

# **Annex E.2.34**

## **Public**



## Resolution 1683 (2009)<sup>1</sup>

# The war between Georgia and Russia: one year after

## Parliamentary Assembly

1. One year after the outbreak of the tragic war between two of its member states, Georgia and Russia, the Parliamentary Assembly reaffirms its Resolutions 1633 (2008) and 1647 (2009), adopted on 2 October 2008 and 28 January 2009 respectively. It considers that the demands on both countries, as well as the de facto authorities in Abkhazia and South Ossetia, continue to constitute a transparent, impartial and realistic roadmap to address the consequences of this war, not only for the parties concerned but also for the Assembly itself. The Assembly reaffirms its attachment to the territorial integrity and sovereignty of Georgia, as well as the inviolability of its borders.

2. With regard to the independent international inquiry into the origins and course of the conflict that was established by the European Union, the Assembly notes that the mandate of the fact-finding mission has been extended by the European Council until 30 September 2009. The Assembly welcomes the reported constructive co-operation of both Georgia and Russia with this mission and resolves to return to the issue of the causes and precise circumstances surrounding the outbreak of the war once the international fact-finding mission has presented its report.

3. The Assembly is seriously concerned by the continuing tension and provocations along the administrative boundaries of South Ossetia and Abkhazia which can only but destabilise the region as a whole. It considers that the sole guarantee that such tensions will not escalate into renewed fighting and hostilities is the immediate unrestricted access of international monitors to both sides of the administrative boundaries of South Ossetia and Abkhazia, as well as the deployment of a new impartial international peacekeeping force in the region. In this respect the Assembly:

3.1. deplores the continued refusal of Russia and the de facto authorities to allow European Union monitors access to Abkhazia and South Ossetia and calls upon them to give the monitors immediate and unconditional access to the territories under their de facto control;

3.2. deplores the closure of the United Nations Observation Mission in Georgia (UNOMIG) as a result of the veto by Russia in the United Nations Security Council;

3.3. deeply regrets that the proposal presented by the Greek chairmanship of the Organisation for Security and Co-operation in Europe (OSCE) for a continued OSCE presence, including a military monitoring component, did not achieve consensus and calls upon Russia to reconsider its objections to this proposal.

4. The Assembly notes the modest progress made in the first working group, within the framework of the Geneva discussions, dealing with the modalities of security and stability in Abkhazia and South Ossetia. It especially welcomes the regular meetings held between the sides concerned within the incident prevention mechanisms, but regrets that similar progress has not been achieved in the second working group, dealing with humanitarian issues and freedom of movement.

1. Assembly debate on 29 September 2009 (29th and 30th Sittings) (see Doc. 12010, 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, and Doc. 12039, opinion of the Committee on Migration, Refugees and Population, rapporteur: Mrs Jonker). Text adopted by the Assembly on 29 September 2009 (30th Sitting).

*Resolution 1683 (2009)*

5. The Assembly is seriously concerned that further closure of the administrative boundaries of Abkhazia and South Ossetia, as a result of the transfer of the control of the administrative boundary to Russian FSB border guards, will lead to a further exodus of ethnic Georgians from the Gali district in Abkhazia and the Akhagori district in South Ossetia. The Assembly is especially concerned about the increased pressure placed on them to accept Abkhazian or South Ossetian passports and the current total absence of an international presence in these regions. The Assembly therefore calls upon Russia and the de facto authorities of South Ossetia and Abkhazia to remove any impediments to the freedom of movement of Georgian citizens across the administrative boundary lines.
6. The Assembly continues to be deeply concerned about the humanitarian consequences of this war and therefore:
  - 6.1. reaffirms its positions taken in Resolutions 1648 (2009) and 1664 (2009) on this issue;
  - 6.2. calls upon Georgia, Russia and the break-away regions of Abkhazia and South Ossetia to implement fully and effectively the Council of Europe Commissioner for Human Rights' six principles for urgent protection of human rights and humanitarian security, and especially Russia and the de facto authorities of South Ossetia and Abkhazia to fully and unconditionally ensure the right of return of Internally displaced persons (IDPs) as result of the August 2008 hostilities and fully respect their property rights;
  - 6.3. 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;
  - 6.4. 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.
7. The Assembly deeply regrets that Russia and the break-away 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 break-away regions, and that Georgia also places restrictions on access. Furthermore, Russia and the break-away 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:
  - 7.1. remains deeply concerned about the humanitarian consequences of the "Law on the occupied territories of Georgia" and its application, although it welcomes the readiness expressed by the Georgian authorities to address the concerns set out in the recent European Commission for Democracy through Law (Venice Commission) opinion on the Law and takes note of the amendments that were initiated in the Georgian parliament and sent to Venice Commission for opinion;
  - 7.2. takes note of Russia's efforts to provide humanitarian aid to Abkhazia and South Ossetia and calls on Russia and the de facto authorities of Abkhazia and South Ossetia to immediately remove all restrictions on the access, including with regard to the point of entry, of international and humanitarian organisations and humanitarian aid to the two regions;
  - 7.3. calls upon all parties to ensure the uninterrupted flow of gas, water and other basic humanitarian supplies across administrative boundary lines, in particular during the forthcoming winter months.
8. The Assembly cannot accept the apparent reluctance of both Georgia and Russia to investigate in a credible manner serious allegations of violations of human rights and humanitarian law committed in the course of the war, as well as in its aftermath, by their own forces, or militia and civilians under their de facto control and jurisdiction. It notes that the European Union inquiry will also cover allegations of violations of human rights and humanitarian law, as well as possible war crimes, committed by either side in the course of the war. It therefore:
  - 8.1. resolves to return to this issue, including the possible consequences for the two member states concerned, in the light of the conclusions of the European Union inquiry mission;
  - 8.2. encourages the Prosecutor of the International Criminal Court to request the Pre-Trial Chamber of the Court formally to open an investigation into possible war crimes and crimes against humanity committed by either side in the course and aftermath of the August 2008 hostilities.



*Resolution 1683 (2009)*

9. The Assembly condemns Russia and the de facto authorities of South Ossetia for not having brought resolutely to a halt and seriously investigated the ethnic cleansing of ethnic Georgians that by all accounts took place in South Ossetia during and after the war and for not having brought the perpetrators to justice. It recalls that, under international law, Russia bears responsibility for violations of human rights and humanitarian law in those areas that fall under its de facto control.

10. The Assembly deplores the fact that, one year after the August 2008 hostilities, little tangible progress has been achieved in addressing the consequences of this war, and that, in several areas, the situation has actually regressed. While Georgia has complied with most, albeit not all, demands of the Assembly expressed in Assembly Resolutions 1633 (2008) and 1647 (2009), Russia has not complied with most of the key demands placed upon it in these resolutions.

11. The Assembly is fully aware of Russia's argument that its non-compliance with the Assembly demands is the result of its diverging position with regard to the status of the two regions. The Assembly underscores that most of its demands have no relation to the status of the two regions and therefore can not understand that Russia failed to comply even with these demands. It therefore considers that Russia's non-compliance with its demands underscores its lack of political will to address the consequences of the war in a manner incumbent on a member state of the Council of Europe. In addition, the Assembly deeply regrets that the leadership of both the State Duma and the Council of the Federation, as well as the members of the Russian delegation to the Assembly have publicly opposed the demands of the Assembly and dismissed the possibility for Russian compliance with them.

12. Therefore, while stressing the need and importance of full implementation of all demands of the Assembly Resolutions 1633 (2008) and 1647 (2009) by the Russian Federation, the Assembly specifically demands full implementation of the EU-brokered ceasefire agreement, in particular the demand to withdraw troops to their ex-ante war positions and to work towards the creation of a new internationalised peacekeeping format and police forces. It strongly urges the Russian authorities, before the end of this year, to:

12.1. give unrestricted access to European Union monitors to both South Ossetia and Abkhazia in line with paragraph 22.2 of Resolution 1633 (2008) and paragraph 9.8 of Resolution 1647 (2009);

12.2. grant freedom of movement for Georgian civilians across the administrative boundary lines and lift restrictions, including with regard to the point of entry, of international and humanitarian organisations and humanitarian aid to the two regions;

12.3. recognise formally and effectively the right of safe and dignified return of all IDPs, including those from the 2008 war, to their original place of residence in South Ossetia and Abkhazia in line with paragraphs 9.9 and 9.11 of Resolution 1647 (2009);

12.4. initiate a credible investigation into acts of alleged ethnic cleansing committed by the South Ossetian forces allied to it, or by civilians under its de facto jurisdiction and control and implement measures to reverse or, if not possible, to remedy those acts;

12.5. submit the Law on the Amendments to the Law on Defence of the Russian Federation to the European Commission for Democracy through Law (the Venice Commission) for opinion and fully to implement any recommendation of the Commission.

13. The Assembly invites its Monitoring Committee to monitor the follow up given by Georgia and Russia to Assembly demands and to propose any further action to be taken by the Assembly as required by the situation, in particular with regard to compliance with paragraph 12 of this resolution.