



სისხლის სამართლის საერთაშორისო სასამართლოს
პროკურორმა 2008 წელს ჩადენილი ომის
დანაშაულებისთვის დაკავების განჩინების გამოცემა 3
პირის წინააღმდეგ მოითხოვა

International Criminal Court Prosecutor requested Arrest Warrant to be issued against 3 persons for war crimes committed in 2008

International Criminal Court (ICC) Prosecutor Karim Khan have [filed an application](#) to the Court on March 10, 2022, requesting the issuance of arrest warrants against three Ossetian officials on charges of alleged war crimes committed in the period August 08-27, 2008. At the time of committing the crimes, all three persons were senior officials in the so-called de facto South Ossetian administration. **Mikhail Mindzaev** (the Minister of Internal Affairs of the so-called *de facto* South Ossetia), **Hamlet Guchmazov** (Head of the Preliminary Detention facility of the so-called de facto South Ossetia); **David Sanakoev** (“Ombudsman” of the so-called de facto South Ossetia) is charged with committing war crimes, namely: unlawful confinement, torture, inhuman treatment, outrages upon personal dignity, hostage-taking, forced displacement. It

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should be noted, however, that there was also evidence against **Vyacheslav Borisov**, who was a Major General in the Armed Forces of the Russian Federation and Deputy Commander of the Airborne Forces during the events of 2008, and who deliberately participated in the execution of some of the above crimes. An arrest warrant could not be issued for him because he is deceased.

The Prosecutor states in his public statement that at the time of the events of 2008, the majority of the Georgian civilian population living in South Ossetia had to flee to the undisputed territory of Georgia. Russian forces and the so-called South Ossetian forces captured Georgian civilians, mostly the elderly and the sick, who were unable or unwilling to abandon their homes and flee the fighting. They were not given a valid reason for their capture and detention, nor were they afforded any kind of procedural right. According to the Prosecutor, the evidence shows that many of these people were unlawfully confined in unsanitary and unsafe conditions, insulted, beaten, tortured, and humiliated. **The Prosecutor clearly indicates that these crimes took place in the context of the Russian occupation regime.**

It should be noted that the Office of the Prosecutor of the Court started a [preliminary examination](#) on August 14, 2008, into the crimes committed during the August war. In October 2015, the Office of the Prosecutor of the Court [made a referral](#) and requested authorization from the Pre-Trial Chamber to initiate an investigation, which was [upheld](#) by the Judges in January 2016. The referral and the Judgment of the Pre-Trial Chamber revealed the scope of the investigation, which includes: crimes committed between 1 July and 10 October 2008, including crimes against humanity, such as killings, forcible displacement and persecution of civilians, and war crimes: attacks against civilians, deliberate attacks on peacekeepers, destruction of property and looting.

It is an important circumstance that the Prosecutor draws a parallel with the current situation in Ukraine and explains that the existence of the above-mentioned prohibited pattern of conduct is also clearly evident in the [situation in Ukraine](#). Whether the Prosecutor's request for an arrest warrant will be granted [must be decided](#) by the Pre-Trial Chamber of the International Criminal Court.

The Georgian Coalition for the International Criminal Court welcomes Prosecutor Khan's decision to request the issuance of Arrest Warrants against three persons.

In addition, we point out that it is a fact that Russia led military operations in Georgia in 2008, which is why the above-mentioned conflict qualifies as an international armed conflict. Russia's political and military leaders bear the primary responsibility for international crimes committed in Georgia. If only high-ranking officials of the separatist regime are held accountable for war crimes and crimes against humanity, it will only contribute to a sense of impunity among high-ranking officials of the Russian Federation. A clear example of this is the [current events in Ukraine](#), which, according to the Prosecutor himself, repeat the content of the criminal acts committed in Georgia.

We believe that the decision of the Prosecutor of the International Criminal Court is a step forward, but it should be emphasized that there are several problems with the investigation and ongoing processes conducted by the Office of the Prosecutor of the International Criminal Court, both nationally and internationally, which have been repeatedly [raised](#).

In order for the International Criminal Court to contribute to the strengthening of international peace and security, **the Georgian Coalition for the International Criminal Court calls on:**

- **The Pre-Trial Chamber of the International Criminal Court - to consider within a reasonable time the request of the Prosecutor to issue Rulings;**
- **The Office of the Prosecutor of the International Criminal Court and the Member States of the Rome Statute - to act effectively to enforce Rulings if they are upheld;**
- **The Office of the Prosecutor of the International Criminal Court, the Registry and the local office of the Court - to actively inform the public, including the victims and their representatives, to inform them of the progress of the investigation;**
- **Trust Fund for Victims of The International Criminal Court (ICC) - to actively strengthen the implementation of the support mandate for the victims of the August 2008 war.**

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In addition, given that the European Court of Human Rights in the case of [Georgia v. Russia \(II\)](#) cited a large number of alleged victims and disputed incidents, the scale of the evidence presented and the difficulty of establishing the relevant circumstances as reasons for excluding jurisdiction in the active phase of 8-12 August 2008, and pointed out that “such situations are predominantly governed by legal norms other than the [European] Convention. Specifically, under International Humanitarian Law or the Law of Armed Conflict, **the Georgian Coalition for the International Criminal Court, taking into account the overriding interest of law enforcement concerning victims, calls for:**

- **The Office of the Prosecutor of the International Criminal Court - Given the gravity and scale of the crimes committed by the Russian Federation during the August war, to actively pursue the investigation so that the issue of accountability of high-ranking officials of the Russian Federation is not left beyond attention.**

Signatory organizations:

Georgian Young Lawyers Association (GYLA)

Center for Psychosocial and Medical Rehabilitation of Victims of Torture (GCRT)

Justice International

Human Rights Centre (HRC)

Rights Georgia

International Center on Conflict and Negotiation (ICCN)

The Georgian Coalition for the International Criminal Court was established in 2003 with the aim of strengthening democracy and the rule of law and establishing responsibility for crimes against genocide, aggression, war, and humanity and providing legal assistance to victims of such crimes at the national and international levels. Since 2010, the Georgian Coalition has been a member of the Global Coalition for the International Criminal Court. Coalition organizations have been actively

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IDPs at the national level, as well as before the European Court of Human Rights and the International Criminal Court.