Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 1647 (2009)[1]

Implementation of Resolution 1633 (2008) on the consequences of the war between Georgia and Russia

Parliamentary Assembly

1. The Parliamentary Assembly fully reaffirms its Resolution 1633 (2008) on the consequences of the war between Georgia and Russia, adopted on 2 October 2008. In this resolution, the Assembly strongly condemned the outbreak of war between two of its member states and considered that, during the war and its immediate aftermath, both countries had violated human rights and principles of humanitarian law, as well as the Statute of the Council of Europe (ETS No. 1) and specific accession commitments made by the two countries. Therefore, the Assembly placed a series of concrete demands on both Georgia and Russia, as well as on the de facto authorities in South Ossetia and in Abkhazia, including the demand on Russia to withdraw its recognition of independence of these two break-away regions. In so doing, the Assembly provided a transparent, impartial and concrete roadmap to address the consequences of the war, not only for the parties concerned, but also for the Assembly itself.

2. The Assembly welcomes the establishment, by the European Union, on 2 December 2008, of an independent international fact-finding mission on the conflict in Georgia to investigate the origins and the course of the conflict, including with regard to international law, humanitarian law and human rights and the accusations made in that context. This is a crucial step towards establishing the truth and providing the basis for future reconciliation between Russia and Georgia. In this respect, the Assembly:

2.1. welcomes the support of both Russia and Georgia for the establishment of an independent international inquiry into the outbreak of the war and their declared willingness to fully co-operate with it;

2.2. calls upon Russia and Georgia now to co-operate effectively, fully and unconditionally with the European Union fact-finding mission;

2.3. calls upon all Council of Europe member states and states that have observer status with the Organisation to make available to the fact-finding mission any information, including satellite data, that may be of relevance to the investigation;

2.4. calls upon the member states of the Council of Europe which are also European Union members to ensure that the report of the European Union mission is also presented to the Council of Europe in order for its findings to be debated before the Assembly; the Council of Europe shall continue to fulfil its own responsibilities concerning this conflict between two of its member states;

2.5. resolves to return to the issue of the causes and precise circumstances surrounding the outbreak of the war once the report of the European Union mission has been presented.

3. The Assembly encourages all parties to pursue, in a constructive spirit, the Geneva talks on the modalities of security and stability in Abkhazia and South Ossetia with a view to introducing an incident prevention mechanism, as proposed by the co-chairing organisations (the United Nations, the Organisation for Security and co-operation in Europe (OSCE) and the European Union). The Assembly supports the principle

1. *Assembly debate* on 28 January 2009 (5th and 6th Sittings) (see Doc. 11800, 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. 11806, opinion of the Political Affairs Committee, rapporteur: Mr Gross; and Doc. 11805, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Pourgourides). *Text adopted by the Assembly* on 28 January 2009 (6th Sitting).

that representatives of the inhabitants of South Ossetia and Abkhazia at the beginning of August 2008, both supporters of the de facto authorities and those that favour reintegration with Georgia, should participate in these talks. It also insists that their status in the talks should not violate Georgia's sovereignty and territorial integrity. The Assembly therefore calls upon all parties to agree on a formula ensuring their participation without prejudice to the status of the two break-away regions.

4. The Assembly condemns the recognition by Russia of the independence of South Ossetia and Abkhazia and considers it to be a violation of international law and of the Council of Europe's statutory principles. The Assembly reaffirms its attachment to the territorial integrity and sovereignty of Georgia and reiterates its call on Russia to withdraw its recognition of the independence of South Ossetia and Abkhazia and to fully respect the sovereignty and territorial integrity of Georgia, as well as the inviolability of its borders.

5. The Assembly is seriously concerned that the escalation of tensions and provocations along the administrative borders of the break-away regions of South Ossetia and Abkhazia are undermining the stability of the region and could lead to renewed clashes or an outbreak of hostilities. It deplores in particular the recent attacks on Georgian police officers in the areas close to the Abkhaz and South Ossetian administrative borders. It considers that the full access of international monitors to South Ossetia and Abkhazia, as well as the establishment of a new internationalised peacekeeping force in the region, are essential to guaranteeing stability and security and should not be made conditional on the status issue. The Assembly therefore:

5.1. deplores the continued refusal of Russia and the de facto authorities to allow access to OSCE monitors to South Ossetia and to European Union monitors to both South Ossetia and Abkhazia;

5.2. deeply regrets the closure of the OSCE mission in Georgia as a result of Russian objections over its exact mandate and calls upon all parties, and especially the Russian authorities, to accept a formula for the mandate of the OSCE mission, including its military monitoring operation, in Georgia, that would not prejudice the status of the two break-away regions;

5.3. welcomes the continued access of the United Nations Observer Mission in Georgia (UNOMIG) observers to Abkhazia and calls upon all parties not to take any actions that would endanger the renewal of the mandate of UNOMIG by the United Nations Security Council on 15 February 2009;

5.4. condemns the Russian non-mandated military presence and the building of new military bases within the separatist regions of South Ossetia and Abkhazia, as well as in Akhalgori, Perevi and Upper Abkhazia and in villages controlled by the central government of Georgia before the breakout of the conflict.

6. The Assembly reaffirms its full support for the sovereignty and territorial integrity of Georgia, as well as the inviolability of its borders. In this respect, it regrets the unanimous ratification by both houses of the Russian Parliament of the "Friendship and Co-operation" treaties between Russia and the two break-away regions, in violation of these principles, as well as of the ceasefire agreement of 12 August 2008.

7. The Assembly condemns the ethnic cleansing and other human rights violations in South Ossetia, as well as the failure of Russia and the de facto authorities to bring these practices to a halt and their perpetrators to justice. The Assembly reiterates that, under international law, Russia bears responsibility for violations of human rights and humanitarian law in these areas which are under its de facto control.

8. With respect to Georgia, the Assembly:

8.1. welcomes the constructive approach and clear political will of the Georgian authorities to comply with the demands of the Assembly as expressed in Resolution 1633 (2008) and considers that Georgia has complied with many, but not all, of its demands;

8.2. calls upon the Georgian authorities to ensure that all outstanding demands are promptly and fully complied with;

8.3. welcomes the establishment of an inquiry commission by the Georgian Parliament as evidence that it is willing to reflect on the actions and mistakes committed by the Georgian authorities in the outbreak and in the course of the war. The Assembly notes that this commission finalised its work and published its report in December 2008 and calls upon the parliament to review its conclusions in the light of the forthcoming report of the European Union fact-finding mission;

8.4. in the light of the overwhelming evidence to the effect that both Georgia and Russia violated human rights and humanitarian law in the course of the war, welcomes the investigation launched by the Georgian Prosecutor General's Office into alleged human rights and humanitarian law violations

committed by both sides in the course of the war and its aftermath, and calls upon it to investigate, impartially, any alleged violations brought to its attention and ensure that the perpetrators are brought to justice;

8.5. is concerned that provisions in the Georgian law on the occupied territories may be at odds with principles of international human rights law, including the European Convention on Human Rights (ETS No. 5), and therefore calls upon Georgia to promptly implement any recommendations contained in the forthcoming opinion of the European Commission for Democracy through Law (Venice Commission) on this law, which was requested by the Monitoring Committee of the Assembly;

8.6. calls upon Georgia to refrain from any actions that could provoke or increase tensions along the administrative borders with South Ossetia and Abkhazia.

9. With respect to Russia, the Assembly:

9.1. takes note of the expressed intention of the Russian authorities to engage in a constructive and open dialogue with the Assembly in relation to the conflict;

9.2. welcomes the readiness expressed by the Russian parliamentarians to engage in dialogue with their Georgian counterparts under the aegis of the Assembly;

9.3. urges Russia to fully and unconditionally implement all requirements of Resolution 1633 (2008) of the Parliamentary Assembly, including the withdrawal of the recognition of the two break-away regions of Georgia, the implementation of the European Union-brokered ceasefire agreement of 12 August 2008, allowing OSCE and European Union monitors into South Ossetia and Abkhazia, and to work towards the creation of a new peacekeeping format and an internationalised peacekeeping force, with the active participation of Council of Europe and European Union member states;

9.4. specifically requests Russia to withdraw from the Akhalgori district, Upper Abkhazia, the Georgian enclave around Tskhinvali and Perevi village, and to reduce its military presence to pre-conflict levels;

9.5. calls upon Russia to implement fully and unconditionally all points of the ceasefire agreement of 12 August 2008;

9.6. calls upon Russia to agree to renew the mandate of the OSCE mission in Georgia, including its military monitoring operation;

9.7. calls upon Russia not to create any obstacles for the renewal of the UNOMIG mandate in Abkhazia;

9.8. calls upon Russia to allow, without further delay, the full access of all international monitors to South Ossetia and Abkhazia, and especially to allow OSCE monitors access to South Ossetia and European Union monitors access to South Ossetia and Abkhazia, without making it conditional on the question of status;

9.9. calls upon Russia and the de facto authorities of South Ossetia to ensure that there are no more acts of ethnic cleansing and other human rights violations, which continue to occur in South Ossetia, and bring the perpetrators promptly to justice;

9.10. calls upon Russia and the de facto authorities of both regions to bring to an immediate halt the provocations and attacks from the South Ossetian and Abkhaz sides of the administrative border and to refrain from any actions that could provoke or increase tensions along the administrative borders with South Ossetia and Abkhazia;

9.11. calls upon Russia and the de facto authorities to fully ensure the right of return of all internally displaced persons to the areas under their effective control;

9.12. in the light of the overwhelming evidence to the effect that both Georgia and Russia violated human rights and humanitarian law in the course of the war and in its aftermath, regrets that the Russian Prosecutor's Office has not yet started any investigation into alleged human rights and humanitarian law violations committed by Russian and allied South Ossetian forces. The Assembly calls upon Russia to initiate such an investigation without further delay and to ensure that the perpetrators are brought to justice.

10. With respect to the de facto authorities in South Ossetia, the Assembly notes that they have generally complied with the demand to exchange prisoners of war but regrets that they have failed to co-operate with international monitoring missions and are placing unreasonable restrictions on the access of humanitarian organisations to South Ossetia.

11. The Assembly calls upon both Russia and Georgia to:

11.1. allow unhindered and unconditional access of humanitarian organisations and humanitarian aid to the areas of South Ossetia and Abkhazia;

11.2. sign, without further delay, the United Nations Convention on Cluster Munitions;

11.3. implement the interim measures ordered by the European Court of Human Rights and the International Court of Justice, as well as any forthcoming judgments of these courts concerning alleged violations of human rights in the course of the conflict, and to co-operate fully and unconditionally with any possible investigation by the International Criminal Court;

11.4. work constructively towards the creation of a new peacekeeping format and internationalised peacekeeping force.

12. The Assembly welcomes the ongoing efforts by the Council of Europe Commissioner for Human Rights to protect human rights and humanitarian security in the region. It calls upon both Russia and Georgia to ensure that the six principles he formulated in this respect are fully and effectively implemented.

13. The Assembly is especially concerned about the human rights and humanitarian situation in Perevi, Upper Abkhazia, and in the Akhalgori district, as well as about the status of the Akhagori district which, while technically a part of the former autonomous region (*oblast*) of South Ossetia, was never under the control of the de facto authorities and has always been mainly populated by ethnic Georgians. In this respect, it takes note that the Akhalgori district was occupied by Russian forces on 15 August 2008, three days after the signing of the ceasefire agreement.

14. The Assembly considers it 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 on Human Rights, as well as other relevant Council of Europe conventions, as a result of the consequences of the war between Russia and Georgia. Such a human rights protection black hole should not be allowed to exist within the Council of Europe area. The Assembly therefore invites the Secretary General of the Council of Europe to 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), including an ombudsperson who could examine individual applications in cases of human rights violations. 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.

15. The Assembly reconfirms its conviction that the establishment of a genuine dialogue is the only way forward for the resolution of any conflict and to secure long-term stability in the region, provided the minimum conditions for meaningful dialogue as defined in Resolution 1633 (2008) are met. It therefore tasks its Bureau to set up in due course a special ad hoc committee, in which both Georgian and Russian parliamentarians will be invited to participate, to discuss their differences and develop concrete proposals to address the consequences of the war, in line with Resolution 1633 (2008). The Assembly would also welcome the possible participation of representatives of the Abkhaz and South Ossetian communities, from both the de facto authorities and those that favour integration with Georgia, in the work of the committee, subject to an agreement on the format of their participation.

16. The Assembly calls upon the European Union to continue to seek effective ways for the peaceful resolution of the Georgian-Russian conflict, including the strengthening and extension of the mandate of the European Union Monitoring Mission (EUMM) to cover protection and peacekeeping functions on both sides of the de facto borders of South Ossetia and Abkhazia and other parts of the former conflict zones that are presently occupied.

17. Having considered the consequences of the war between Georgia and Russia on other so-called “frozen conflicts” in Europe, the Assembly calls on Council of Europe member states to intensify their diplomatic efforts in order to find solutions which avoid violent confrontation. At the same time, the Assembly should intensify its activities on these matters, in particular as regards Nagorno-Karabakh and Transnistria.

18. The Assembly reiterates its commitment to play a role in the field of conflict prevention and, in this context, welcomes the establishment of an ad hoc sub-committee on early warning systems and conflict prevention in Europe within its Political Affairs Committee.

19. The Assembly invites its Monitoring Committee to monitor the follow-up given by Russia and Georgia to this resolution, as well as to its Resolution 1633 (2008), and to report back to the Assembly at the second part-session in April 2009. It also reiterates its request that the Monitoring Committee step up its monitoring procedure with respect to both Georgia and Russia.