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Georgia-Russia conflict: Protection of civilians and accountability for abuses should be a priority for all

Amnesty International continues to be concerned by ongoing human rights abuses in South Ossetia and the adjacent 'buffer zone' currently under the control of Russian armed forces. These abuses are affecting the welfare of all of the remaining residents in South Ossetia and the buffer zone, and are prejudicing the right to return of those ethnic Georgians who fled from their homes and remain displaced.

Amnesty International calls on the Russian and Georgian authorities as well as the *de facto* South Ossetian administration to guarantee the security of all persons in areas affected by the conflict, without discrimination. Furthermore, the authorities in all conflict affected areas should ensure that free and full access is provided to those assessing the need for and providing humanitarian assistance, and ensure the necessary conditions for the voluntary, safe and durable return with dignity of all displaced persons.

Human rights monitoring

Amnesty International calls for the parties to the conflict to agree to, and the international community to ensure, the deployment of expert international human rights observers to monitor the respect for human rights in *all* areas that have been affected by the conflict. The monitors from the international community should report regularly and publicly on their findings.

Although European Union (EU) monitors are currently being dispatched to the buffer zone, it is understood that they do not and will not have full access either to South Ossetia or to Abkhazia.

The EU Monitoring Mission is due to be operational on 1 October, and by 29 September over 300 staff had begun being deployed to field offices. In addition to monitoring the implementation of the peace agreement, the mandate of the mission specifically includes the monitoring of the human rights situation as well as focusing on the rule of law and public order, including the security of returns of displaced people and refugees. Amnesty International calls on the EU to ensure that all human right monitors it deploys have sufficient expertise and training. They should monitor and regularly report publicly on their findings.

The Organization for Security and Co-operation in Europe currently has 28 military observers monitoring military movements and any violence in the areas adjacent to South Ossetia. However, talks on the deployment of a further 80 military observers to the region and the access of eight monitors to South Ossetia have stalled.

In addition, Amnesty International has called on all relevant bodies of the Council of Europe to remain seized of the human rights implications of the conflict. In the context of the Plenary Session of the Parliamentary Assembly of the Council of Europe during the week of 29 September, the organization has called on the Parliamentary Assembly to mandate rapporteurs to regularly monitor, visit and report back their findings to the Plenary of the Assembly.

Amnesty International considers that the missions of the various bodies of the international community which are deployed to the region should co-operate, co-ordinate and work in complementarity. Their findings and assessments should be made public and lead to the provision of necessary financial and human resources and programmes aimed at enhancing the respect and protection of human rights, and ensuring redress, including reparation for the victims of the abuses which have occurred.

Independent investigations

Information collected in the course of four fact-finding visits by Amnesty International to the region in August 2008, together with that from other sources, indicates that serious violations of international humanitarian and human rights law were committed by all parties, both during the course of the conflict and in its aftermath. Amnesty International has written to the governments of Georgia and Russia and the *de facto* South Ossetian administration to request further information regarding alleged incidents of such abuses, prior to publishing a report on its findings.

Amnesty International calls on all parties to the conflict to ensure that independent, impartial, prompt and thorough investigations are conducted into all allegations of serious violations of international human rights and humanitarian law committed by any and all forces. Those responsible should be brought to justice in proceedings which meet international standards of fairness.

Given the allegations of serious violations of international law by all parties to the conflict, Amnesty International also calls on the parties to the conflict to agree to, and the international community to deploy, a full fact-finding mission to carry out a thorough investigation of all allegations of serious violations of human rights and humanitarian law in the course of the conflict and to report publicly on its findings. The fact-finding team should carry out its investigations and reporting on the basis of relevant international humanitarian law and human rights standards. In addition, the report of the mission's findings should include recommendations aimed at ending and preventing further violations of international law and at ensuring reparation, including justice for the victims. Such a mission should be adequately resourced. The expert fact-finding team must be given access to all relevant information and persons. All persons who provide information to the investigation should be protected from reprisals. Given the range of human rights abuses alleged to have occurred and complexity of the factual and legal issues involved, members of the fact-finding team should be sufficiently equipped and supported to enable them to carry out a thorough and authoritative inquiry. Among other things the team should be supported by adequate numbers of: experts in both international humanitarian and human rights law; military and criminal justice investigators; weapons and ballistic experts; forensic experts; and experts in the protection of victims and witnesses, including women and children.

Cluster munitions

Numerous eyewitness accounts and unexploded ordnance itself found in the conflict area point to the use of cluster munitions in the course of the conflict. Cluster munitions pose severe risks to civilians' lives and livelihoods both at the time of their use and after hostilities have ended. This is due to the wide-area effect of cluster munitions and the large number of sub-munitions they leave unexploded. The Georgian authorities have admitted to using cluster munitions near the

entrance to the Roki Tunnel, the only highway linking South Ossetia to North Ossetia in the Russian Federation. Russian authorities continue to deny using cluster munitions, although Amnesty International has received testimony to the contrary.

Amnesty International continues to call on all parties to make public all relevant information about the deployment of cluster munitions in the recent conflict so that appropriate warnings can be given to the population and the required clearing of unexploded devices can take place.

The right to return

Obstacles remain to the safe and durable return with dignity of tens of thousands of ethnic Georgians who were displaced from South Ossetia, Abkhazia and parts of the buffer zone. Among other things, the voluntary return of these ethnic Georgians will require the restoration of security and the reconstruction of destroyed property.

Amnesty International calls on all parties to the conflict to respect and ensure the right of every internally displaced person to return to their original place of residence in conditions of safety and dignity. The international community must continue to monitor and facilitate such returns.

CONTEXT

Reports of violations of international humanitarian and human rights law

During its visits to the conflict affected areas Amnesty International collected information which indicates that serious violations of international humanitarian law were committed by both Georgian and Russian forces as well as South Ossetian militias during the course of the hostilities.

Alleged violations by Georgian forces

In particular, Amnesty International is concerned that the Georgian shelling of Tskhinvali and surrounding villages on the night of 7/8 August may have failed to distinguish between military objectives and civilians and civilian objects. Amnesty International representatives observed the destruction of numerous civilian dwellings in Tskhinvali some distance from ostensible military targets. Much of this damage was caused by Grad rockets, which are known to be unsuitable for attacks on civilian-populated areas due to their limited accuracy. Amnesty International representatives also observed extensive damage to properties in the village of Khetagurovo near Tskhinvali and were informed that six civilians had been killed and many more injured.

Kazbek Djiloev gave Amnesty International delegates this account of how he experienced the attack on his house in a residential area in the south of the town of Tskhinvali on the night of 7 August:

We were listening to Saakashvili who was saying that he agrees to any negotiations. We felt comfortable ... I was drinking tea and suddenly I heard gunfire followed by tanks, artillery... we all went downstairs. Two hours later I heard explosions, the house shook, the roof exploded and GRAD missiles fell on our house. The sofa and other stuff caught fire. We heard an airplane and it aimed at us and started firing at us with a machine gun. My brother and I hid downstairs again. After a while another GRAD fell and half of the house was destroyed. I was in shock. The Georgians claim that they fired at positions of Russian soldiers. This is a lie. There was no soldier here. They were firing at peaceful citizens. There was nothing military here. I was here with my brother and mother ... Now I don't have a house. The weather is fine right now and I can sleep in

the garden, but I don't know what to do when the rain comes. Nobody is helping me. I'll never be able to restore the house because I don't have the money.

Based on an extensive tour of Tskhinvali, Amnesty International delegates estimated the number of civilian houses hit directly by shelling in the initial Georgian bombardment at well over 100, many of which would appear from the accounts of eye-witnesses to have been occupied at the time. Accounts provided by individuals in the areas targeted suggest that the number of deaths in the each of the streets affected ranged from two or three to around 10 in the worst hit areas. Casualties could have been significantly higher were it not for the fact that many of the houses hit were built out of reinforced concrete, allowing residents hiding in cellars to emerge relatively unscathed; the majority of casualties would appear to have resulted from bombs falling on brick houses and from individuals being caught outside in the street by the blast and debris from falling rockets.

Alleged violations by Russian forces

Amnesty International is concerned that a number of Russian aerial attacks in which civilians were killed or injured may have failed to distinguish between military objectives and civilians and civilian objects. The attacks in question took place between 8 and 12 August on the town of Gori and ethnic Georgian majority villages in South Ossetia and surrounding areas. For example, on 12 August, at around 12pm, the main square in Gori in front of the main local authority building was struck by Russian bombs. Eight persons are reported to have died in the incident. Eyewitnesses interviewed attest to the absence of military targets in the immediate vicinity. A number of reports suggest that cluster bombs may have been used in this attack.

An aerial bombardment by Russian fighter planes was reported to have taken place on the village of Karbi on 9 August. A man from Karbi described the bombing of the village to Amnesty International as follows:

"We were just civilians. They must have made a mistake – why else would they bomb us? A plane flew high over the village and dropped two bombs. Seven people died in front of my eyes. The other bomb fell in another part of the village and killed two more people. There were no Georgian soldiers in the village. There were Georgian batteries about 2km away with anti-aircraft weapons. First they targeted these batteries. Then the plane came back and dropped the two bombs on the village. I really did not believe that the Russians would do such a thing to us. I had a lot of Russian friends. I was in the Russian army and I really could not believe this."

Alleged violations by Ossetian militias in areas under effective Russian control

Amnesty International has also documented extensive pillaging and arson of Georgian-majority villages in South Ossetia. South Ossetian forces, paramilitary groups and privately armed individuals, some of whom are alleged to have come from the Russian Federation, engaged in extensive looting and destruction of property owned by ethnic Georgians, during which several remaining residents were threatened and a number killed. The first wave of pillaging occurred in the enclaves in South Ossetia formerly administered by Georgia. According to eyewitnesses interviewed by Amnesty International, when Russian forces entered villages, only a few dozen of their inhabitants remained, mainly elderly and disabled people or those who did not want to leave their homes. In the wake of the entry by Russian forces into these villages, armed groups or irregular units composed of South Ossetians and reportedly people of other regions in the Russian Federation followed. These militias engaged in large-scale looting and arson.

With the retreat of the Georgian forces, and Russian forces' entry into the Gori region, the looting and pillaging also took place along the main roads then controlled by Russian forces.

A woman from Kurta village in South Ossetia told Amnesty International:

Men in military uniform were going through the gardens. They were Russian-speaking but not Russian. I took them to be Ossetians, Chechens, some Asians, maybe Uzbeks and Cossacks. They were all wearing the same military uniform and they were armed with Kalashnikovs. They burnt about 15 houses in Kurta, and took the livestock away on trucks. As we were leaving Kurta we saw two neighbours being abducted, they were pushed into a car boot by the marauders. We left Kurta on 13 August by foot. We went to Eredvi via Kheiti. In Eredvi we saw dead bodies, a man, woman and two children. We continued walking and reached the village of Ditsi [outside of South Ossetia]. I saw no dead bodies in Ditsi and some of the houses were burnt down, but not all of them. We passed Ditsi and reached Trdznisi. There we also saw many burnt houses and property thrown around in the streets. We stayed the night there and moved on to Tqviavi. We saw many more dead bodies there, under cars and vans. All the dead bodies were civilians, I didn't see any dead Georgian soldiers..."

Amnesty International is concerned that Russian forces failed to take effective measures to protect civilians and their property from such abuses in areas under their control.

The looting and destruction continued in the buffer zone, which is currently under Russian control. An Amnesty International representative was denied access to the buffer zone on two consecutive days (August 29 and 30) by Russian military personnel at the Karaleti checkpoint. The security situation remains difficult, as does access by those seeking to afford humanitarian assistance.

Refugees and internally displaced people

According to the UN High Commissioner for Refugees (UNHCR) on 18 September, a total of 163,000 people were forced to flee their homes, including 127,000 displaced in Georgia proper and another 36,000 to the Russian Federation.

Reports indicate that since the cessation of hostilities the great majority of the South Ossetians who fled to the Russian Federation have been able to return. Reports also indicate that destroyed homes belonging to ethnic Ossetians are being reconstructed.

UNHCR also stated on 18 September that of the estimated 127,000 persons displaced within Georgia, only around 68,000 had been able to return, and another 5,000 were expected to be able to return this year. The UNHCR expected that a further 23,000 would be able to return in 2009, once the necessary repairs to their homes have been made. Amnesty International is seriously concerned, however, by obstacles to the return of tens of thousands of ethnic Georgians. On 12 September UNHCR stated that 31,000 individuals would not be able to return in the foreseeable future. Of this figure, approximately 22,000 were displaced from South Ossetia, 8,000 displaced from inaccessible parts of the buffer zone, and 1,000 from Abkhazia. Among other things, the voluntary return of these individuals will require the restoration of security and the reconstruction of destroyed property.

While the voluntary return of all displaced persons to their original places of residence must remain a priority, longer term solutions will need to be found for those temporarily accommodated in Gori, Tbilisi and elsewhere, who continue to be unable to do so. Every internally displaced person has the right to return to their original place of residence in conditions of safety and dignity. The choice must be made voluntarily by each individual, in a context where the alternatives of integration or permanent resettlement elsewhere in the country are available and acceptable. Protection and respect for the rights of internally displaced people, including their economic and social rights, cannot be put on hold until return becomes politically viable. It is the

responsibility of the Georgian authorities to ensure the human rights of the displaced, without discrimination, to the maximum of available resources.

See also:

Council of Europe: Monitoring of the human rights impact of the Georgia-Russia conflict must continue, AI Index: EUR 04/003/2008.