

**REQUEST FOR THE INDICATION OF  
PROVISIONAL MEASURES OF PROTECTION SUBMITTED BY THE  
GOVERNMENT OF THE REPUBLIC OF GEORGIA**

1. I have the honour to refer to the Application submitted to the Court on 12 August 2008 instituting proceedings on behalf of the Republic of Georgia against the Russian Federation, and to submit, in accordance with Article 41 of the Statute of the Court and Articles 73, 74, and 75 of the Rules of the Court, an urgent Request that the Court indicate provisional measures to preserve the rights of the Republic of Georgia under the International Convention on the Elimination of All Forms of Racial Discrimination (“CERD”) to protect its citizens against violent discriminatory acts by Russian armed forces, acting in concert with separatist militia and foreign mercenaries, including unlawful attacks against civilians and civilian objects, murder, forced displacement, denial of humanitarian assistance, and extensive pillage and destruction of towns and villages, in South Ossetia and neighboring regions of Georgia, and in Abkhazia and neighboring regions, under Russian occupation. Contrary to Russia’s declaration of a ceasefire, the on-going elimination of the remaining Georgian civilians and villages demonstrates an attempt to expand the boundary of territories under the control of separatist authorities by changing the ethnic demography in a pattern resembling the conflicts of the 1990s.
2. The continuation of these violent discriminatory acts constitutes an extremely urgent threat of irreparable harm to Georgia’s rights under CERD in dispute in this case. Given the extraordinary gravity of the situation, Georgia respectfully asks that this Request be considered at the Court’s earliest possible opportunity, including the expeditious scheduling of oral proceedings.

## **A. JURISDICTION OF THE COURT**

3. As set forth in the Application, the Court has jurisdiction over the present case pursuant to its Statute and Rules and Article 22 of CERD.

## **B. THE FACTS**

4. The historical context to this urgent provisional measures Request is set forth in Georgia's Application. As stated therein, beginning in the early 1990s and acting in concert with separatist forces and mercenaries in the Georgian regions of South Ossetia and Abkhazia, the Russian Federation has engaged in a systematic policy of ethnic discrimination directed against the ethnic Georgian population and other groups in those regions. Russia's actions have directly or indirectly resulted in the death or disappearance of thousands of civilians and the internal displacement of approximately 300,000 persons. As a result, the ethnic demography of both South Ossetia and Abkhazia has been dramatically altered. Russia now seeks to make this situation permanent by denying the right of return of internally displaced persons ("IDPs") through recognition and support of the *de facto* separatist authorities, and the use of armed force to prevent Georgia from exercising its jurisdiction in allowing its citizens to return to their homes.
5. On 8 August 2008, the Russian Federation launched a full-scale military invasion against Georgia in support of ethnic separatists in South Ossetia and Abkhazia. Russia justified its aggression by claiming that Georgia had committed "genocide" against South Ossetians simply because Georgian forces responded to artillery attacks by ethnic separatists against villages resulting in the death of several civilians. Contrary to these incendiary assertions, impartial observers have concluded that "there is little evidence civilians were specifically targeted by Georgian troops, as Russia claims."<sup>1</sup>
6. Russia's military aggression has resulted in hundreds of civilian deaths, extensive destruction of civilian property, and the displacement of virtually the entire ethnic Georgian population in South Ossetia. Despite the withdrawal of Georgian armed forces and the unilateral declaration of a ceasefire, Russian military operations continued beyond

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<sup>1</sup> Douglas Birch, Associated Press writer, 12 August 2008, available at: [http://news.yahoo.com/sap/20080812ap\\_on\\_re\\_eu/georgia\\_captured\\_capital](http://news.yahoo.com/sap/20080812ap_on_re_eu/georgia_captured_capital).

South Ossetia into territories under Georgian government control and resulted in the extensive destruction of towns such as Gori and the forced displacement of almost its entire population. Georgian authorities have registered 19,482 IDPs thus far. The International Committee of the Red Cross (“ICRC”) confirms that there are continuing reports of “widespread displacement throughout the region.”<sup>2</sup>

7. Most recently, on 13 August 2008, evidence has emerged that Russian armed forces, acting together with South Ossetian separatist militia and foreign mercenaries, have engaged in a campaign of ethnic cleansing involving murder and forced displacement of ethnic Georgians, and the pillage and extensive destruction of villages adjacent to South Ossetia, in an apparent effort to expand the territories under the control of separatist authorities.
8. Based on witness reports made available today, the following is an illustrative list of discriminatory human rights abuses against Georgian citizens in and around South Ossetia:
  - Russian forces and separatist militia have summarily executed Georgian civilians and persons *hors de combat* after verifying their ethnicity in the villages of Nikosi, Kurta, and Armarishili;
  - Russian forces and separatist militia have engaged in widespread pillage and burning of homes in the villages of Karbi, Mereti, Disevi, Ksuisi, Kitsnisi, Beloti, Vanati, and Satskheneti and have executed elderly civilians;
  - Russian forces have forcibly transferred the remaining ethnic Georgians in South Ossetia to Kurta detention camp;
  - In Gori, Russian forces bombed the hospital, university, market place, and post-office, even though this is an undefended town without any Georgian military presence.
9. Human Rights Watch (“HRW”) today published a report confirming this widespread pattern of abuse, pillage and destruction throughout South Ossetia, based on first-hand accounts of HRW staff and interviews with civilians. The relevant part of the report, reproduced in full, provides as follows:

Human Rights Watch researchers in South Ossetia on August 12, 2008, saw ethnic Georgian villages still burning from fires set by South Ossetian militias, witnessed looting by the militias, and learned firsthand of the plight of ethnic

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<sup>2</sup> Georgia: ICRC to send humanitarian assistance to conflict area, News Release 08/143, 11 August 2008, *available at*: <http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/georgia-news-110808>.

Ossetian villagers who had fled Georgian soldiers during the Georgian-Russian conflict over the breakaway region of South Ossetia.

In South Ossetia, Human Rights Watch researchers traveling on the evening of August 12 on the road from the town of Java to Tskhinvali, the capital of South Ossetia, witnessed terrifying scenes of destruction in four villages that used to be populated exclusively by ethnic Georgians. According to the few remaining local residents, South Ossetian militias that were moving along the road looted the Georgian villages and set them on fire. Human Rights Watch saw numerous vehicles carrying South Ossetian militia members, as well as Russian military transports moving in the direction of Tskhinvali.

Numerous houses in the villages of Kekhvi, Nizhnie Achaveti, Verkhnie Achaveti and Tamarasheni had been burnt down over the last day – Human Rights Watch researchers saw the smoldering remnants of the houses and household items. The villages were virtually deserted, with the exception of a few elderly and incapacitated people who stayed behind either because they were unable to flee or because they were trying to save their belongings and cattle.

“The remaining residents of these destroyed ethnic Georgian villages are facing desperate conditions, with no means of survival, no help, no protection, and nowhere to go,” said Tanya Lokshina at Human Rights Watch.

In the village of Nizhnie Achaveti, Human Rights Watch researchers spoke to an elderly man who was desperately trying to rescue his smoldering house using two half-empty buckets of dirty water brought from a spring. He told Human Rights Watch that the vast majority of the residents, including his family, fled the village when active fighting between Georgian forces and South Ossetian militias broke out on August 8, but he decided to stay to look after the cattle. He said members of the South Ossetian militia came to his house on August 11, and tried to take away some household items. When he protested, they set the house on fire and

left. The man said he had no food or drinking water; his hands were burned and hair was singed – apparently as he was unsuccessfully trying to extinguish the fire – and he appeared to be in a state of shock. He said that there were about five to ten elderly and sick people left in the village, all in a similar desperate condition, and many of the houses were burned.

In the village of Kekhvi, many houses were set on fire between 6.30 pm and 7.30 pm on August 12 – they were ablaze as Human Rights Watch researchers moved along the road. Two elderly women from Kekhvi were weeping as they told Human Rights Watch about what happened in the village. One of them explained that the members of South Ossetian militias passed by the village and stopped at her house and “threw something” that set it on fire. She did not manage to rescue anything from the house and at the time of the interview could not even enter the house as it was still burning. She had no money on her and did not know if she could survive in this situation.

Human Rights Watch researchers also saw armed Ossetian militia members in camouflage fatigues taking household items – furniture, television sets, heaters, suitcases, carpets, and blankets – out of houses in the village of Nizhnie Achaveti and loading them into their trucks. Explaining the looters’ actions, an Ossetian man told Human Rights Watch, “Of course, they are entitled to take things from Georgians now – because they lost their own property in Tskhinvali and other places.”<sup>3</sup>

10. The systematic pillage and destruction of Georgian villages is clearly intended to prevent the return of civilians displaced as a result of Russia’s aggression commencing August 8. The full extent of such conduct however, remains uncertain at present because Russian forces have denied humanitarian organizations access to most of South Ossetia. A press release of 11 August 2008 confirms that: “So far, the ICRC has not been able to gain

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<sup>3</sup> Georgian Villages in South Ossetia Burnt, Looted, Human Rights Watch, 13 August 2008, *available at*: [http://hrw.org/english/docs/2008/08/13/georgi19607\\_txt.htm](http://hrw.org/english/docs/2008/08/13/georgi19607_txt.htm).

access to South Ossetia. This remains a priority for us”.<sup>4</sup> This can be contrasted with the ICRC’s statement that Georgian authorities have granted “unimpeded access” to Russian prisoners of war.<sup>5</sup> Russia’s obstruction of the ICRC demonstrates an attempt to conceal atrocities against civilians and systematic destruction of Georgian villages in this region.

11. With respect to the prospect of concealed or further atrocities, the active recruitment by Russian forces of notorious Cossack and Chechen mercenaries in the North Ossetian capital of Vladikavkaz is particularly disturbing. As set forth in the Application, these mercenaries committed large-scale atrocities during the South Ossetian and Abkhaz conflicts of the 1990s. According to a source reporting on the current conflict:

Officially, Russia denies the existence of volunteer brigades. Moscow does not use conscription and has no provision for enlisting reinforcements in a particular armed conflict, said a military spokesman. Those who have come to the border with Georgia offer only humanitarian aid, he claimed. ... [but] some officers, when pressed, admitted that the humanitarian mission was a recruitment smokescreen. “In the past two days, about 2,000 people volunteered. These are men ... with experience of military operations in hotspots,” the head of one recruitment post told the Russian Ria Novosti news agency ... Some volunteers in Vladikavkaz said they were being given assault rifles and \$400 (€266).<sup>6</sup>

The recruitment of such mercenaries allows Russia to terrorize the civilian population while absolving itself of responsibility for the conduct of “volunteers”. This is exemplified in the statement of Russian Prime Minister Vladimir Putin that it would be “difficult to restrain” such elements.<sup>7</sup> This appears to be a repeat of the same pattern that was used by Russia in support of ethnic separatists against Georgia in the 1990s.

12. In addition to South Ossetia, Russian forces have opened a second front in Abkhazia, attacking and destroying Georgian villages in the Kodori Gorge and forcibly displacing its entire population of approximately 3,000. These IDPs are currently concentrated in the

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<sup>4</sup> *Id.*

<sup>5</sup> ICRC visits two Russian pilots, ICRC news, 11 August 2008.

<sup>6</sup> Matt Siegel, Cossacks and Chechens unite to fight ‘America’, *The Independent*, 12 August 2008, p. 7.

<sup>7</sup> *Id.*

village of Chuberi. They are surrounded by Russian forces and the deliberate denial of humanitarian access has created difficult conditions.

13. Russian military operations have extended beyond Abkhazia and included attacks against the Black Sea port of Poti resulting in numerous civilian deaths and extensive destruction of civilian property. The town of Zugdidi has been occupied by Russian forces who have subjected the civilian population to widespread pillage and other abuses.
14. There is serious concern about the situation of some 45,000 remaining ethnic Georgians in the Gali district of Abkhazia adjacent to Zugdidi. Russian forces have denied freedom of movement for this population and denied access to the region by outsiders. As set forth in the Application, immediately prior to the August 8 Russian aggression, this population faced increasing intimidation and pressure to adopt Russian citizenship. Under the present circumstances, there is a realistic prospect that they too will be subjected to abuses and forced displacement in order to remove the only remaining Georgian population in Abkhazia.

### **C. THE RIGHTS THAT GEORGIA SEEKS TO PROTECT**

15. In accordance with Article 41 of the Statute of the Court, the object of provisional measures is to preserve the respective rights of the parties pending the decision of the Court, and pre-supposes that irreparable prejudice must not be caused to rights which are the subject of dispute in judicial proceedings (see e.g. *Application of the Convention on the Prevention and Punishment of the Crime of Genocide*, Provisional Measures, Order of 8 April 1993, I.C.J. Reports 1993, p. 3, at 19 (para. 34)).
16. In the present case, the rights which are the subject of the dispute are set forth in Articles 2, 3, 4, 5, and 6 of CERD, as specified in paragraph 81 of the Application. Specifically, the rights under CERD that Georgia seeks to protect with this Request arise from the obligations of the Russian Federation to prevent acts of ethnic discrimination, including:
  - (a) the right to ensure that the Russian Federation and separatist authorities under its direction and control refrain from any further act or practice of ethnic discrimination against Georgian citizens and that civilians are fully protected against such acts in territories under the occupation or effective control of Russian forces, pursuant to Article 2(1);

- (b) the right to ensure that the Russian Federation and separatist authorities under its direction and control refrain from any further acts resulting in the recognition of or rendering permanent the ethnic segregation of Georgian citizens through forced displacement or denial of the right of IDPs to return to their homes in South Ossetia, Abkhazia, and adjacent territories under the occupation or effective control of Russian forces, pursuant to Article 3;
- (c) the right to ensure that the Russian Federation and separatist authorities under its direction and control refrain from any further acts violating the enjoyment by Georgian citizens of fundamental human rights including in particular the right to security of the person and protection against violence or bodily harm, the right to freedom of movement and residence within the borders of Georgia, the right of IDPs to return to their homes under conditions of safety, and the right to protection of homes and property against pillage and destruction, pursuant to Article 5; and
- (d) the right to ensure that the Russian Federation and separatist authorities under its direction and control refrain from any acts denying to Georgian citizens under their jurisdiction effective protection and remedies against ethnic discrimination and violations of human rights pursuant to Article 6.



#### **D. THE MEASURES REQUESTED**

17. On the basis of the facts set forth above, and in order to prevent irreparable prejudice to the rights of Georgia and its citizens under CERD, Georgia respectfully requests the Court as a matter of utmost urgency to order the following measures to protect its rights pending the determination of this case on the merits:
  - (a) the Russian Federation shall give full effect to its obligations under CERD;
  - (b) the Russian Federation shall immediately cease and desist from any and all conduct that could result, directly or indirectly, in any form of ethnic discrimination by its armed forces, or other organs, agents, and persons and entities exercising elements of governmental authority, or through separatist forces in South Ossetia and Abkhazia under its direction and control, or in territories under the occupation or effective control of Russian forces;
  - (c) the Russian Federation shall in particular immediately cease and desist from discriminatory violations of the human rights of ethnic Georgians, including attacks against civilians and civilian objects, murder, forced displacement, denial of humanitarian assistance, extensive pillage and destruction of towns and villages, and any measures that would render permanent the denial of the right to return of IDPs, in South Ossetia and adjoining regions of Georgia, and in Abkhazia and adjoining regions of Georgia, and any other territories under Russian occupation or effective control.
  
18. The Republic of Georgia reserves the right to amend the Request and the measures sought.

Respectfully submitted,



Agent for the Republic of Georgia

Maia Panjikidze

Ambassador of Georgia to the Kingdom of the Netherlands

The Hague

13 August 2008

