

**Statement of Ana Natsvlishvili
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before the**

**Subcommittee on Department of State, Foreign Operations, and Related Programs
of the Senate Committee on Appropriations**

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Achievements of Georgian civil society

Georgia has one of the most vibrant and diverse civil societies in the Eastern-Partnership region. Georgian Young Lawyers' Association (GYLA) is one of the oldest and largest non-for-profit, non-governmental organizations focusing on the protection and promotion of human rights, democracy and rule of law in Georgia. We work on a wide range of issues by providing free of charge legal aid, doing strategic litigation at the national and international level, we engage into legislative and institutional reforms, monitor activities of various state bodies with the aim of promoting transparency and good governance, monitor elections, carrying out awareness raising activities, etc.

As important change-makers and opinion leaders in Georgia, NGOs are often invited to the table and involved in the planning and implementation of important reform processes (legislative as well as institutional reforms), perform watchdog activities, etc. Most of the state bodies and the parliament maintain generally open environment for cooperating with NGOs, though the degree of actually taking into consideration NGOs recommendations varies.

The important role NGOs play in Georgian society is fostered by enabling legal framework for the work of non-for-profit organizations and relatively favorable working conditions (as compared to other countries in the region), as well as pluralistic and rather free media environment. Current media environment allows NGOs to raise voice and reach out to a wider public. However, more recently, concerns about sustainability of pluralistic media have increased, in the light of Rustavi 2 case before the court about the ownership of the shares of the TV company, with reasonable grounds to believe that state authorities were interested in and influencing the outcome of the case, highly controversial reforms in the Public Broadcaster and closure of certain political talk-shows at other private TV stations.

Challenges that democracy activists in Georgia face

No serious security or other challenges face human rights defenders in Georgia, although certain issues, which are controversial in Georgian society, (e.g., women's rights, LGBT issues) sometimes places NGOs or individual activists under unfavorable working environment. Parliamentary elections of 2016 witnessed certain security challenges and unfriendly working conditions for international as well as national election observers.

NGOs are at times subjected to criticism as "western agents", "vehicles of foreign interests", and "the ones against national interests." To defame NGOs, Critics often stress that NGOs are foreign-

funded, while neglecting the fact that state institutions are also getting funding for implementing different important projects from the same foreign aid sources. This kind of labeling is very much in line with Russian propaganda. Sometimes state officials also use these labels in their public statements, or portray them as working against state security, which strengthens stigma against NGOs.

NGOs often struggle with highly polarized environment in Georgia. Polarization in Georgia, having political, rather than ideological nature, often contributes to build up two hostile camps, with little middle ground. In such environment, NGOs are often seen not as protectors of universal principles, the rule of law and human rights, no matter who is “the victim” and who –“the abuser”, but as taking a side of one or another political camp. On the other hand, political parties at times also do not shy away from instrumentalizing media and NGOs to foster their interests. One example of that is noticeable number of fake observer organizations which emerge right before elections to “monitor” it. In 2016 GYLA observed use of certain NGOs (about which very little information was known or available in public information sources,) who portrayed themselves as neutral, however in reality clearly overstepped the mandate of election observers, and tried to foster the interests of different political parties.

The Role of Russia: Russia as an Occupying power

Russia is an occupying power of Tskhinvali Region/South Ossetia, and the whole territory of Abkhazia, including the Upper Abkhazia / Kodori Gorge region following the August War 2008.¹ Continued occupation of the regions of Georgia was recognized by numerous states and international political and legal institutions, including the European Court of Human Rights.²

Violations during the August War 2008

Georgian NGOs have lodged a number of applications before the European Court of Human Rights concerning human rights violations committed during the war, in particular:

- unlawful detention of up to two hundred ethnic Georgians by South Ossetian military and paramilitary forces, at times together with Russian military forces in August 2008,
- their ill-treatment at the moment of the arrest and/or whilst in detention,
- forced labour of the able-bodied men,
- discriminatory treatment due to their Georgian ethnicity/identity and/or citizenship
- and violation of their right to respect for family life.

Detainees were civilian inhabitants of the villages within or adjacent to South Ossetia and they were detained in different locations between 9 and 16 August 2008; most of them were taken to the detention facility of the Ministry of Interior of South Ossetia (hereinafter “MVD Isolator”)

¹ See United Nations Report of the Secretary-General on the situation in Abkhazia, Georgia, 3 October 2008, S/2008/631; Statement of Mr Alasania of Georgia to the United Nations Security Council, 5953rd Meeting, 10 August 2008, S/PV.5953; Council of Europe Parliamentary Assembly, Monitoring Committee Report, ‘The implementation of Resolution 1633 (2008) on the consequences of the war between Georgia and Russia’, 17 December 2008, AS/Mon(2008)33rev;

² Decision on the Admissibility of the Application, Georgia v. Russian Federation (II), Application no. 38263/08 of December 2011.

located in Tskhinvali, the capital of South Ossetia. Georgian Detainees were held in the MVD Isolator between 7 to 20 days³.

During the August War 2008, around 26,000 Georgian citizens in South Ossetia were forced to flee and leave their houses and belongings behind. The massive number of family houses, located in the area currently under Russian occupation, were deliberately looted and burnt down by Ossetian military and paramilitary forces.⁴ For generations the affected population had lived in these houses with their families. Since August War 2008 they have been continuously prevented from returning to their homes. Even where the property of the affected population is not completely destroyed, the owners are continuously denied access to their homes and other belongings by the Russian occupation forces. Consequently, these people have been deprived of their revenue, which they derived from their land.

Violations committed after the August war

Since October 2008, the administrative boundary line (ABL) constructed by *de facto* authorities of South Ossetia under effective control of Russian armed forces separates the rest of Georgia from the Tskhinvali Region/South Ossetia. While people on both sides continue to cross the ABL for various reasons, such as to access medical care, to visit graveyards, or to see relatives or family members on the other side, most of this movement across the ABL is considered illegal by the *de facto* authorities. Due to these restrictions on freedom of movement, Russian and Ossetian border guards mostly with alleged charge of “illegal border crossing” have arrested residents of Georgian controlled territories, including women, minors and elderly people. Civilian inhabitants of the villages located alongside the ABL have been arrested by the Russian guards while harvesting the capers or cutting wood in close proximity to the ABL⁵.

International independent bodies have expressed their concern over the absence of official crossing points and regulations concerning the crossing of the ABL. The location of the ABL in many places is unclear. In some places the ABL is demarcated but in many places it is not.

³ Out of 53 applications on war cases of the Georgian Young Lawyers’ Association at the European Court of Human Rights, see e.g. Barbakadze and others v. Russia (application no. 9546/09); Shoshitashvili v. Russia (application no. 8799/09); Chalaori and Others v. Russia (9445/09); Khaduri v. Russia (application no. 8906/09)...

⁴ According to UNOSAT’s experts in Tamarasheni a total of 177 buildings (almost all the buildings in the town) were destroyed or severely damaged. In Kvemo Achabeti, there are 87 destroyed and 28 severely damaged buildings (115 total); in Zemo Achabeti, 56 destroyed and 21 severely damaged buildings (77 total); in Kurta, 123 destroyed and 21 severely damaged buildings (144 total); in Kekhvi, 109 destroyed and 44 severely damaged buildings (153 total); in Kemerti, 58 destroyed and 20 severely damaged buildings (78 total); and in Dzartsemi, 29 destroyed and 10 severely damaged buildings (39 total). Information available at: <http://www.hrw.org/en/news/2008/08/27/georgia-satellite-images-show-destruction-ethnic-attacks>

⁵ Georgian Young Lawyers’ Association represents the interest of 18 Georgian citizens detained in the aftermath of 2008 war by the Russian border guards in the following applications: Biganishvili and others v Russia, app. no. 59827/10; Kobaladze and Others v. Russia, app. no. 50135/09; Lomsadze and others v. Russia, app.no. 77190/11; Akhvlediani and Takadzebi v. Russia, Karkishvili and others v. Russia.

Shortly after the 2008 war, in 2008-2009, Russian and South Ossetian military started construction of barbed wire entanglements, barriers, fences and trenches adjacent to the administrative boundary line with South Ossetia, within the territory under Georgian control.

The newly erected barriers and barbed wire fences further resulted in the loss of access to and control over farmland, homes, property and facilities for the residents in many of the villages. Security concerns, Russian and South Ossetian border guards and physical barriers make it impossible for village residents to cultivate the land plots or collect the harvest. At present there are no prospect of demolishing the barbed wire fences, or permitting the village residents to go back to their family houses or cultivate their land plots in the foreseeable future.

Despite the calls from the international community and numerous complaints submitted by the victims with the assistance of Georgian NGOs, the Russian Federation has not provided any effective and independent investigation into the human rights violations committed during and in the aftermath of the war, it has not provided effective remedy, including reparation, for an unjustified interference with their right to respect for their home and family life.⁶

Similar to Tskhinvali Region/South Ossetia, Georgia, following human rights violation took and continue to take place in Abkhazia, Georgia:

- Undue restrictions on the local population wishing to cross the ABL administered by Abkhaz border guards and Russian armed forces (freedom of movement).⁷
- Continued violation of the right to property (property claims) and access to effective remedy (discrimination on ethnic grounds of Georgians, creation of Property Claims Commission only for ethnically Abkhaz and Russian persons);⁸

⁶ Out of 53 applications on war cases of the Georgian Young Lawyers' Association at the European Court of Human Rights, see e.g. Turashvili and Others v. Russia (application no. 52486/09); Arbolishvili v. Russia (application no. 8611/09); Kochishvili and Others v. Russia (application no. 8976/09); Nebieridze and Others v. Russia (application no. 9239/09); Askilashvili and Others v. Russia (application no. 8996/09); Zubashvili and Others v. Russia (application no. 8912/09); Razmadze and Others v. Russia (application no. 9221/09); Beruashvili and Others v. Russia (application no. 10341/09); Tsitsiloshvili v. Russia (application no. 10046/09); Kristesiashvili and Others v. Russia (application no. 10312/09); Gogidze and Others v. Russia (application no. 16993/09).

Russia has committed breaches of international humanitarian and human rights law norms during the August War in 2008 and in the aftermath. In its 97th session the Human Rights Committee (the Committee) has issued a recommendation to the Russian Federation (i) to conduct independent investigation into human rights violations committed by Russian forces and other armed groups under their control in South Ossetia, Georgia, and (ii) to provide effective remedy to victims of serious violations of human rights and international humanitarian law. Furthermore, the Committee stressed that Russia bears responsibility for violations that take place in the territory that fall under its *de facto* control (see CCPR/C/RUS/CO/6 pp. 5-6).

⁷ PACE, Resolution 1683, *op. cit.*, para. 7. International Crisis Group, *Abkhazia: Deepening Dependence*, Europe Report No. 202 (26 February 2010), p. 4. PACE, Doc. No. 12039, para. 17, *op. cit.* GWS, Vol. III.

⁸ Georgia's Human Rights Report for 2011 and 2012 (available at <http://www.state.gov/documents/organization/160457.pdf> <http://www.state.gov/documents/organization/204499.pdf>)

- Russian border guards along the administrative boundary line with Abkhazia typically enforce the boundary-crossing rules imposed by *de facto* authorities by fining and releasing detained individuals (arbitrary deprivation of liberty and violation of the procedural guarantees);⁹
- Security situation in Gali district (populated by ethnic Georgians) including inter alia security arrests, kidnapping, methods of conscription and treatment of ethnic Georgian conscripts, and etc.¹⁰
- Ill treatment and abuse during detention as well as poor detention conditions.¹¹

As an occupying power maintaining effective control over the two break-away regions of Georgia, Russia bears responsibility for the human rights violations committed, which were described above. It has the obligation to investigate those abuses and provide victims with the right adequate reparations.

Very little official information is available on the human rights and humanitarian situation in South Ossetia due to limited access, however allegations of abuse persist. With the exception of one international human rights assessment, access to Abkhazia also remains limited.¹²

Taking into consideration the above facts, GYLA strongly supports ongoing ICC investigation into the August 2008 War.

The Role for US to play

- Continue support for the non-partisan, non-for-profit civil society organizations in Georgia, particularly in the field of human rights, democracy and rule of law;
- Pay particular attention to Russian propaganda and use of soft power in Georgia and other Eastern Partnership countries;
- Continue support for Georgia's sovereignty and territorial integrity;
- Use instruments and fora available to USA to raise the issue of Russia's international legal responsibility for continues occupation and human rights violations in Abkhazia and South Ossetia.

⁹Georgia's Human Rights Report for 2013 (available <http://www.state.gov/documents/organization/220492.pdf>)

¹⁰ Georgia and Russia: the humanitarian situation in the conflict and war-affected areas, PACE Doc. 13083, 20 December 2012, (available at <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=19238&lang=en>)

¹¹ Report on the visit to the region of Abkhazia, [Georgia](#), carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27 April to 4 May 2009 (available at <http://www.cpt.coe.int/documents/geo/2009-38-inf-eng.htm>)

¹² US State Department Report on Georgia (2016) available at <https://www.state.gov/documents/organization/265634.pdf>