



American Model United Nations

ICJ

IN THE INTERNATIONAL COURT OF JUSTICE

GEORGIA,

APPLICANT

V.

RUSSIA,

RESPONDENT

MEMORIAL OF GEORGIA

COMES NOW the State of Georgia and for their Memorial to the Court states the following:

STATEMENT OF LAW

1. Peace Agreement of 92' ended armed conflict between South Ossetia and Georgia and permitted a tripartite peacekeeping force, with Russian, Ossetian, and Georgian peacekeeping battalions, to remain in the region of South Ossetia.
2. In the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) of 1965, Article 2 states:

State parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races and, to this end:

- (a) Each State Party undertakes to engage no act or practice of racial discrimination against persons, groups, groups of persons or institutions, national and local. Shall act in conformity with this obligation;
- (b) Each State Party undertakes not to sponsor, defend or support racial

discrimination by any persons or organizations ...

[...]

- (d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;

3. Article 5 of CERD states:

[...] State Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

[...]

- b. The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution;

[...]

- d. Other civil rights, in particular:

- i. The right to freedom of movement and residence within the border of the State...

STATEMENT OF FACT

On 8 August 2008, Russia invaded South Ossetia and Abkhazia along with Georgian lands that neighbor the two regions. Beginning in 1990 and leading up to Russia's invasion in 2008, Russian forces together with separatist forces occupied the Tskhinvali region, starting with and spreading to the Georgian villages of Kekhui, Zemo, Achabeti, Kveno, Tamarasheni, Nikozi, and villages that were under the Georgia Government control until 8 August Tkviavi, Karaleti, Tirdznisi, Kitsinisi, Karbi, Ditsi, Variani, Ptsa, Atotsi, Ruisi, and Dvani. To this day, Russia occupies these territories. During the time of Russian occupation, Georgians have been forcibly denied passage

back to their homes, moreover discouraged to return to their homes knowing the destruction that lies ahead due to Russian forces' routine looting and burning of exclusively Georgian residences. On 12 August 2008, acting on behalf of the European Union, French President Nicolas Sarkozy arranged a cease-fire agreement. The Russian army has not withdrawn as called for by the cease-fire.

Additional comprehensive facts on the dispute between Georgia and the Russian Federation under CERD are in Georgia's Application of 12 August 2008.

STATEMENT OF JURISDICTION

The Court has the jurisdiction to hear this case because Georgia has the standing to plead the case as outlined in Article 22 of CERD, which both

Any dispute between two or more State parties with respect to the interpretation or application of this Convention which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall, at the request of any parties to the dispute, be referred to the ICJ for decision, unless the disputants agree to another mode of settlement.

ARGUMENTS

I. Russia has no legal claim to administer the two regions of South Ossetia and Abkhazia.

II. Russia has violated the peace agreement of 92' with their unlawful occupation of South Ossetia and Abkhazia and therefore has strengthened its control over the regions

within internationally recognized Georgian territory.

The regions of South Ossetia and Abkhazia have possessed de facto independence since '92 and '93, respectively. With 1/3 of the South Ossetians being Georgian and a majority of Ossetians having acquired Russian passports from a recent dissemination, Russia's overbearing and discriminating military presence only increases discrepancies between the populations.

II. Both Georgia and the Russian Federation, as State Parties to CERD, are to recognize the obligations outlined in the agreement.

III. From 1990- 2008, Russia has violated obligations stipulated in CERD.

In direct violation with Article 2 of CERD, Russia facilitated the racial discrimination of ethnic Georgians by aligning forces with separatists. Russian forces align with South Ossetian separatist forces whose destructive activities target Georgians, where they discriminate and displace these natives, causing a partial occupation of the State of Georgia consequently threatening Georgia's national security. Russia's objective to permanently remove Georgians from South Ossetia and Abkhazia, directly and through separatist forces, is conveyed through the occupation of predominantly Georgian villages, and the destruction of those villages, preventing Georgian populations from returning to their homes.

IV. Russia is exacerbating the Committee on the Elimination of Racial Discrimination and Security Council's effort to assist the free movement of internally displaced persons and refugees in South Ossetia and Abkhazia.

Russia's operation of discrimination and separation, which denies Georgians of their passage back home, violates Article 5 of CERD which protects the citizens' right of

movement within Georgia's borders, where within those borders lie South Ossetia and Abkhazia.

SUMMARY AND PRAYER FOR RELIEF

Russia has violated its obligations under CERD and should take responsibility for its crimes, namely facilitating the forced expulsion of Georgians from South Ossetia and Abkhazia. The State of Georgia believes that bringing this case to the International Court of Justice is the only way to bring Russia to justice for its transgressions and the only possible way to produce fair compensation for Georgia.

Georgia calls on the three UN member states that recognize Russia's de facto annexation of Georgian territories that led to Russia's ethnic cleansing campaigns to reverse their decision.

Georgia asks that The Court render a just decision, rather than a politically convenient one, for the sake of justice and with respect for the International Humanitarian Law.