

Question #6: In the course of the conflict and in terms of responsibility under international law how would you describe the formal and informal relationships between the Russian military and South Ossetian and Abkhaz armed forces respectively prior to 17 September 2008 and nowadays? Please explain especially the respective command chain.

The relations between the Russian Federation and the Abkhazian and South Ossetian proxy irregulars before the Russian-Georgian war in August, 2008 are described above in the Answer to Legal Question #1.

The Abkhazian and South Ossetian proxy irregular military formations did not independently control, direct or implement the military operations during either the armed conflict or the occupation periods. Rather, these proxy military formations acted as agents or de facto organs of the Russian Federation and as such constituted a simple continuation of the Russian Federation's armed forces. Acts perpetrated by the Abkhazian and South Ossetian illegal military formations were either directed and controlled by the armed forces of the Russian Federation, were facilitated by essential support from the Russian Federation, and/or were legitimated by the Russian Federation through a policy of tacit acquiescence. The entire scheme, strategy and policy pursuant to which the military operations were conducted derived from the Russian Federation as architect, controller, instructor and executor of the military operations. The reality of the relationship between the Russian Federation and the illegal military formations of South Ossetia and Abkhazia was that of complete dependence of the latter on the former, so that their establishment, existence and maintenance became possible only and exclusively through political, military, logistical and financial support provided by the Russian Federation. Indeed, during the August 2008 military operations, the proxy militias were headed by former Russian military officials.¹ These appointments enabled ease of instruction, direction and control of South Ossetian and Abkhazian military formations by the Russian Federation.

In this way, South Ossetian and Abkhazian military formations acted as mere instruments of the Respondent State.

¹ The *de facto* Minister of Internal Affairs of South Ossetia since April 2005 had served for many years at the Ministry of Internal Affairs of the North Ossetian Autonomous Republic within the Russian Federation. Likewise, the *de facto* Minister before that had served as a deputy chief of staff of the North Ossetian Ministry of Internal Affairs and in 2004 he commanded a special task force during the counter-terrorist operation in Beslan. The *de facto* Secretary of the Security Council of South Ossetia since December 2006, was ranked colonel of the Russian army, and for four years after 2001 served as the first deputy military commissioner of Chechnya within the Russian Federation. Before being appointed to South Ossetia, he worked as a deputy military commissioner of the Stavropol Krai. The *de facto* Chairman of the State Security Committee of South Ossetia since November 2006 had worked for a number of years at the Federal Security Service of Moscow. The *de facto* Minister of Defence of South Ossetia since March 2008, ranked as a major general of the Russian army, served as a commander of ground troops and armoured vehicles platoons at Chebarkul military base in the Ural region. In 2003-2004 he served as a deputy commander of Army in Siberia. Until being sent on a mission to South Ossetia he served as a military commissioner of Perm Krai within the Russian Federation. During the August 2008 conflict, General Lunev became an acting commander of the 58th Army, the principle military unit of the Russian Federation.

Abkhazian high-rank military officials were also either citizens of the Russian Federation or former officials of the Russian armed forces. The Chief of General Staff and the First Deputy Defense Minister of Abkhazia was a lieutenant general of the Russian army. The Deputy defense minister of Abkhazia was the former chief of the Russian Peacekeeping Forces Joint Staff and the Deputy Secretary of the National Security Council of Abkhazia was a former Russian Naval Commander.

There is a direct causal nexus between the support provided by the Russian Federation and the very existence of the proxy militias. The Russian Federation was the only state which, contrary to international agreements and resolutions of the UN Security Council, overtly provided military, economic and political support to the proxy regimes of Tskhinvali region/South Ossetia and Abkhazia. As a result, all of their acts, including gross human rights violations, can be linked back to the Russian Federation.²

Eyewitness accounts indicate that the Russian armed forces and separatist militias did not act as separate entities, but rather their actions were coordinated and coherent. According to Mr Teimuraz Jashashvili, the Russian military assisted the South Ossetian illegal armed formations in the looting and burning of houses in Tkviavi village, Gori district:

On 14 August, Russian military troops entered the village on tanks and armored vehicles... The Russian military was followed by Ossetian gangs and other mercenaries....Russian soldiers were doing nothing to prevent the Ossetians and the mercenaries from attacking on the Georgian population. On the contrary, they assisted them by breaking into the locked yards with their armored machines, in order to give the looters the opportunity to move vehicles inside.³

The testimony of Mrs Ana Datashvili shows that the proxy militias were brought to the villages by the Russian military:

Russian tanks with Russian soldiers inside entered the village. They occupied our village and part of the army went to Tskhinvali. The same day the Russian soldiers returned to the village, together with Cossacks and Chechens and other North Caucasus bandits. They began looting and burning Georgian houses on a massive scale... This continued for 6 days. ... On August 14 three armed men in Military camouflage entered my house. As I learned later, one of them was Russian soldier and the other two were Ossetians. The Russian soldier started yelling in a loud voice on me but I could not understand since I don't know Russian. Afterwards an Ossetian explained to me in Georgian that the Russian soldier had ordered me to leave the house since they were going to burn it down..... The Russian soldier forced me by physical abuse to leave the house. I saw how an Ossetian soldier threw an object resembling a bomb on the first floor on my house setting my house ablaze.⁴

Another witness, Mr Enver Babutsidze attests that the actions of the Russian military and South Ossetian proxy military formations in the village of Kvemo Achabeti were

² *Ilascu v. Moldova and the Russian Federation*, cited above, judgment of 8 July 2004, § 382: In *Ilascu* case the Court considered that “the Russian Federation’s responsibility [was] engaged in respect of the unlawful acts committed by the Transdniestrian separatists, regard being had to the military and political support it gave them to help them set up the separatist regime and the participation of its military personnel in the fighting”

³ See witness statement of Teimuraz Jashashvili.

⁴ See witness statement of Ana Datashvili.

coordinated:

They [the Russian soldiers] were accompanied by Ossetians wearing black and military green ... I witnessed soldiers from this tank break into a neighbour's house while other Russian soldiers remained outside. I then saw the soldiers who had run into the house return with the stereo and put it into the tank. After Russian soldiers finished looting the house they set it on fire. Nobody tried to put the fire out. The Russian soldiers were led by the officer with the rank of senior lieutenant who had three stars on his shoulders. This Russian officer coordinated the soldiers in collecting the stolen items and putting them into the tank. I then saw my uncle who told me that Russian soldiers had seized my neighbor, Vazha Vazagashvili ... I asked my uncle where they had taken him. My uncle pointed to about 15 meters away where I saw a group of Russian soldiers kicking and beating him. At that moment Russian soldiers suddenly jabbed me in the back with the point of his rifle and then hit me with the butt. He ordered my uncle and me to go with him. About ten more soldiers with some Ossetians came over and ordered my uncle to go inside the house.... Vazha and I started out for Tskhinvali on foot in the custody of a group of Russian and Ossetian soldiers. The number of soldiers varied between 5 and 20, since soldiers came and went. The leader was a lieutenant in the Russian Army...⁵

The same eyewitness' statement indicates that the prison where detained Georgian civilians were kept, was jointly guarded and managed by South Ossetian soldiers and the Russian military forces. High-rank military officials on both the Russian and South Ossetian sides had frequent and direct communication with each other and jointly interrogated the detainees.⁶

In Kekhvi, Gori district, according to an eyewitness, Mrs Liza Gogashvili, the Russian and the South Ossetian troops entered the village together after bombings and started looting and burning the civilian houses. She said that the "Russian soldiers watched the Ossetians burning down Georgian homes and did not react." This is corroborated by the statement of Mrs Makhvala Melanashvili, also from the village of Kekhvi in the Gori district, who said:

Armed people entered the village and started burning down the houses of the Georgian population. They did not care if the owner of the house was there or not. Ossetian gangs did most of the robberies and house-burning; as for Russian soldiers, they watched the situation and did not prevent or suppress the raids against the Georgian population.⁷

That the Russian and South Ossetian military formations acted in concert is clear from the statement of Mrs. Klara Khetaguri. Her testimony reveals that the looting and burning of houses were not spontaneous acts perpetrated by the South Ossetian military gangs acting alone, but

⁵ See witness statement of Enver Babutsidze.

⁶ *Ibid.*

⁷ See witness statement of Makvala Melanashvili.

rather were acts carried out with the advance agreement of the Russian military.

My house was located near two buildings where the group from the Russian army was staying... I had good relations with these Russian soldiers because I gave them food..... The Russian soldiers tied pieces of white cloth to the buildings they were staying in. Because I was afraid that my house would be burnt down, the officer told me to tie a white cloth on my house to indicate Ossetians that my house, like the buildings where the Russian soldiers were staying, should not be burned. The officer told me that these buildings including my house would not be burned as long as Russians remained in the village.⁸

⁸ See witness statement of Klara Khetaguri.