



Doc. 11720 Addendum II

29 September 2008

The situation on the ground in Russia and Georgia in the context of the war between those countries

Progress report¹

Ad hoc Committee of the Bureau

Rapporteur: Mr Luc Van den BRANDE, Belgium, Group of the European People's Party

Introduction

1. The Bureau of the Assembly, at its meeting on 5 September 2008, decided to set up an ad hoc committee to study the situation on the ground in the Russian Federation and Georgia from 21 to 26 September 2008. The ad hoc committee was composed of the co-rapporteurs of the Monitoring Committee for Russia, myself and Mr Theodoros Pangalos (Greece, SOC); the co-rapporteurs of the Monitoring Committee for Georgia, Mr Mátyás Eörsi (Hungary, ALDE) and Mr Kastriot Islami (Albania, SOC); the Chairperson of the Political Affairs Committee, Mr Göran Lindblad (Sweden, EPP/CD); the Chairperson of the Committee on Migration, Refugees and Population, Ms Corien Jonker (Netherlands, EPP/CD); the Chairperson of the Socialist Group, Mr Andreas Gross (Switzerland); the Chairperson of the Unified European Left Group, Mr Tiny Kox (Netherlands); and the first Vice-Chairperson of the European Democrat Group, Mr David Wilshire (United Kingdom).

2. The delegation visited Russia from 21 to 23 September 2008 and, subsequently, Georgia from 24 to 26 September 2008. During their visit in the two countries, the delegation met with high-level state authorities, representatives of international organisations, as well as representatives of civil society and the diplomatic community. In addition, during the visit in Georgia, the delegation visited the so-called “buffer zone” and South Ossetia. The delegation wishes to thank the national delegations of Russia and Georgia to the Assembly, as well as the Special Representative of the Secretary General of the Council of Europe in Tbilisi, for the excellent programme and logistical support provided to the delegation.

3. The itinerary of the delegation led to prolonged discussions with our Russian counterparts, who felt that the itinerary decided by the Bureau would not allow the Russian side to respond to the Georgian points of view – while this possibility existed for the Georgian side – and would not allow time for a visit to North Ossetia. They therefore proposed that the delegation should travel to Vladikavkaz (North Ossetia) and from there directly to South Ossetia via the Roki tunnel. The delegation reconfirmed that it was willing to travel to Vladikavkaz in the framework of the programme in Russia, but that it could, and would, only enter Georgia via a border under the control of the Georgian authorities, also in order to avoid any implicit recognition of the self-proclaimed independence of South Ossetia. However, the Chairperson of the Committee on Migration, Refugees and Population was willing to return to Moscow and Vladikavkaz, while three members of the delegation were willing to return to Moscow on Friday 26 September, in their individual capacity, to meet Prime Minister Putin, who had indicated that he was interested in meeting members of the delegation on that day. The original itinerary for the delegation was therefore maintained, but, unfortunately, the meeting with Mr Putin could not take place due to scheduling problems, while the visit to Vladikavkaz could not be organised at such short notice.

1. At its meeting on 29 September 2008, the Bureau took note and declassified this document.



4. The delegation visited several villages in the “buffer zone” and South Ossetia, including Tskhinvali. The delegation was able, and allowed, to visit a majority of the villages on the list it had previously provided to the Russian military authorities and the visits in the villages themselves took place completely unimpeded. The delegation wishes to thank the Russian military authorities for their logistical support and security provided during this part of the programme. The delegation was, however, surprised and concerned about being welcomed by a member of the Russian State Duma and of our Assembly, Mr Slutsky, at the Karaleti checkpoint to the “buffer zone”, which is deep inside Georgia proper. Mr Slutsky indicated his understanding for the position of the delegation, but informed us that it would not be possible for the Russian military authorities to provide us with access to the “buffer zone” and South Ossetia without his presence.

5. On request of the de facto authorities in Tskhinvali, the delegation met with Mr Kokoity and other Ossetian de facto authorities. The exchange of views with Mr Kokoity was frank and open and allowed the delegation to be better informed about the different positions of the de facto authorities.

Outbreak of the war

6. During their meetings with the Russian and Georgian authorities, the delegation was presented with diametrically opposed versions about the circumstances that led to the outbreak of the hostilities, as well as the exact events on 7 and 8 August as such.

7. According to the Russian authorities, the tension and outbreaks of violence, involving small arms and light artillery fire, between the Georgian and South Ossetian sides had been steadily escalating over the summer months mainly as a result of, but not exclusively, Georgian provocations and this despite all efforts by the Russian peacekeepers to calm both sides down and bring them back to the negotiating table. At approximately

8. 10.38 p.m. on 7 August, the Georgian authorities then initiated an unprovoked and, in their opinion, clearly premeditated, full-scale military attack on Tskhinvali and Ossetian villages in the security zone, including a “massive and indiscriminate” shelling with heavy artillery and multiple rocket systems of Tskhinvali. When reports of heavy civilian casualties and attacks on Russian peacekeepers became clear, the Russian authorities launched their counter-offensive and sent troops through the Roki tunnel into Georgia.

9. According to the Georgian authorities, tensions in South Ossetia had been steadily escalating for several months as a result of provocations and attacks on Georgian villages by South Ossetian separatist forces, which were not prevented by Russian peacekeepers. Repeated attempts by the Georgian side to stop the hostilities by peaceful means were met with a refusal from the South Ossetian side, with the tacit approval of the Russian peacekeepers. On 6 and 7 August, the escalations reached unprecedented heights, which risked destabilising the country. When, on the 7 August in the late evening, the Georgian authorities received multiple intelligence reports that Russian military troops, including tanks and heavy artillery, were crossing the Roki tunnel and building up in South Ossetia, a counter-attack was launched in self-defence of the Russian invasion of Georgian territory.

10. The Russian authorities strongly deny that Russian troops passed the Roki tunnel before the Georgian attack on Tskhinvali and point out that the intelligence information to that effect made public by the Georgian authorities is widely considered to be at best inconclusive and not independently verified. The delegation was surprised to be informed that neither Russia nor the United States possess satellite images that could help either confirm or contradict the Georgian assertion that Russian troops passed the Roki tunnel prior to the attack on Tskhinvali.

11. The Russian authorities presented the delegation with what they allege to be captured Georgian military plans for the invasion of South Ossetia and Abkhazia. In the Russian opinion, these plans are the proof that the attack on South Ossetia was planned and prepared well in advance. The Georgian side strongly denies any prior preparation and planning for such an invasion. The delegation itself considered that military forces in most, if not all, countries would have plans for hypothetical military situations that could occur, and that therefore, even if these plans were genuine, the existence of such plans would not *per se* constitute the proof that the attack on Tskhinvali was premeditated and prepared in advance. Moreover, members of the international community in Georgia asserted that the level of disorganisation during the Georgian military action in South Ossetia, as well as the chaotic retreat, would seem to belie the notion that this attack was prepared well in advance.

12. From our exchanges with the Georgian and Russian authorities, as well as with members of the international community, it is clear that at present it is impossible to fully establish what happened, and what led to the events on 7 and 8 August. However, it is equally clear to us that the conflict and the escalation and

deterioration of the situation leading to it did not start on 7 August and that the peacekeeping process had broken down well before that date. However, the start of the shelling of Tskhinvali by Georgian troops, on 7 August 2008, initiated a new level of escalation, namely that of open and fully-fledged warfare. The delegation therefore called for an independent international investigation into the circumstances that led to the war, as well as into the exact sequence of events on 7 and 8 August 2008. The Georgian authorities indicated that they would welcome such an international inquiry. Our parliamentary counterparts in Russia have also indicated that they would not object to such an independent international investigation.

The immediate aftermath of the war

13. During our talks with the Russian authorities, the delegation made it clear that the unilateral recognition by the Russian Federation of the self-proclaimed independence of South Ossetia and Abkhazia violated the principle of the territorial integrity of Georgia and is in contravention of international law and the obligations of Russia as a member state of the Council of Europe.

14. The Russian authorities stressed that a decision not to recognise the self-proclaimed independence of South Ossetia and Abkhazia would have led to strong reactions in the Northern Caucasus republics, which would have had a potential destabilising effect on this volatile region of the Russian Federation. Moreover, while agreeing that Kosovo and South Ossetia are completely different and incomparable cases, the Russian authorities stressed that the recognition of Kosovo by several European countries, in their opinion, had opened a Pandora's box in this respect.

15. The delegation stressed the need for all parties to fully implement the provisions of the Sarkozy ceasefire agreement, which was signed by both Presidents Medvedev and Saakashvili, especially with regard to the withdrawal of troops.

16. The delegation is seriously concerned about the issue of withdrawal of Russian troops to their pre-war positions and strengths. According to the recent negotiations between Presidents Sarkozy and Medvedev, Russian troop withdrawal from the so-called "buffer zone" is foreseen to have been completed on 1 October, after the arrival of EU monitors, although the delegation received indications that the withdrawal may only start on 10 October. However, the Russian authorities informed us that the presence of Russian troops in Abkhazia and South Ossetia is no longer part of the ceasefire agreement as the Russian authorities have recognised the independence of these two regions. According to the Russian authorities, troop presence in those two regions will now be governed by bilateral agreements. This is a matter of serious concern to the delegation, as this would be in clear violation of the ceasefire agreement.

17. The recognition by Russia of the independence of these two regions also complicates the provision of humanitarian aid as well as monitoring of the implementation of the ceasefire agreement by independent monitors. International organisations are refused entry to South Ossetia via Georgia proper, while European Union (EU) and Organization for Security and Co-operation in Europe (OSCE) monitors are prevented from entering South Ossetia and Abkhazia at all.

18. Several interlocutors informed the delegation they feared that various forms of provocation could be used to justify a prolonged presence of Russian troops in the "buffer zone", which could lead to increased tensions.

Humanitarian and human rights concerns

19. The visit to the villages in the "buffer zone" and South Ossetia made clear the extent of the human rights violations in these areas. The delegation saw evidence of large-scale looting and destruction of property and heard accounts of assaults and robberies. According to the Georgian villagers the delegation spoke to, the looting and destruction of houses started mostly after the ceasefire agreement was signed on 12 August and is continuing unabated to this day. While the looting, assaults and destruction of property take place mostly during the night, we were informed that they also occur during the day.

20. When asked, the Georgian villagers indicated that these crimes were committed by South Ossetian irregular troops and gangs but also by so-called volunteers from the Northern Caucasus. Russian troops were not reported to have been involved in the looting and burning themselves, but allegedly had done nothing to stop these practices, often turning a blind eye. These accounts were confirmed by independent reports from Russian human rights organisations who had been present in South Ossetia both during and after the outbreak of hostilities.

21. The delegation was informed by international humanitarian and relief organisations, as well as human rights organisations and the diplomatic community in Georgia, about systematic acts of ethnic cleansing of Georgian villages in South Ossetia by South Ossetian irregular troops and gangs. This pattern seemed to be confirmed by the visit of the delegation to the Georgian village of Ksuisi in South Ossetia, which had been completely looted and virtually destroyed. The delegation received reports that, in some cases, entire villages have been bulldozed over and razed.

22. The delegation is seriously concerned about these reports of ethnic cleansing, as well as of the looting and destruction of property it saw during its visit. The delegation stressed that Russia, under international law, bears full responsibility for any crimes and human rights violations committed on the territories that are under its effective control.

23. During our visit to Tskhinvali, the delegation saw several residential areas, as well as public buildings, that had been completely destroyed by indiscriminate shelling by Georgian troops in the initial phases of the war, as well as in the course of subsequent battles between Georgian and Russian troops over the city. The delegation stressed that the use of indiscriminate force and weapons in civilian areas can be considered a war crime and called for a full investigation in order to establish the facts in this respect.

24. The number of deaths as a result of the conflict is a matter of controversy, although all sides agree that the initial high numbers were inflated. Independent reports put the total number of deaths at between 300 and 400, including the military. However, it should be stressed that even one victim is a victim too many.

25. In the initial phases of the conflict, around 35 000 to 40 000 South Ossetian refugees were recorded in North Ossetia. All interlocutors highlighted the efficient manner in which this refugee stream was managed by the Russian authorities. Most of these refugees have now returned to their place of residence, while an estimated 2 000 remain in North Ossetia with their families.

26. According to different sources, the conflict initially led to 130 000 internally displaced persons (IDPs) in Georgia, of which 60 000 currently remain. Another 29 000 are expected to be able to return when Russian troops have withdrawn from the so-called "buffer zone" and security for the population has been re-established. A total of 31 000 IDPs (25 000 from South Ossetia and 6 000 from Abkhazia) are considered to be "permanently" unable to return to their original place of residence. These numbers should be seen in the context of the approximately 300 000 already existing IDPs from these areas as a result of the 1992 conflict.

27. The humanitarian situation is further exacerbated by the uncertainty regarding the "buffer zone". The current serious security vacuum needs to be urgently addressed but there seem to be conflicting views regarding the role of the EU monitors and Georgian police forces. While the EU is sending strictly civilian monitors to observe the security situation, and considers it to be the role of the Georgian law enforcement forces to provide security to the population in that area, the Russian authorities seem to be of the view that civilian protection will be also the responsibility of the EU monitors and have reservations about the idea of armed Georgian police in this area. This issue needs to be urgently resolved to avoid even greater decline of security in this area.

Conclusions

28. The delegation is extremely concerned that two member states of the Council of Europe, who committed themselves to resolve all conflicts, including old ones, by peaceful means, did not live up to this commitment. This cannot be tolerated and both countries share responsibilities for escalating this conflict into war. Taking into account the complexity of the situation, the diametrically opposed views of the parties in the conflict, the mutually exclusive national public discourses, the negation by both states of any share of responsibility, as well as the short time that the delegation had at its disposal, it is impossible for the delegation to establish all the facts regarding the exact sequence of events on 7 and 8 August, as well as the circumstances that led to them, which are necessary to draw precise conclusions. The exact facts, as well as the precise responsibility of each of the parties in this conflict, including the outbreak of the war, can only be properly established in the framework of a thorough and independent international investigation as suggested in point 11 in this memorandum. Truth is a prerequisite for reconciliation. This is of utmost importance as similar conflicts exist in other parts of this geographical region and it must be made clear that, for the Council of Europe or its Assembly, it cannot be acceptable that such conflicts escalate into war.

29. It is clear that both sides did not do enough to prevent the war and that grave human rights violations were committed and continue to be committed up to this day. There can be no impunity for such violations and for alleged ethnic cleansing. The Council of Europe has an important role to play in this respect. All alleged human rights violations should be investigated and perpetrators held to account before the courts. In

this respect, it is clear that Russia bears full responsibility for the protection of civilians in the territories that are under its effective control and therefore for the crimes and human rights violations committed against them. The use of indiscriminate force and weapons by both Georgian and Russian troops in civilian areas can be considered war crimes that need to be fully investigated.

30. While it is beyond the scope of this memorandum to discuss the possible action the Assembly should take, it is clear that it cannot be business as usual. At the same time, there is a need to maintain the dialogue with, and between, both countries in the conflict.

31. It is my firm conviction that the Assembly has an important role to play in resolving the current situation. Following the debate in the Assembly, the Bureau might consider sending a follow-up mission to the region, possibly with a different format and composition, in the not too distant future.