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The war between Georgia and Russia: one year after

Committee Opinion¹

Committee on Migration, Refugees and Population

Rapporteur: Ms Corien W.A. JONKER, Netherlands, Group of the European People's Party

A. Conclusions of the committee

1. The Committee on Migration, Refugees and Population welcomes the report of the Monitoring Committee on the war between Georgia and Russia: one year after.
2. The report presents a timely overview of the progress made in dealing with the consequences of the war between Georgia and Russia over the last year. The committee regrets the lack of progress that has been made on the humanitarian front over the last year. Notwithstanding that many persons were able to return to their homes in the so called "buffer zone" and that large amounts of aid have been promised for those affected by the conflict, including internally displaced persons and refugees, many of the humanitarian issues are currently in a state of stalemate.
3. The committee deplores that access, including humanitarian access across the administrative boundary has become increasingly complex for the local population and for international organisations. Human rights monitoring and international presence in the conflict region has all but disappeared with the closure of the OSCE Office in Georgia and the United Nations Mission in Georgia (UNOMIG), security still remains an important issue with shootings, booby traps, unexploded remnants of war, kidnappings and reports of violence and threatening behaviour being regularly reported. There has been no progress on the return of ethnic Georgians to the regions of South Ossetia and Abkhazia or to the occupied territories of Akhgori, Perevi and Upper Khodori Valley. Many ethnic Georgians have continued to leave these areas due to security fears, forced passportisation, problems over mother tongue education, fears of conscription and difficulties in maintaining links across the administrative boundary line (for family reasons, economic reasons, medical reasons, etc.).

B. Explanatory memorandum by Mrs Jonker, rapporteur

1. The rapporteur welcomes the report of Mr Van den Brande and Mr Eörsi, co-rapporteurs of the Monitoring Committee for the report on the war between Georgia and Russia: one year after.
2. While the report is essentially a report on the political consequences of the war, it rightly takes into account and highlights some of the most pressing humanitarian and human rights concerns remaining one year after the conflict erupted.
3. In this opinion, the rapporteur would like to commend those who have contributed to making the lives of those persons in the region affected by the war, a little easier, a little safer and provided a little optimism for the future. This applies to persons forming part of civil society, as well as persons working in government or other offices.

1. See [Doc. 12010](#) tabled by the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee).



4. However, against this backdrop, the rapporteur has to face the stark reality that far too little has been achieved to address the underlying human rights and humanitarian concerns, leaving those individuals most affected by the war in a void or stalemate, as politics takes over from humanitarian and human rights concerns. This is not acceptable.

5. In this opinion, the rapporteur starts by highlighting some of the all too few positive developments during the course of the year, before dealing with the failures and the issues in need of urgent attention. Finally, she puts forward a number of proposed amendments to the draft resolution of the Monitoring Committee, which seek to underline more clearly some of the humanitarian concerns.

1. One year on: positive developments, albeit far too few

6. When the rapporteur visited the conflict zone in September 2008, the so-called “buffer zone” with South Ossetia was occupied and it was almost impossible for persons to return to their homes in this area. One year on and the Russian troops have withdrawn, people have been able to return to their homes, many even during the harsh winter months, and a new monitoring mission by the European Union (EUMM) has provided a level of security, allowing persons in the region to get on with their lives.

7. The Georgian authorities have received generous support from the international community, allowing them to tackle many of the problems of the new internally displaced persons (IDPs) and also have a fresh look at the lives of the old IDPs from the earlier conflicts. US\$4.5 billion of aid was pledged, 38 new IDP settlements have been made available, providing housing for over 18 000 IDPs and progress has been made on the Action Plan on the IDP strategy. This was initially passed on 30 July 2008, but updated with an annex in December 2008.

8. The Russian Ministry of Justice has authorised aid to the de facto South Ossetian authorities amounting to 10 billion Russian roubles, reconstruction has been undertaken, a gas line has been constructed from Russia to Tskhinvali and most of the refugees who fled to Russia during the war have returned.

9. During the winter, the basic humanitarian needs of all persons, both sides of the administrative boundary line, were met, albeit the winter remained harsh and difficult for many living in the ruins of their homes and those who faced severe shortages in energy supplies, such as gas, electricity or firewood. The rapporteur would like to highlight the important work carried out by the International Committee of the Red Cross (ICRC), the United Nations High Commissioner for Refugees (UNHCR), other international governmental and non-governmental organisations, and the authorities concerned, all of whom made important contributions in this respect.

2. One year on: stalemate and a catalogue of humanitarian and human rights issues in need of attention

10. The rapporteur is greatly disappointed by the lack of progress on many of the most important humanitarian and human rights issues. She has highlighted on many occasions the need for humanitarian and human rights issues to be divorced from political issues, but all too often the parties to the conflict have continued to put politics in front of the lives of the people affected.

11. Many of the problems boil down to the single issue of “access” and the implications that the parties see in “access” on the status situation of the breakaway regions. Unless this issue is tackled and resolved now, there will be little or no progress made in any foreseeable future on the humanitarian and human rights front.

12. The Monitoring Committee in its report has rightly highlighted the issue of access. The rapporteur, however, considers that even more emphasis needs to be placed on this issue, in particular in terms of how it affects the people living in the region and not only the international organisations who are prevented from carrying out their human rights and humanitarian roles.

13. The rapporteur has identified the following examples of where “access” is used as an excuse for blocking humanitarian and human rights progress:

2.1. Human rights protection and oversight

14. In the last year, the Organization for Security and Co-operation in Europe (OSCE) Mission in Georgia, along with its OSCE military observation mission, has been wound up. The same fate applied to the United Nations Observer Mission in Georgia (UNOMIG). As the report of the Monitoring Committee points out, this is due to the refusal of Russia to allow the extension of these mandates. Furthermore, Russia has refused to allow the EUMM monitors access to the regions of South Ossetia and Abkhazia and the occupied territories.

15. Furthermore, international organisations, including the Council of Europe have been met with a wall of problems when seeking to visit or run activities in the regions of Abkhazia, South Ossetia or the occupied territories. Without wishing to allocate levels of blame, all parties including Russia, Georgia and the de facto authorities share a responsibility. For the Council of Europe to be able to carry out its human rights and humanitarian mandate it needs to have access for its monitoring bodies, such as the European Commission Against Racism and Intolerance (ECRI), the Advisory Committee on the Framework Convention for the Protection of National Minorities and the European Committee for the Prevention of Torture (CPT). It also needs persons working out of Tbilisi, Sukhumi and Tskhinvali and all parties have to facilitate this.

2.2. Access across the administrative boundary line for the local population

16. The administrative boundary line is becoming increasingly difficult for local people to cross, primarily due to the attitude of the de facto Abkhaz and South Ossetian authorities and the support and steps taken by the Russian authorities to strengthen and control the administrative boundary line. The impact of these restrictions can be devastating for the local population and affects, *inter alia*, their ability to obtain medical treatment, their possibility to maintain family contacts, the opportunity to carry out economic activities, their access to pension payments and other benefits, access to education, etc. While the situation is bad, it is clear the situation could get worse. If the administrative boundary closes completely, there is every prospect that there will be a further wave of IDPs, in particular from the Gali region and from the Akhagori district.

2.3. Law on the occupied territories of Georgia

17. While the Georgian authorities have expressed their readiness to address the concerns set out in the recent European Commission for Democracy through Law (Venice Commission) opinion on the “Law on the occupied territories of Georgia”, concerns remain about the impact of this law in its implementation, for private individuals and national and international organisations. While the amendments open the way for persons providing necessary humanitarian aid in emergency situations for the protection of right to life and survival of the population, your rapporteur remains concerned about how workable this will be in practice. She is also concerned how this will affect the activities of actors who fall beneath the threshold mentioned, yet still carry out essential activities for protecting human rights and guaranteeing humanitarian assistance for those in the occupied territories.

2.4. Return of internally displaced persons

18. The right to return of internally displaced persons is a key issue in dealing with internal displacement. The report of the Monitoring Committee has rightly highlighted the grave concern of ethnic cleansing and current difficulties in relation to return at this moment. Clearly return is an “access” issue and while the security situation, living conditions and the voluntary will of the displaced may not favour the return of many persons at this moment in time, the basic international principles of return, as highlighted in the Pinheiro Principles and various recommendations and resolutions of the Assembly, including [Recommendation 1877 \(2009\)](#) on Europe’s forgotten people: protecting the human rights of long term displaced persons² need to be adhered to. This right to return has to be formally recognised by the de facto Abkhaz and the de facto South Ossetian authorities and by Russia. The rapporteur supports in full the recent United Nations General Assembly Resolution (A63/L.79) on the status of internally displaced persons and refugees from Abkhazia, Georgia and Tskhinvali region/South Ossetia, Georgia and in particular recognition of the “right of return of all internally displaced persons and refugees and their descendants, regardless of ethnicity, to their homes, throughout Georgia, including in Abkhazia and South Ossetia”. She also supports “the need to respect the property rights of all internally displaced persons and refugees affected by the conflicts in Georgia and to refrain from obtaining property in violation of those rights”. Recent reports that there are plans to build an airport runway on the sites of former homes of ethnic Georgians near to Tskhinvali are of great concern to the rapporteur and compromise both return and property restitution.³

2. See also [Doc. 11942](#), report of the Committee on Migration, Refugees and Population, rapporteur: Mr Greenway.

2.5. Gas and energy supplies and water

19. These are essential supplies throughout the year, but particularly during the winter. It is imperative that access to these supplies for those living on both sides of the administrative boundary lines is maintained and that energy in particular is not used as a political weapon at the expense of those in need of energy for winter heating.

2.6. Dialogue with civil society

20. People have a right to information, they have a right to knowledge, they have a right to communicate. Without dialogue, confidence building cannot start, trust cannot be created. This is the case on all sides in the conflict between Georgia and Russia and the Council of Europe has an important role to play in supporting civil society and encouraging dialogue. Steps to foster a dynamic and independent civil society in the breakaway regions need to be taken, and all sides in the conflict need to be more open and willing to facilitate dialogue and contacts at the level of civil society.

2.7. Security – major issue

21. Security is a major issue for those living close to the administrative boundary line and also those living in a minority situation, for example ethnic Georgians living in the Gali region or Akhagori district. The OSCE monitors (up until their departure) and the EUMM monitors have reported on serious administrative boundary incidents which include shootings, booby trappings, and administrative boundary arrests, all of which add to the level of insecurity in the region. This has furthermore not been helped by the recent naval interventions and threats from the different sides to use force to safeguard naval interests.

22. The security situation in the Gali district is not helped by the withdrawal of UNOMIG and there are serious concerns of harassment of persons of ethnic Georgian origin in the region, increasing difficulties over mother tongue education and forced passportisation, as well as concerns over forced conscription. The situation in Akhagori remains difficult for similar reasons, with many persons of Georgian ethnic origin having left the region during the course of the year. The de facto authorities in Abkhazia and South Ossetia, along with Russia, have an obligation to guarantee the security of all persons under their de facto control.

23. The rapporteur considers that the Parliamentary Assembly should keep a particularly close eye on these two areas of Gali and Akhagori, in view not only of the security concerns, but also the human rights and humanitarian issues they throw up.

24. The rapporteur is also concerned about the different naval interventions and incidents, including the incident where the Turkish captain of a vessel heading for Abkhazia was arrested and sentenced to prison, but subsequently released. Taking into account the various statements and threats from the different sides, there is a clear risk of naval hostilities breaking out, which could lead to other hostilities unless this issue is dealt with.

3. Conclusions and recommendations

25. The rapporteur welcomes the frank assessment made by the Monitoring Committee in its report. The report deals not only with the political issues but also some of the most important ongoing humanitarian and human rights concerns.

26. The rapporteur has, in this opinion, tried to highlight how many of the humanitarian and human rights issues are blocked by the access issue to the breakaway regions of Abkhazia and South Ossetia. As soon as the issue of access is raised, the issue of the status of the territories is opened up by one side or the other. On 9 September 2009, the rapporteur had the opportunity of addressing the Council of Europe's ministers' deputies on the humanitarian consequences of the war between Georgia and Russia. In the address she stated that there were three priorities when dealing with the humanitarian and human rights issues. They were "access, access and access".⁴ The rapporteur hopes that the exchange of views with the ministers' deputies

3. The Committee on Migration, Refugees and Population plans to approve a report on the issue of solving property issues of refugees and displaced persons (rapporteur Mr Poulsen, Denmark, ALDE) during the January 2010 part-session.

4. The public statement and presentation is available on the website of the Parliamentary Assembly: www.assembly.coe.int/ASP/NewsManager/EMB_NewsManagerView.asp?ID=4883.

will provide a basis for tackling some of the access dependent human rights and humanitarian issues raised not only in this opinion and the draft resolution before the Assembly, but also the previous resolutions and recommendations of the Assembly on the war and its aftermath.

27. The Council of Europe, the international community and the people living in the region must not be held hostage by any parties to the conflict on the access issue where there are humanitarian and human rights concerns at stake. In these cases, the access issue must be clearly disconnected from the status issue of the breakaway regions.

28. The rapporteur therefore proposes introducing a number of amendments which seek to emphasise some of the humanitarian and human rights concerns and the actions that need to be taken to deal with them.

C. Proposed amendments

Amendment A (to the draft resolution)

In paragraph 6.2 delete the words “all parties” and replace with:

“Georgia, Russia and the breakaway regions of Abkhazia and South Ossetia”.

Amendment B (to the draft resolution)

At the end of paragraph 6.2 add the following words:

“and fully respect their property rights”.

Amendment C (to the draft resolution)

In paragraph 6 at the end of sub-paragraph 6.2 add a new sub-paragraph as follows:

“Calls upon the relevant parties to the conflict to refrain from steps which may lead to a further wave of internally displaced persons, including threats to security, forced passportisation, interference with mother tongue education, conscription and restrictions on freedom of movement”.

Amendment D (to the draft resolution)

In paragraph 6 at the end of sub-paragraph 6.2 add a new sub-paragraph as follows:

“calls for the human rights and humanitarian experience of the Council of Europe to be taken into account in the Geneva discussions, in particular in the framework of the second working group dealing with humanitarian issues and freedom of movement, and for the Council of Europe to be represented in these discussions, at least in an observer capacity.”

Amendment E (to the draft resolution)

In paragraph 7, delete the first paragraph before sub-paragraph 7.1. and replace with:

“The Assembly deeply regrets that Russia and the breakaway regions of Abkhazia and South Ossetia continue to place excessive restrictions on the access of international and humanitarian organisations, including for humanitarian aid, to the breakaway regions, and that Georgia also places restrictions on access. Furthermore, Russia and the breakaway regions of Abkhazia and South Ossetia continue to place undue restrictions on the local population wishing to cross the administrative boundary line. In this respect it:”.

Amendment F (to the draft resolution)

Add at the beginning of paragraph 7.1 add the following:

“remains deeply concerned about the humanitarian consequences of the ‘Law on the occupied territories of Georgia’ and its application, although it”.

Amendment G (to the draft resolution)

In paragraph 7.1 replace the words “Law on the occupied territories of Georgia” with:

“Law”.

Amendment H (to the draft resolution)

At the end of paragraph 7.2 of the draft resolution add a new paragraph:

“calls upon all parties to ensure the uninterrupted flow of gas, water and other basic humanitarian supplies across the administrative boundary lines, in particular during the forthcoming winter months.”

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

Committee for opinion: Committee on Migration, Refugees and Population

Reference to committee: [Resolution 1115 \(1997\)](#), [Resolution 1647 \(2009\)](#) and Reference 3575 of 29 May 2009

Opinion approved by the committee on 28 September 2009

Secretariat of the committee: Mr Neville, Mrs Odrats, Mr Ekström