



OCTOBER 14, 2015

Georgia/Russia: ICC Prosecutor Seeks Investigation

Victims of 2008 South Ossetia Conflict Await Justice

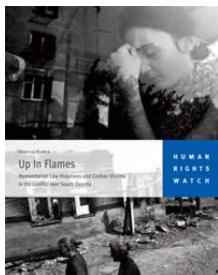
(Geneva) – The **International Criminal Court** (ICC) prosecutor’s request for an investigation in Georgia may open a window to justice for international crimes during the 2008 conflict in the South Ossetia region, Human Rights Watch said today. A three-member panel of ICC pre-trial judges will consider whether to grant the prosecutor’s request, filed on October 13, 2015, to let the ICC step in as a court of last resort.



After hiding in a basement for nearly a week in her home village, a displaced Georgian arrives in Gori. August 18, 2008. © 2008 Marcus Bleasdale/VII

The week of open military conflict in August 2008 between **Georgia** and **Russia** over South Ossetia, a breakaway region of Georgia that shares a border and has very close ties with Russia, took a terrible toll on civilians. The armed conflict and many subsequent weeks of rampant violence, along with insecurity in the affected districts, cost hundreds of lives on both sides, forcibly displaced tens of thousands of people, and caused extensive damage to civilian property.

“Justice for deaths and expulsions has been blocked by a lack of progress in investigations in Georgia and Russia,” said **Elizabeth Evenson**, senior international justice counsel at Human Rights Watch. “Victims are still waiting for justice for what happened in 2008.”



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Human Rights Watch [research](#) found that during the conflict, South Ossetian militias killed, beat, and intimidated ethnic Georgians, burning and looting their homes in a campaign to force them from the region. Human Rights Watch also documented indiscriminate and disproportionate attacks by both Georgian and Russian forces, which may have amounted to violations of the laws of war.

Hundreds of people from all sides were killed, and some 20,000 ethnic Georgians were forcibly displaced from South Ossetia. Most have not been able to return home.

Georgia joined the ICC in 2003, giving the court jurisdiction over crimes of genocide, crimes against humanity, and war crimes committed on its territory or by its nationals. The ICC prosecutor has been [examining](#) allegations of crimes related to the August 2008 conflict since shortly after it ended. Russia has not joined the ICC.

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Elizabeth Evenson
senior international justice counsel

The ICC's registry should start a public information campaign in Georgia and Russia as soon as possible, so that the court's mandate and procedures for deciding on the prosecutor's application are widely understood, Human Rights Watch said.

"The 2008 conflict took place amidst long-simmering tensions, which continue to reverberate today in national debates over Georgia's relationship to Russia and to Europe," said Evenson. "The ICC judges should be left to make an independent decision, and political leaders in the region should affirm their full support to the court."

If authorized, an investigation in Georgia will be the court's first situation country outside of Africa.

The ICC's focus on Africa has led to accusations that it is biased. This claim lacks a basis in fact, Human Rights Watch said. A majority of ICC investigations in Africa have been opened at the request of African governments, which form the largest block of ICC member countries. Human rights activists on the continent have expressed strong support for the court's role in bringing redress to victims. At the same time, powerful states and their allies have often evaded justice when serious crimes are committed on their territories due to a range of factors.

Under the ICC treaty, the prosecution can seek to open an investigation on its own motion – that is, absent a request by either a country or the UN Security Council – but first needs the authorization of an ICC pre-trial chamber. Judges will rely on the materials submitted by the prosecution to determine whether there is a "reasonable basis" to proceed. Victims may also make their views known to the pre-trial chamber.

"Broadening the geographical focus of the court's docket beyond Africa is not a factor for judges to consider, nor should it be," Evenson said. "All the same, the prosecutor's application is an important reminder of the ICC's potentially global reach."

The 2008 Conflict

The armed conflict in South Ossetia started on August 7, 2008, and lasted for one week until a ceasefire on August 15, with Georgian forces in retreat and Russian forces occupying South Ossetia and, temporarily, undisputed parts of Georgia.

Based on Human Rights Watch [research](#), Georgian forces carried out indiscriminate attacks on South Ossetia by their extensive use in civilian areas of multiple-rocket launching systems, which cannot be targeted with sufficient precision to distinguish between civilian and military objects. In a number of instances in South Ossetia and in undisputed Georgian territory, Russian forces used indiscriminate aerial, artillery, and tank fire strikes, killing and wounding many civilians.

Human Rights Watch also [documented](#) the South Ossetian forces' campaign of deliberate and systematic destruction of certain ethnic Georgian villages in South Ossetia. These forces looted, beat, threatened, and unlawfully detained numerous ethnic Georgian civilians, and killed several, on the basis of the ethnic and imputed political affiliations of the residents, with the express purpose of forcing those remaining to leave and ensuring that no former residents would return.

The ICC

The ICC is the world's first permanent court mandated to bring to justice people responsible for war crimes, crimes against humanity, and genocide when national courts are unable or unwilling to do so. The ICC has 123 member countries, including Palestine, which became a member country on April 1.

The ICC prosecution has opened investigations in the Central African Republic, Côte d'Ivoire, the Darfur region of Sudan, Democratic Republic of Congo, Kenya, Libya, Mali, and northern Uganda. Fatou Bensouda, the court's chief prosecutor, has been in office since 2012.

Investigations in Central African Republic, Democratic Republic of Congo, Mali, and northern Uganda were opened at the request of the government. The situations in Darfur and Libya were referred by the Security Council, while the ICC prosecutor made requests to the ICC judges to open investigation in Kenya and Côte d'Ivoire.

The prosecutor is also examining allegations of crimes committed in a number of other countries



include Afghanistan;
in Iraq; Nigeria;

Palestine; and Ukraine.

The court's jurisdiction over alleged international crimes may be triggered in one of three ways. ICC member countries or the United Nations Security Council may refer a situation, meaning a specific set of events, to the ICC prosecutor, or the ICC prosecutor's office may, on its own motion, seek authorization by a pretrial chamber of ICC judges to open an investigation.

The ICC can only step in if national authorities are unwilling or unable to try cases. According to [public reports](#) issued by the ICC prosecution, domestic investigations regarding South Ossetia have faced steep obstacles: Russian authorities excluded allegations against Ossetian forces from their remit, while Georgian prosecutors cited a lack of access and cooperation from Russia.

If an investigation is authorized, the ICC prosecutor will have a mandate to examine allegations impartially, regardless of the identity of an alleged perpetrator. This would include allegations against Georgian or Russian forces, as well as members of the Ossetian militias.

Region / Country [Europe/Central Asia, Georgia, Russia](#)

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