abkhazia and South Ossetia. I expressed my view that the issue of the status of these two regions, and the Russian recognition of their independence, would continue to be a point of strong disagreement with the Assembly, but stressed that the issue of the status should not be used as an argument for Russia not to address other Assembly concerns raised in Resolution 1633 (2008), most notably those related to the short- and long-term stability along the administrative borders with South Ossetia and Abkhazia, the respect of human rights for all Georgian citizens and the humanitarian consequences of the war between Georgia and Russia.

7. The Russian authorities expressed their concern that tension and provocations along the administrative borders between Georgia and the break-away regions of South Ossetia and Abkhazia are increasing, and that future hostilities between Russia and Georgia cannot be excluded. Without entering in a discussion on who is to blame for these increased tensions and provocations, I noted that the Presidential Committee had already expressed its concern about the increased tension and provocations along the administrative borders after their visit to Tbilisi. In the Committee's view, this underscored the Assembly's position that the continued presence of international monitors, with full and unrestricted access to all areas of the former conflict zone, is clearly needed, and that a new, internationalised format for the peacekeeping force should be established. In this respect, I expressed our regret about the effective veto of Russia of the extension of the mandate of the OSCE Mission in Georgia, as a result of the question of the status of the two break-away regions. In reply, the Russian authorities reiterated their position that the access of international organisations to, and their presence in, South Ossetia and Abkhazia are a matter for the de facto authorities and not for Russia to decide upon.

8. In relation to the precise circumstances surrounding the outbreak of the war, as well as the exact sequence of events in August 2008, I expressed my satisfaction that, in line with recommendations of the Assembly in this respect, the European Union has decided to establish an independent fact-finding mission on the conflict in Georgia to investigate the origins and the course of the conflict, and expressed my view that the Assembly should return to this question when the report and findings of this mission have been presented.

9. The Russian authorities informed us that the General Prosecutor had finalised his investigation into the deaths of 162 South Ossetian civilians and 48 Russian military personnel during the war, and had collected sufficient evidence to bring charges against Georgia of genocide against South Ossetians. In addition, the Deputy Chief of General Staff informed us that the Military prosecutors had concluded that no human rights violations or war crimes had been committed by the Russian military. In the light of credible reports containing overwhelming evidence that both sides committed violations of human rights and international humanitarian law during the war, I hope that further investigations into this matter will be conducted by the Russian authorities. Furthermore, I regret that we received no indications of any concrete investigations into, and action against, the human rights violations committed against ethnic Georgians in the course and aftermath of the war.

10. During our discussions with the Russian authorities, the Presidential Committee stressed that it is unacceptable that persons residing in Abkhazia and South Ossetia should not be effectively covered by the human rights protection mechanisms granted to them as citizens of a Council of Europe member state under the European Convention of Human Rights, as well as other relevant Council of Europe Conventions, as a result of the consequences of the war between Russia and Georgia. In our view, such a human rights protection black hole should not be allowed to exist within the Council of Europe area. We therefore suggested that the relevant bodies of the Council of Europe should develop a comprehensive action plan to ensure that the rights guaranteed under the Convention are effectively secured for persons residing in South Ossetia and Abkhazia. This could include the establishment of a field presence in the two break-away regions, as demanded by the Assembly in Resolution 1633 (2008). In the absence of other credible investigations, this field presence should also investigate and document human rights violations committed during and in the aftermath of the war. I noted with satisfaction that the Russian authorities, in principle, did not reject such a possibility.

11. The Russian parliamentary delegation expressly stressed their readiness to engage in a dialogue with their Georgian counterparts under the aegis of the Assembly, and highlighted the role the Assembly could play in this respect. In my opinion, this is a positive element that should be discussed during the forthcoming part-session of the Assembly, in Strasbourg.

12. At the end of our visit, I welcomed the willingness of all Russian authorities to engage in a constructive and open dialogue with the Assembly, as was evident during our visit. I expressed my hope that this approach will lead to a renewed dialogue on the compliance of Russia with the demands made by the Assembly in Resolution 1633, as well as on the results of the upcoming debate at the January part-session of the Assembly.