

## Observations

1.) The conflict in Georgia continues to be a threat to peace in the Caucasus, causing destabilising effects in the region and beyond. There are three separate but interconnected levels within this conflict:

- The unresolved relationship between Georgian authorities and the minorities living within its borders;
- The strained and ambiguous relationship between Georgia and its powerful northern neighbour, the Russian Federation;
- The geo-strategic interests of major international players, both regional and non-regional, competing for political influence, access to energy supplies and other strategic assets.

None of these layers of conflict has lost any of its impact or importance since the armed conflict of August 2008.

*Efforts towards improved conflict prevention and conflict management therefore need to take into account the complexity of the situation in Georgia with its different layers and dynamics. Any viable solution must address all three layers.*

2.) There has been a series of dangerous events and developments in the conflict regions, escalating after 2003 and again after 2007, and even more so during the weeks preceding the August 2008 conflict. Even though Germany and other countries launched political initiatives shortly before the outbreak of the armed conflict in August 2008, and in spite of visits by important international foreign policy makers such as Javier Solana, Condoleezza Rice and others, there had been no adequate reaction by the international community which would have been both timely and vigorous enough to contain the continuing build-up of tensions and the increasing threat of armed conflict. Regardless of the belated international diplomatic efforts, the crisis had an almost free run.

*There is a need for more timely and more determined efforts to control an emerging crisis situation, and in such situations a more sustained engagement is needed from the international community and especially the UN Security Council, as well as by important regional and non-regional actors.*

3.) It has also emerged that the set of stabilising arrangements and institutions, such as the Joint Peacekeeping Forces (JPKF), the Joint Control Commission (JCC) and the OSCE presence in the case of South Ossetia, as well the Commonwealth of Independent States Peacekeeping Force (CIS PKF) and UNOMIG for the Abkhaz conflict, which had been established with the assistance of the international community following the armed conflicts in Abkhazia and South Ossetia during the early 1990s, were increasingly overtaken by new and more threatening developments both in the political and military fields. Increasing pressure from the parties as well as the changing international environment made the existing peace mechanisms lose their grip on the situation and give way when the events took a critical turn.

*As needs on the ground may change with new developments, the international community must be prepared to reassess, readjust and reinforce the stabilising arrangements and institutions which were put in place during or immediately after a crisis situation.*

4.) It has also become apparent that the effectiveness of monitoring, peacekeeping and other stabilising institutions and arrangements depends to a large extent on the trust and confidence in which they are being held by the parties to the conflict. This is in most cases directly related to the impartiality which the parties attribute to them, and this in turn is immediately linked to their country of origin or to the country thought to be in control. This is the case whether there is in reality bias or not.

*No party to the conflict or party which is considered to be strongly supportive of any of the sides should assume a position of command, or chair, or arbiter nor exercise any other control of an operation which rests on the notion of impartiality and even-handedness in order to be effective.*

5.) In the region, we noticed a period of increasingly aggressive language use and churning of emotions prior to the armed conflict of August 2008. In some instances militaristic features appeared in public and little was done to exert control over an increasingly hostile, if not xenophobic sentiment against individuals linked to the other side of the conflict. In public statements, the threat of force became more pronounced and ever more frequent. While this had been an ongoing process for years, there was a marked exacerbation of unfriendly sentiments and sometimes actions, both by officials and non-officials, in the run-up to and during the violent phase of the conflict.

*All sides to the conflict must be called upon to exert strict control over xenophobic and hostile sentiments and actions against citizens, property and all other reasonable interests of the other sides, and efforts should be made at educational institutions and in the media to provide a fair and balanced view of all sides involved, as well as of their history and actions. The prohibition of the threat of force as laid down in the UN Charter must be strictly observed by all sides.*

6.) As far as the international presence in the conflict areas is concerned, we witnessed the dismantling of important elements such as the presence of the OSCE and of UNOMIG. The phasing out of other arrangements such as the “Friends of the United Nations Secretary General” was another consequence. The CIS Peacekeeping Force as well as JPKF and the JCC ceased to exist. The European Union Monitoring Mission (EUMM) introduced a European presence as such in the region for the first time, but they were not admitted to the South Ossetian and Abkhaz sides.

*There is as yet no adequate replacement for the dismantled international presence and namely its main pillars UNOMIG and OSCE Mission to Georgia, and while EUMM should continue its duties, further efforts should be made to provide for an independent, neutral and effective international presence for the purpose of peacekeeping in the conflict area.*

7.) In the 2008 conflict in Georgia preventive diplomacy and international conflict management did not achieve their aims, partly because of a gradual erosion of previously negotiated and agreed common parameters between the parties and because of a continuous depreciation or even disregard for international commitments. Among the most important of these political commitments are the OSCE and its landmark documents such as the Helsinki Final Act 1975, the Charter of Paris for a new Europe of 1990 and the Charter for European Security adopted in 1999 in Istanbul. Throughout the continuous escalation of tensions that led to the armed conflict of August 2008, those OSCE commitments were repeatedly and even increasingly disregarded both in letter and spirit.

*It should not be accepted that the political culture of cooperativeness in international relations in and for Europe, as it had developed first in the CSCE and later in the OSCE contexts, be eroded. Efforts should be made to renew awareness of its importance for European security and cooperation, together with a return to its strict observance and application.*

8.) The conflict in Georgia in summer 2008 laid open tendencies by some of the political actors to move away from generally-accepted principles of international law such as the respect of territorial integrity. There were also ambiguities, if not infringements as related to the principle of sovereignty. There has also been a tendency to move away from multilateralism and negotiated results and solutions in favour of unilateral action. There was an increased readiness on the part of political actors to accept the use of force as a means to attain political goals, and lesser thought was given to considerations of conflict prevention.

*International law should continue to be respected and observed in its entirety. All tendencies to accept the erosion or a selective application of some of its principles, such as the respect of territorial integrity, must not be tolerated. Particular attention should be paid to upholding the rule of the non-use of force together with the non-use of the threat of force. Multilateral and negotiated solutions must continue to be given preference over unilateral action, and conflict prevention must continue to be a prevailing consideration.*

9.) Destabilising effects may also result from a country's assertive pursuit of foreign policy objectives concerning privileged spheres of interest, in particular with regard to neighbouring countries, for such a policy is set to deprive smaller States of their freedom of choice and to limit their sovereignty.

*Political concepts and notions such as privileged spheres of interest or otherwise laying claim to any special rights of interference into the internal or external affairs of other countries are irreconcilable with international law. They are dangerous to international peace and stability and incompatible with friendly relations among States. They should be rejected.*

10.) The August 2008 conflict in Georgia was a combination of an inter-state conflict between Georgia and Russia and an intra-state conflict. Such a conflict is subject to both military engagements between regular armed forces and armed actions by less firmly-controlled militias and even irregular armed groups. Situations of this kind are particularly prone to violations of International Humanitarian Law and Human Rights Law. Special attention must be given to the responsibility to protect non-combatants by regular forces in effective control of the situation. It needs to be stressed that during the August 2008 conflict regular forces frequently failed, however, to provide adequate protection of civilians against atrocities committed by militias and irregular armed groups.

*In any war that combines elements of an inter-state conflict with that of an intra-state conflict, close attention must be given to the responsibility of regular armed forces to protect non-combatants. Their training and instructions must raise awareness of their responsibility not only to abstain from committing atrocities themselves, but also to protect civilians against all violations of International Humanitarian and Human Rights Law committed by militias and irregular armed groups. The effective protection against rape and other gender-related crime must be given special importance.*

11.) The supply of arms and military equipment as well as the provision of military training to the conflict region were and continue to be a sensitive issue. Even when done within the limits established by international law or by political commitments of a non-binding nature, military support must stay within the boundaries set by common sense and due diligence, keeping in mind both intended and unintended use of the arms and equipment supplied.

*Utmost care should be taken by providers of military aid to refrain from giving their support, even unintentionally or indirectly, to any actions or developments detrimental to the stability of the region.*

12.) Finally we note that since the conflict erupted in August 2008, the situation in the conflict region has hardly improved. The political environment for a settlement of the conflict has in fact become more difficult following the recognition of Abkhazia and South Ossetia as independent States by one of the sides to the conflict. There is continuing tension between the sides to the conflict, in many cases bordering on open hostility; political contacts between the sides are few and limited in substance. Since August 2008 there have been a substantial number of dangerous incidents, and some of them could have ignited a wider confrontation. Even though both sides stress their commitment to a peaceful future, the risk of a new confrontation remains serious.

*The international community as well as all other regional or non-regional actors involved in the conflict should continue to make every conceivable effort to bring the sides to the negotiating table and to assist them in making arrangements in keeping with the Charter of the UN, the Helsinki Final Act of the OSCE and the relevant documents of the Council of Europe, in order to settle their differences and prevent another outbreak of hostilities. The successful outcome of such negotiations could also do much to mend relations between Western powers and Russia. There is little hope, however, for a peaceful future in the conflict region unless the two main contenders, Russia and Georgia, make bilateral efforts themselves to solve their disputes. This needs to be done now.*

---

NB: For further remarks relating to International Humanitarian Law and Human Rights see Volume II, Chapter 7 “International Humanitarian Law and Human Rights”.