

საქართველოს ახალგაზრდა იურისტთა ასოციაცია
GEORGIAN YOUNG LAWYERS' ASSOCIATION



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საიას წარმატებული სადვოკაციო კამპანია დუშეთში

**15 years after the August War - the
continuing damage of the terrorist
regime and its consequences in**

international courts

15 years have passed since thousands of Georgian citizens suffered the tragic consequences of the war as a result of the [terrorist policy](#) of the Russian Federation, which, unfortunately, has a lasting effect on everyday life. 15 years ago, the Russian Federation, disregarding international law, invaded the territory of Georgia, where the army of the Russian Federation and the forces effectively controlled by them committed war crimes and crimes against humanity, turning 27,582 people into internally displaced persons.

The Russian Federation, even today, [continues](#) the administrative practice of harassment, illegal arrests, attacks, tortures, murders and intimidates of the ethnically Georgian population, tragic examples of which are the murders of Davit Bashari, Giga Ochtozoria and Archil Tatumashvili. As a result of the creeping occupation, the Russian Federation continues to lay barbed wire from time to time, which increases the number of affected citizens, both in terms of their physical security and property rights, violates the fundamental norms of international law and causes continuous violations of human rights.

The August War is not only a tragic event of Russia's military aggression, but also a clear evidence of the interconnection of Russia's aggressive policies towards different states. In this regard, we should once again say loudly how important is the timely enforcement of the law by international organizations, the timely imposition of responsibility on the aggressor state and the timely investigation and identification of the perpetrators of international crimes.

The Russian Federation's recognition of separatist territories and attacks on sovereign states, both in the case of Georgia and Ukraine, violate Article 2, Clause 4 of the UN Charter, which prohibits the use of force and the threat of use of force in international relations. It should be emphasized that the Russian Federation acts in the same scenario, by recognizing the independence of separatist regions of neighboring countries, it violates the sovereignty and territorial integrity of these states, followed by the intervention of its military units, which, in turn, creates a fertile ground for committing international crimes. According to the explanation of the prosecutor of the International Criminal Court, the uniformity of the behavior of the criminals is [similar](#)

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for the war crimes committed in Georgia and Ukraine.

The involvement of the officials of the Russian Federation in the war of August 2008 is confirmed by many international institutions, including the European Court of Human Rights. Also, the EU fact-finding mission indicated that before the armed conflict, Russian officials already had de facto control over the institutions of the so-called South Ossetia, especially on the bodies responsible for security. In particular, the de facto government, not recognized by the international community: the Ministries of Defense, Internal Affairs, Civil Defense and Emergency Situations, the State Security Committee, the State Border Protection Service and the so-called The presidential administration was mainly staffed by Russian representatives and persons of South Ossetian origin with Russian citizenship who had previously held equivalent positions in Russia. During the active phase of hostilities, the key power agencies (Ministry of Internal Affairs, Minister of Defense and Emergency Situations, Chairman of the State Security Committee, Secretary of the Security Council) were managed by former high officials of the Russian army. Investigation and results of the situation in Georgia by the International Criminal Court

On December 16, 2022, the Office of the Prosecutor of the International Criminal Court closed the investigation into the situation in Georgia. At this stage, the prosecutor's office has identified the guilt of [three persons](#). On June 30, 2022, the Pre-Trial Chamber of the International Criminal Court, based on Article 58 of the Rome Statute, issued arrest warrants against 3 former high-ranking officials of the South Ossetian separatist regime, Mikhail Mindzaev, Hamlet Guchmazov and David Sanakoev.

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The Pre-Trial Chamber confirmed that the possible criminal acts committed by all three high-ranking officials were related to the military conflict and, therefore, the satisfied elements of war crimes are present. The representatives of the separatist regime illegally detained the ethnically Georgian civilian population and took them to the isolation cell (the so-called 'K13'). The Pre-Trial Chamber noted that the illegal arrests were collective measures directed against a specific ethnic group (Georgians), which, among other facts, is confirmed by the question posed to the persons during the arrest: whether they were ethnically Georgian or not. Finally, the purpose of arresting the civilian population was to exchange them with the Georgian side.

In connection with this, it is worth noting that the Chamber indicated the possible guilt of Eduard Kokoity, his possible criminal actions as a member of a group with a common goal, although, until now, the prosecutor's office has not requested an arrest warrant against him (*The Chamber finds that the de facto President Mr. Kokoity, Mr. Borisov and Mr. Sanakoev were part of the group of persons sharing this common purpose and the intent to use criminal means (hostage taking and unlawful transfers) to achieve it*).

On April 6, 2023, the Victims' Trust Fund started a reparation program in Georgia. The reparations program focuses on providing medical treatment, counseling and psychosocial support to the most vulnerable victims, as well as livelihood and socio-economic initiatives to address conflict-related damage, however, we believe that the allocated funds ([REDACTED] over three years, for only a limited number of victims) are insufficient. And it does not even partially respond to the real needs of internally displaced persons. Internally displaced persons are a particularly vulnerable group who require adequate and effective support to ensure the conditions necessary for a dignified and proper life. In this regard, it should be emphasized that the IDPs live in a difficult socio-economic situation even under the conditions of resettlement. The biggest difficulties are the lack of jobs and the impossibility of starting agricultural activities. Daily living conditions in IDP settlements are difficult due to problems of physical access to transportation, road and irrigation infrastructure, medical services, pre-school and school education. Considering the scale of the issues, it is clear that they are not individual, but systemic in nature.

Georgia-Russia interstate disputes and results of the European Court of Human Rights

On April 28, 2023, the European Court [ordered](#) the Russian Federation to pay 130 million euros to Georgia in the case of the August War, based on the decision it made on January 21, 2021 on the interstate dispute. Considerations of individual applications continue to this day in the Strasbourg Court.

Also, on April 20, 2023, the European Court recognized Georgia's fourth interstate complaint (no. 39611/18) against the Russian Federation as admissible. This case concerns the deterioration of the human rights situation in the territories of Georgia occupied by the Russian Federation and along the occupation line. In particular, that:

- a) On the part of the Russian Federation, there is an administrative practice of harassment, illegal detention, attack, torture, murder and intimidation of the ethnically Georgian population. According to the complaint, the said administrative practice aims to intimidate, isolate and ethnically cleanse the Georgian population in the occupied territories.
- b) The Russian Federation has established administrative practices and does not investigate the above-mentioned violations in accordance with the European Convention on Human Rights, which promotes impunity and de facto immunity for those who commit crimes.

Considering that the Russian Federation does not cooperate with international organizations and is currently excluded from the Council of Europe, it is important to create a compensation mechanism in the Council of Europe for the victims of the August war, as was the case with Ukraine.

The Georgian Coalition for the International Criminal Court calls for:

To the Office of the Prosecutor of the International Criminal Court:

- To demand the issuing of a detention order before the pre-trial chamber of the so-called South Ossetian former president, Eduard Kokoity;

Trust Fund for Victims of the International Criminal Court:

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- To actively strengthen the implementation of the support mandate for the victims of the August 2008 war.

Additionally, we call on the Office of the Prosecutor of the International Criminal Court and the member states of the Rome Statute to effectively cooperate and act to enforce the arrest warrants, while the Georgian authorities use all available mechanisms to bring the relevant persons to court.

Signatory Organizations:

- Georgian Young Lawyers' Association;
- Justice International;
- The Georgian Centre for Psychosocial and Medical Rehabilitation of Torture Victims (GCRT);
- Rights Georgia;
- Human Rights Centre