Georgia

The August conflict over the breakaway region of South Ossetia dominated events in Georgia during the second half of 2008. All sides of the conflict committed serious violations of international human rights and humanitarian law. The Georgian government used indiscriminate force, including cluster bombs.

Georgian authorities failed to comprehensively investigate past use of excessive force. The government lowered the minimum age for criminal responsibility, while failing to resolve overcrowding and poor conditions in prisons.

Conflict over South Ossetia

After months of escalating tensions and clashes between Georgian and South Ossetian forces, on the night of August 7-8 Georgia launched a military assault on Tskhinvali, the capital of South Ossetia, a breakaway region. Russia deployed significant military forces to South Ossetia, forcing a Georgian military retreat. Russian and South Ossetian forces pursued Georgian forces beyond the South Ossetian administrative border and occupied significant portions of uncontested Georgian territory until October 10. Russian forces also entered Abkhazia, a second breakaway region.

All parties committed serious violations of international human rights and humanitarian law (see also Russia chapter), resulting in many civilian deaths and injuries. The Office of the United Nations High Commissioner for Refugees estimated that 133,000 people were displaced by the conflict, but at least 80 percent have now returned to their homes. Thousands of Georgians from South Ossetia still remain displaced.

During the attack on South Ossetia, Georgian forces used indiscriminate force, firing Grad multiple rocket launchers, an indiscriminate weapon that should not be used in

civilian areas. The Georgian military used tanks and machine guns to fire at buildings in Tskhinvali, including at apartment buildings where civilians sheltered; South Ossetian forces had fired on Georgian forces from at least some of these buildings.

The Georgian military also used cluster munitions against Russian military, including in Georgian territories adjacent to the administrative border with South Ossetia populated by civilians. Cluster munitions are indiscriminate weapons and cause unacceptable humanitarian harm. Some civilians were killed or injured as a result of Georgian- and Russian-fired unexploded ordnances, including cluster duds.

Some Ossetians detained during the conflict complained of ill-treatment during transfer to Georgian detention facilities.

Lack of Accountability for Excessive Use of Force

Despite repeated calls from key international actors, including the United States and the Parliamentary Assembly of the Council of Europe (PACE), the government has refused to launch a comprehensive investigation into the events of November 7, 2007, when police used excessive force against largely peaceful political demonstrations in the capital, Tbilisi, resulting in at least 500 injured. Authorities initiated investigations into only a handful of cases of possible excessive use of force. The authorities paid the independent television station Imedi US$2.5 million compensation for damage to its equipment during the November 7 police raid on the station.

The government has also failed to conduct a comprehensive investigation into the March 2006 operation to quell a riot in Tbilisi Prison No. 5, which left seven prisoners dead and dozens injured.

Criminal Justice System

The government has taken steps to reduce prison overcrowding, including issuing two presidential pardons and amnesties in 2008, and opening a new prison in Gldani. However, overuse of pretrial detention perpetuates overcrowding. As of October 1, 2008, the prison population totaled 19,929, a 50 percent increase in two

years. In March the government closed the infamous Tbilisi Prison No. 5, which the European Committee for the Prevention of Torture and human rights organizations had repeatedly criticized for its overcrowding and appalling conditions. Poor conditions persist in many facilities, and allegations of ill-treatment of prisoners continue, including at the new Gldani prison.

In 2007 the government lowered the minimum age of criminal responsibility from 14 to 12 for certain crimes, further weakening protections for children in conflict with the law. The new minimum age entered into force in July 2008. However, the minister of justice issued a moratorium on implementation of the law until the creation of a separate juvenile justice system for young offenders. In its June review of Georgia, the United Nations Committee on the Rights of the Child expressed "deep regret" about the new minimum age and urged the government to reinstate it at 14.

In October parliament passed amendments on judicial restructuring, creating a new Ministry of Probation and the Penitentiary System and merging the General Prosecutor's Office with the Ministry of Justice. Independence of the judiciary in Georgia is a longstanding concern; the merger risks weakening the judiciary further.

Elections

Joint Organization for Security and Co-operation in Europe (OSCE), PACE, and European Parliament observer missions lauded the January 5, 2008 presidential election as "the first genuinely competitive presidential election" in Georgia, and noted that both it and the May parliamentary elections were essentially consistent with international standards. Observers still cited shortcomings, for instance, during the presidential election, widespread allegations of pressure—including on public employees and opposition activists— as well as irregularities in vote counting and tabulation during both elections. They noted that presidential election coverage lacked balance on most television stations, with President Mikheil Saakashvili generally receiving the most coverage.

Media Freedom

The media environment remains mixed, with a vibrant print media, but increasingly limited television news broadcasting, apparently due to government pressure. Only the state-owned Georgian Public Broadcasting station and the pro-government Rustavi 2 maintained nationwide news programming throughout the year. Following its closure during the November 7 events, the private television station Imedi resumed broadcasting on December 12, 2007, but two weeks later Imedi suspended broadcasts, citing pressure from the authorities and its co-owner. Although Imedi resumed broadcasting in May 2008, it only resumed news programming in September. In June the independent television station Mze, widely considered pro-government, suspended news programs, allegedly for channel reorganization. However, the cable television company Maestro successfully challenged an April decision by the National Communications Commission depriving it of its license to broadcast news.

Independent television station Kavkazia experienced two suspicious transmission interruptions, including during a September 1 program criticizing Georgian government actions during the conflict over South Ossetia. Kavkazia's director questioned whether the transmitter's technical problems were coincidental. Kavkazia also alleged that financial police targeted companies buying advertising from the station.

During the conflict over South Ossetia, the Georgian government blocked access to Russian cable television stations and websites.

Journalists alleged pressure and attacks, including during the elections. A government supporter attacked Hereti radio correspondent Khatuna Gogishvili on the day of the presidential election by taking her recording device and physically assaulting and threatening to kill her. In February independent journalist Gela Mtivlishvili alleged that state security officials subjected him to surveillance and intimidation before and after the election. Journalists reported interference with their professional duties during the May parliamentary elections, including several Rustavi 2 and Mze television journalists and Eliso Chapidze, editor of the newspaper *Resonance*.

Key International Actors

During the conflict over South Ossetia, international actors unanimously called for restraint by all parties, but insufficiently highlighted the need for compliance with international human rights and humanitarian law and for transparent investigations and accountability for abuses, and the parties' obligations in this regard.

In response to the conflict, the OSCE chairman-in-office, the United Nations high commissioner for refugees, the United Nations representative of the secretary-general on the human rights of internally displaced persons, the Council of Europe commissioner for human rights, the United Nations Office for the Coordination of Humanitarian Affairs, and the PACE conducted missions to Georgia.

Holding the rotating European Union presidency, French President Nicolas Sarkozy brokered a six-point peace plan between Russia and Georgia. The EU appointed a special representative for the crisis in Georgia to prepare October talks chaired by the UN, OSCE, and the EU and aimed at resolving tensions between Georgia and Russia. The talks stalled on the first day and were set to resume in mid-November. In October the EU deployed more than 200 unarmed monitors to Georgia under the European Defense and Security Policy. On October 22, the EU and World Bank hosted a donor conference to mobilize support for a US$660 million assistance package dispersed over three years for reconstruction, economic recovery, and aid to the internally displaced in Georgia.

Both the European Court of Human Rights and the International Court of Justice issued decisions calling on all parties to comply with international human rights conventions. The International Criminal Court (ICC)—to which Georgia is a state party—announced that crimes committed by all parties to the conflict are under analysis by the ICC prosecutor.

In October the PACE issued a resolution declaring that both Georgia and Russia had violated Council of Europe principles, and called for an international investigation. Following the conflict, the OSCE Mission to Georgia increased the number of its military monitoring officers. Russia has not allowed the monitors to enter South Ossetia.

In September the United States approved aid for Georgia that could total up to US$1 billion over two years, a sum 30 times greater than past annual US aid to Georgia. After an October visit to Georgia, US Assistant Secretary of State for European and Eurasian Affairs Daniel Fried stated that NATO membership is still possible for Georgia, but the country should do more to strengthen its democratic institutions, particularly independent media and the judiciary.