

# **Annex E.4.9**

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HUMAN RIGHTS WATCH

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## Russia/Georgia: All Parties in August/South Ossetia Conflict Violated Laws of War [1]

Both Governments Should Ensure Accountability and Voluntary Returns of Those Displaced

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(New York) - Georgian, Russian and South Ossetian forces committed numerous violations of the laws of war in the conflict in August 2008 over South Ossetia and its aftermath, causing many civilian deaths and injuries and widespread destruction of civilian property, Human Rights Watch said in a comprehensive report released today.

The 200-page report, "Up in Flames: Humanitarian Law Violations in the Conflict Over South Ossetia" [4], details indiscriminate and disproportionate attacks by both Georgian and Russian forces, and the South Ossetian forces' campaign of deliberate and systematic destruction of certain ethnic Georgian villages in South Ossetia. It also describes Russia's failure to ensure public order and safety in areas of Georgia that were under its effective control. The report is based on more than 460 interviews done over several months of field research.

"The war over South Ossetia lasted only one week, but will have devastating consequences for civilians for generations to come," said Rachel Denber, Europe and Central Asia director at Human Rights Watch. "Focusing on who started the war or who committed worse atrocities, as some observers are, misses the point, which is the urgent need to hold all who are responsible accountable and to allow displaced people to return home safely."

South Ossetia is a breakaway region of Georgia that shares a border and has very close ties with Russia. The armed conflict started on August 7, 2008, and lasted until a ceasefire on August 15, with Georgian forces in retreat and Russian forces occupying South Ossetia and, temporarily, undisputed parts of Georgia. In the week of open conflict, and the many subsequent weeks of rampant violence and insecurity in areas under Russia's effective control, hundreds of civilians were killed, and tens of thousands were displaced. Many of them have not been able to return home.

Human Rights Watch's research showed that in a number of instances Georgian forces carried out indiscriminate and disproportionate artillery attacks on South Ossetia, and in some cases during their ground assault carried out attacks that had an excessive impact on civilians with respect to the anticipated military advantage. In particular, Georgian forces carried out indiscriminate attacks by their extensive use in civilian areas of multiple-rocket launching systems, which cannot be targeted with sufficient precision to distinguish between civilian and military objects. The rockets, known as Grad, are believed to have been used by Russian forces as well.

"The use of Grad rockets - which are indiscriminate when used in areas populated by civilians - shows that Georgian forces attacked South Ossetia with blatant disregard to the safety of civilians," said Denber.

Human Rights Watch found that, in a number of instances in South Ossetia and in undisputed Georgian territory, Russian forces used indiscriminate aerial, artillery, and tank fire strikes, killing and wounding many civilians. Human Rights Watch documented a number of cases in which Russian forces occupying Gori district in Georgia opened fire on civilian vehicles, killing or wounding civilians.

Both Russian and Georgian forces used cluster munitions, causing civilian deaths and putting more civilians at risk by leaving behind unstable "minefields" of unexploded bomblets. Cluster munitions are banned under the Convention on Cluster Munitions, which neither Georgia nor Russia has signed.

After Georgian forces withdrew from South Ossetia on August 10, South Ossetian forces over a period of weeks deliberately and systematically destroyed ethnic Georgian villages in South Ossetia that had been administered by the Georgian government. The South Ossetians looted, beat, threatened, and unlawfully detained numerous ethnic Georgian civilians, and killed several, on the basis of the ethnic and imputed political affiliations of the residents, with the express purpose of forcing those who remained to leave and ensuring that no former residents would return.

As an occupying power in these areas, Russia failed in its duty under international humanitarian law to ensure, as far as possible, public order and safety in areas under its effective control.

"Instead of protecting civilians, Russian forces allowed South Ossetian forces who followed in their path to engage in wanton and widescale pillage and burning of Georgian homes and to kill, beat, rape, and threaten civilians," said Denber. "Such deliberate attacks are war crimes, and if committed as part of a widespread or systematic pattern, they may be prosecuted as a crime against humanity."

More than 20,000 ethnic Georgians who fled the conflict in South Ossetia remain displaced. Ethnic Georgians in the in Akhalkgori district - a remote area in the east of South Ossetia, currently occupied by Russian forces - face threats and harassment by militias and anxiety about a possible closure of the district's administrative border with the rest of Georgia. Both factors have caused great numbers of people to leave their homes for undisputed Georgian territory.

"The permanent forced displacement of thousands of people cannot be countenanced," said Denber. "Russia should publicly promote and oversee the right of all persons displaced by the conflict to return and live in their homes in safety and dignity, and provide security to all persons living there, regardless of ethnicity."

The report also documents how, when Russian forces occupied Georgian territory adjacent to the South Ossetian administrative border, Ossetian militias looted, destroyed, and burned homes on a wide scale, deliberately killed at least nine civilians, and raped at least two. Russian forces were at times involved in the looting and destruction, either as passive bystanders or active participants, or by providing militias with transport into villages.

The report details how South Ossetian forces, at times together with Russian forces, arbitrarily detained at least 159 ethnic Georgians. South Ossetian forces killed at least one detainee and subjected nearly all of them to inhuman and degrading treatment and detention conditions. They also tortured at least four Georgian prisoners of war and executed at least three. Georgian forces beat and ill-treated at least five of the 32 Ossetians detained in August in the context of the armed conflict.

"Both Georgia and Russia should undertake an impartial and thorough investigation into abuses committed by their forces," Denber said. "Russia should also do so for the crimes committed by South Ossetian forces, since Russia exercises effective control over South Ossetia. Russia and Georgia must ensure that those who committed these crimes are brought to justice and provide appropriate redress for numerous victims of the conflict."

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[4] <http://hrw.org/en/reports/2009/01/22/flames-o>

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