



Resolution 1633 (2008)¹

The consequences of the war between Georgia and Russia

Parliamentary Assembly

1. The Parliamentary Assembly is firmly committed to the pursuit of peace and the principles embodied in the Statute of the Council of Europe (ETS No. 1): democracy, human rights and the rule of law, as well as to principles of state sovereignty, the right to territorial integrity and the inviolability of state frontiers. Respect for these principles is an obligation incumbent upon all member states of the Council of Europe.
2. When joining the Council of Europe, both Georgia and Russia committed themselves to settle conflicts by peaceful means and in accordance with the principles of international law.
3. The Assembly condemns the outbreak of war between two member states of the Organisation and deplores the human suffering it has caused.
4. The Assembly is conscious that, although the outbreak of the war on 7 August 2008 may have come unexpectedly to most of its members, it was the result of a serious escalation of tension, with provocations and ensuing deterioration of the security situation, which had started much earlier. Steps to reduce tension were not taken and the possibility of military intervention became an option for both sides in the conflict. This is unacceptable for the Assembly. It is of the view that in the end the peacekeeping format proved that it could not fulfil its intended function and that the peacekeepers did not succeed in their mission to protect the lives and property of the people in the conflict area. It therefore regrets that earlier calls to discuss a change in the format of the peacekeeping and conflict resolution process were rejected by South Ossetia and Russia.
5. However, the initiation of shelling of Tskhinvali without warning by the Georgian military, on 7 August 2008, marked a new level of escalation, namely that of open and fully fledged warfare. The use of heavy weapons and cluster munitions, creating grave risks for civilians, constituted a disproportionate use of armed force by Georgia, albeit within its own territory, and as such a violation of international humanitarian law and Georgia's commitment to resolve the conflict peacefully.
6. At the same time, the Russian counter-attack, including large-scale military actions in central and western Georgia and in Abkhazia, equally failed to respect the principle of proportionality and international humanitarian law, and constituted a violation of Council of Europe principles, as well as of the statutory obligations and specific accession commitments of Russia as a member state. It led to the occupation of a significant part of the territory of Georgia, as well as to attacks on the economic and strategic infrastructure of the country, which can be deemed to be either a direct attack on the sovereignty of Georgia and thus a violation of the Statute of the Council of Europe, or an attempt by Russia to extend its influence over a "near abroad" state in violation of its accession commitment to denounce such a concept.

1. *Assembly debate* on 30 September and 2 October 2008 (30th, 34th and 35th Sittings) (see [Doc. 11724](#), report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Mr Van den Brande and Mr Eörsi; [Doc. 11731](#), opinion of the Political Affairs Committee, rapporteur: Mr Lindblad; [Doc. 11732](#), opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Pourgourides; and [Doc. 11730](#), opinion of the Committee on Migration, Refugees and Population, rapporteur: Mrs Jonker). *Text adopted by the Assembly* on 2 October 2008 (35th Sitting). See also [Recommendation 1846 \(2008\)](#).



7. In this respect, the Assembly considers that, from the point of view of international law, the notion of “protecting citizens abroad” is not acceptable and is concerned by the political implications of such a policy by the Russian authorities for other member states where a substantial number of Russian citizens reside.
8. The Assembly believes that truth is a precondition for reconciliation. Since the facts surrounding the outbreak of the war are disputed by both Georgia and Russia, they should be established, in an objective manner, by an independent international investigation. The Georgian authorities have indicated that they would welcome such an international inquiry and the Russian members of parliament have also indicated that they would not object to this proposal. This investigation should not be limited to the outbreak of the war, but should also focus on the years leading up to the conflict.
9. The Assembly condemns the recognition by Russia of the independence of South Ossetia and Abkhazia as a violation of international law and Council of Europe statutory principles. The Assembly reaffirms its attachment to the territorial integrity and sovereignty of Georgia and calls on Russia to withdraw its recognition of the independence of South Ossetia and Abkhazia and respect fully the sovereignty and territorial integrity of Georgia, as well as the inviolability of its frontiers.
10. The Assembly particularly deplores the fact that the recognition of independence was prompted by the unanimous demand of both houses of the Parliament of Russia, the State Duma and the Council of the Federation. It is seriously concerned that the act of recognition, followed by the recent signing by Russia of friendship and co-operation treaties with the de facto authorities in Tskhinvali and Sukhumi, hinders the implementation of the European Union-brokered ceasefire agreement, as well as the provision of humanitarian aid and monitoring of the implementation of the ceasefire agreement by independent observers.
11. The Assembly is concerned about the human rights and humanitarian law violations committed by both sides in the context of the war, such as the intentional or avoidable killing or wounding of civilians, as well as destruction of property. In particular, the use of indiscriminate force and weapons by both Georgian and Russian troops in civilian areas can be considered as war crimes that need to be fully investigated.
12. Russia appears not to have succeeded in its duty, under the 1907 Hague Convention (IV) on the Laws and Customs of War on Land, to prevent looting, maintain law and order and protect property in the areas under the de facto control of its forces. In this respect, the Assembly notes that Russia bears full responsibility for violations of human rights and humanitarian law in the areas under its de facto control. In the light of the case law of the European Court of Human Rights, this also concerns acts committed at the behest of the de facto authorities in Tskhinvali.
13. The Assembly is especially concerned about credible reports of acts of ethnic cleansing committed in ethnic Georgian villages in South Ossetia and the “buffer zone” by irregular militia and gangs which the Russian troops failed to stop. It stresses in this respect that such acts were mostly committed after the signing of the ceasefire agreement on 12 August 2008, and continue today.
14. The total number of deaths and persons wounded has been the subject of controversy. The most recent independent estimates indicate that 300 persons were killed and approximately 500 were wounded on the South Ossetian and Russian sides, and that 364 persons were killed and 2 234 were wounded on the Georgian side. These figures are far lower than those initially advanced in particular by Russia. Some 54 persons remain missing from the conflict on the Georgian side and 6 persons are missing on the South Ossetian side. The International Committee of the Red Cross (ICRC), however, continues to receive tracing requests from families of the missing.
15. Some 192 000 persons were displaced as a consequence of the war. The Assembly is concerned that a total of 31 000 displaced persons (25 000 from South Ossetia and 6 000 from Abkhazia) are considered to be “permanently” unable to return to their original places of residence. These numbers should be seen in the context of the approximately 222 000 persons who remain displaced from the previous conflict in the early 1990s.
16. The Assembly welcomes the role played by the Council of Europe Commissioner for Human Rights who travelled to the region in August and September 2008, organised the exchange of prisoners and spelled out six principles for urgent protection of human rights and humanitarian security. The Assembly fully supports these principles.
17. The Assembly welcomes the initiative of the Swedish Chairmanship of the Council of Europe Committee of Ministers which, *inter alia*, convened an informal extraordinary meeting of the ministers for foreign affairs of member states of the Council of Europe on 24 September 2008 in order to prepare the response of the intergovernmental sector of the Organisation to the crisis.

18. The Assembly further welcomes the fact that the European Union, under the French Presidency, has been actively involved since the outbreak of the conflict and recalls its earlier appeals to this effect in its [Resolution 1603](#) on the honouring of commitments and obligations by Georgia, adopted in January 2008. The Assembly further invites the European Union to strengthen its own monitoring mission on the ground and give it a mandate and resources not only to monitor, but also to protect persons and property, pending the restoration of public security by the Georgian police.

19. The Assembly also welcomes the proposal of the Turkish Government concerning a “Caucasus stability and co-operation platform” as a complementary and constructive initiative.

20. The Assembly calls on the Russian authorities to allow observers from both the European Union and the Organization for Security and Co-operation in Europe (OSCE) to have access to South Ossetia and Abkhazia, which are under the de facto control of Russia. In addition, differences about the role of European Union observers in the so-called “buffer zone” may lead to an even further deterioration of the security situation in this area, impeding the return of displaced persons after Russian troops have withdrawn from it.

21. The Assembly welcomes the quick reaction of the international community in providing assistance to the region. It welcomes the fact that the Russian authorities have provided generous support to refugees from South Ossetia and that the Georgian authorities similarly have mobilised considerable resources to meet the immediate needs of those persons displaced within Georgian territory under their effective control. However, the Assembly is concerned that the recognition by Russia of the independence of South Ossetia and Abkhazia is hindering the effective deployment of humanitarian aid in these areas.

22. In view of the above-mentioned considerations and taking into account in particular the findings of the ad hoc committee of its Bureau, which visited Georgia and Russia in the context of the war from 21 to 26 September 2008, the Assembly urges Georgia and Russia to:

22.1. implement unconditionally all points of the European Union-brokered ceasefire agreement. This implies, in particular, the obligation for Russia to withdraw its troops to positions *ex ante* the conflict and refrain from any act of provocation to justify maintaining the presence of Russian troops in the so-called “buffer zone”;

22.2. enable OSCE and European Union observers to be deployed into South Ossetia and Abkhazia; Russia should also withdraw its recognition of independence of South Ossetia and Abkhazia;

22.3. co-operate fully in the establishment of an independent international investigation to look into the precise circumstances surrounding the outbreak of the war; this initiative should be without prejudice to the work of inquiry committees set up or to be set up within their own parliaments, which the Assembly fully supports;

22.4. work towards the creation of a new peacekeeping format and to internationalise the peacekeeping force, with the active participation of Council of Europe and European Union member states, in order to establish genuine conditions for the start of a peace process;

22.5. participate unconditionally in the Geneva talks scheduled for 15 October regarding the modalities of stability and security in South Ossetia and Abkhazia. In this respect the Assembly regrets that these talks will now only take place at expert level;

22.6. refrain from inflammatory discourse and take steps to maintain good neighbourly relations;

22.7. ensure effective respect for all human rights under the European Convention on Human Rights (ETS No. 5) and humanitarian norms under the 1949 Geneva Conventions and their additional protocols on the territories under their de facto control;

22.8. investigate all allegations of human rights violations committed during the war and in its aftermath, and hold the perpetrators to account before the domestic courts;

22.9. allow safe and unhindered access by the media to the conflict zone, in accordance with Assembly [Resolution 1438 \(2005\)](#) on freedom of the press and the working conditions of journalists in conflict zones;

22.10. make full use of available means of peaceful conflict resolution, including, as appropriate, the European Court of Human Rights, the International Court of Justice and the International Criminal Court, in order to resolve the underlying conflict situation; in this context, implement the interim measures ordered by the European Court of Human Rights on 12 August 2008, upon the request of the Georgian Government, as well as any forthcoming judgments of the Court concerning alleged violations of human rights relating to the conflict;

22.11. join the United Nations Convention on Cluster Munitions.

23. The Assembly calls on all parties to the conflict, namely Georgia, Russia and the de facto authorities in South Ossetia to:

23.1. take urgent measures to guarantee the security of all persons within the region of South Ossetia, and those in the so-called "buffer zone". The de facto authorities in South Ossetia and the Russian forces have, in particular, the obligation to:

23.1.1. stamp out lawlessness (including physical assault, robbery, kidnapping, harassment, looting and torching of property), in accordance with Article 43 of the Hague Convention (IV) of 1907 and the Fourth Geneva Convention of 1949;

23.1.2. provide, without delay, the Office of the United Nations High Commissioner for Refugees (UNHCR) and all humanitarian organisations with unhindered access to the areas affected by the conflict, in particular in the region of South Ossetia and the so-called "buffer zone". All organisations providing humanitarian assistance in these areas should be guaranteed safety.

23.2. remove all mines and unexploded ordnance. This implies all parties to the conflict exchanging information on the use and location of such materials, and also the involvement of experts on mine and ordnance location and removal. The people living in these areas, as well as other persons concerned, must be made aware of the dangers of mines and unexploded ordnance;

23.3. co-operate fully with all international monitoring missions, whether from the United Nations (UN), the OSCE, the European Union, the Council of Europe or any other international body and grant these organisations full access to the conflict regions;

23.4. ensure that all persons displaced by the conflict have the right to return on a fully voluntary basis and to refrain from using displaced persons as political pawns when tackling the issue of return. Furthermore, all internally displaced persons should have the right to return in safety and dignity, or to resettle voluntarily or integrate locally;

23.5. release and exchange immediately hostages, prisoners of war and other persons detained as a result of the conflict, without requiring reciprocity from any of the parties;

23.6. solve the issue of missing persons from the recent conflict and the earlier conflict, ensuring that the issue is treated as a humanitarian issue and not a political issue. Furthermore, establish a multilateral co-ordination mechanism with commissions in charge of searching for missing persons;

23.7. take concrete measures to fully and effectively implement the Council of Europe Commissioner for Human Rights' six principles for urgent protection of human rights and humanitarian security drawn up after his August 2008 visit to the region.

24. The Assembly calls on all member states and states with observer status with the Organisation to:

24.1. not recognise the independence of South Ossetia and Abkhazia;

24.2. intensify their efforts to provide humanitarian assistance to the victims of the conflict, including:

24.2.1. the pledging and delivery of aid and assistance for immediate urgent needs and those of a more long-term nature;

24.2.2. assistance covering basic needs, accommodation, health care, including care for trauma victims, support for the livelihood of victims, etc.;

24.2.3. particular support for vulnerable persons, including children, the aged and the sick and infirm;

24.3. maintain a focus on the needs of the 222 000 persons who remain displaced from the previous conflict over Abkhazia and South Ossetia, as well as those displaced from earlier conflicts in the North Caucasus;

24.4. formally condemn the ethnic cleansing taking place in the areas under the effective control of Russian forces and of the de facto authorities in South Ossetia;

24.5. ensure, to the extent that they are also members of the North Atlantic Treaty Organization (NATO), that the NATO assessment of the military build-up with respect to this war be made public;

24.6. make available to the independent international investigation into the circumstances surrounding the outbreak of the war all relevant satellite data they may have in their possession.

25. Because of the human rights violations and the humanitarian challenges resulting from the conflict between Russia and Georgia, the Assembly invites its Bureau to ensure that the Assembly remains seized of the matter through its competent committees and to step up its monitoring procedure with respect to both countries.
26. The Assembly resolves to convene an international conference to reflect on establishing and improving existing early warning systems to prevent the escalation of conflicts into fully fledged wars.
27. The Assembly invites the Secretary General of the Council of Europe to consider the establishment, possibly in consultation with the Commissioner for Human Rights, of a special human rights field mission of the Council of Europe with unhindered access to all areas affected by the war.
28. The Assembly also invites the Secretary General of the Council of Europe to consider availing himself of his powers under Article 52 of the European Convention on Human Rights in particular for the purpose of asking the Russian authorities to provide information on how the rights guaranteed by the Convention in zones under their de facto jurisdiction are effectively secured, and the Georgian authorities to provide explanations as to how it was deemed necessary to declare a state of war without it being necessary to make a derogation under Article 15 of the Convention.
29. The Assembly invites the Council of Europe Development Bank to consider action with a view to assisting refugees and displaced persons, as well as contributing to reconstruction in the areas affected, including South Ossetia and Abkhazia.
30. The Assembly is convinced that the establishment of dialogue is the best way forward for the solution of any conflict and for fostering stability in the long term. This holds true for this particular conflict. However, dialogue requires political will on both sides and must be backed up by concrete action. Therefore, some basic conditions for the dialogue have to be established and observed. Full implementation of the peace plan, including withdrawal of the Russian troops to positions *ex ante* the conflict is essential. In addition, full deployment of European Union and OSCE observers into South Ossetia and Abkhazia and withdrawal by Russia of the recognition of independence of South Ossetia and Abkhazia, would be minimum conditions for a meaningful dialogue.
31. In order to promote such dialogue, the Assembly will consider setting up under its aegis a special Parliamentary Assembly ad hoc committee, in which both Georgian and Russian parliamentarians will participate, to serve as a forum for discussing their differences and proposing ways to put an end to the current impasse and look towards the future.
32. With a view to minimising the risk of further outbreaks of violence involving its member states, the Assembly should play a role in the field of conflict prevention and resolution, as without peace there cannot be genuine respect for democracy, human rights and the rule of law. It decides, therefore, to ask its Bureau to study mechanisms by which it could conduct parliamentary diplomacy in the context of frozen conflicts in Europe and other situations liable to undermine peace and stability.