

GEORGIAN YOUNG LAWYERS' ASSOCIATION

15 J. Kakhidze Street, Tbilisi, 0102, Georgia

11th Session of the Assembly of State Parties
14-22 November 2012
The Hague

15 November 2012

Excellencies,
Ladies and Gentlemen,

My name is Natia Katsitadze and I represent the Georgian Young Lawyers' Association, a non-governmental organization dedicated to promoting human rights and the rule of law in Georgia and beyond, and a Steering Committee member of the Coalition for the International Criminal Court.

It is a great privilege for me, as a member of Georgian civil society, to address the honourable delegates of the ASP today.

I would like to address the situation resulting from the armed conflict between Georgia and Russia in August 2008— a situation under preliminary examination by the ICC's Office of the Prosecutor since 2008. It is eminently regrettable that today - one year since I first addressed this issue at the 2011 ASP – still no progress has been made in delivering justice to the victims of the 2008 war.

Indeed, more than four years have passed since the OTP's announcement of the opening of a preliminary examination into the 2008 armed conflict between Georgia and Russia.

In its Report on Preliminary Examination Activities dated 13 December 2011, the OTP recognised that there is a reasonable basis to believe that war crimes and crimes against humanity were committed during the August 2008 war.

["There is a reasonable basis to believe that the war crimes of pillaging, destroying civilian property and inflicting acts of torture were committed in the context of the August 2008 armed conflict. There also is a reasonable basis to believe that the crime against humanity of forcible transfer or deportation of population was committed. The further evaluation of alleged unlawful attacks by all parties, including the alleged attack against Russian peacekeepers, is required."]

Although corresponding authorities from both Georgia and Russia state that national investigations into the crimes committed during the war are ongoing, neither side has publicly reported on any progress or significant efforts in this regard for these to be deemed genuine investigations. For

GEORGIAN YOUNG LAWYERS' ASSOCIATION

15 J. Kakhidze Street, Tbilisi, 0102, Georgia

more than four years, no information whatsoever has been made available to the victims, their legal representatives, the general public or other interested parties about any national investigations being undertaken.

Several international organizations have published findings putting in serious doubt the respective governments' authorities' assertion that national investigations are underway.

[In his 29 September 2010 report, Monitoring of Investigations into cases of missing persons during and after the August 2008 armed conflict in Georgia, Council of Europe Commissioner for Human Rights, Thomas Hammarberg highlighted significant gaps in the investigations carried out by the Georgian authorities into the disappearance of ethnic Ossetians following the 2008 conflict. Two reports published by the Norwegian Helsinki Committee, based on research and data collected by Georgian human rights groups, document serious shortcomings in domestic investigation of war crimes in Georgia. Furthermore, in its World Report 2012, Human Rights Watch notes that Georgian authorities have yet to ensure a comprehensive investigation into, and accountability for, international human rights and humanitarian law violations by their forces.]

Civil society organizations in Georgia, led by the Georgian national coalition for the ICC, have repeatedly voiced their concerns that national investigations lack the level of genuineness required by Article 17 of the Rome Statute. In April 2012, a petition to this effect was published, calling on the ICC's Office of the Prosecutor to open a formal investigation into the 2008 conflict in Georgia

Georgia held Parliamentary elections on 1 October, leading to change in government. The new political leadership has officially stated that investigations will be carried out on various human rights violations, however, there has not yet been any indication that the new government will ensure that the investigations of the gross human rights violations committed during the 2008 conflict – which do not seem to have been effective so far – are conducted genuinely, independently, and objectively.

Therefore, the fear remains that should the ICC-OTP's attention to the events of August 2008 waver, all national investigations will be brought to a standstill. This could have serious ramifications throughout the Caucasus region, which has seen a number of armed conflicts over the last twenty years, and where tension continues to simmer. On the other hand, strong ICC engagement on the August 2008 war could be a game changer for the whole Caucasus region, where there have been many crimes, but little justice.

On behalf of Georgian civil society, I would like to urge States Parties to strengthen the dialogue with the Georgian and Russian governments on the status of the investigations and prosecutions undertaken at the national level, to ensure that the status and outcomes of national investigations are made available to the public and to the victims in particular.

Should the ICC-OTPs preliminary examination confirm that national investigations are not being undertaken in a genuine manner as observed above, we would urge the Office of the Prosecutor to

GEORGIAN YOUNG LAWYERS' ASSOCIATION

15 J. Kakhidze Street, Tbilisi, 0102, Georgia

open a formal investigation into the crimes allegedly committed during the 2008 conflict in Georgia. In the meantime, it is vital that the OTP do more to raise awareness and understanding of its activities concerning the 2008 conflict, in particular regarding its own assessment of the genuineness of the national investigations and prosecutions. We are confident that this Assembly will continue to provide the OTP and the Court as a whole with the necessary resources and support to carry out these activities, not least by approving a budget in keeping with the mandate-related needs of the institution.

We strongly believe that appropriately targeted efforts by States Parties and the OTP could ensure that justice is delivered to victims.

Thank you for your attention.