Human Rights Committee

Consideration of reports submitted by States parties under article 40 of the Covenant

Russian Federation*

Comments by the Russian Federation to the concluding observations of the Human Rights Committee (CCPR/C/RUS/CO/6)

[19 February 2010]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.
Comments from the Russian Federation concerning the concluding observations issued by the Human Rights Committee (CCPR/C/RUS/CO/6) after consideration of the country’s sixth periodic report on implementation of the International Covenant on Civil and Political Rights

1. In accordance with article 40, paragraph 5, of the International Covenant on Civil and Political Rights, the Russian Federation considers it necessary to make the following comments regarding the concluding observations issued by the Human Rights Committee following its consideration of the country’s sixth periodic report on implementation of the Covenant.

2. The Russian Federation expresses its concern faced with the Committee’s persistent attempts, reflected in paragraph 13 of the concluding observations, to place responsibility for the events that took place in South Ossetia in August 2008 on the Russian Federation, and with the Committee’s neglect of the explanations concerning the circumstances around those events, as presented by the Russian delegation when it presented its report.

3. In this connection, the Russian Federation considers it necessary once again to draw the Committee’s attention to the fact that our country bears no responsibility for the actions of any armed groups other than the Russian military. Criminal prosecution of such persons for possible criminal acts committed during the August conflict falls under the jurisdiction of the Republic of South Ossetia.

4. The State bodies of the Republic of South Ossetia independently exercise full State control over the republic’s territory and independently deal with such tasks as ensuring public security, controlling the borders and the observance of human rights, including those of displaced people. The actions of the South Ossetian authorities and those of persons located in the republic’s territory are fully under the jurisdiction of the Republic of South Ossetia.

5. The Russian Federation has never exercised effective control (nor has it exercised “de facto control”, a concept unknown under international law) over the territory of South Ossetia. The legal basis for the introduction in August 2008 of Russian troops into South Ossetia and later into Georgia itself was the right to self-defence established in particular under article 51 of the Charter of the United Nations. The Russian Federation’s exercise of the right to self-defence was justified by the large-scale attack by Georgia on its armed forces’ peacekeeping contingents legally stationed in South Ossetia with the consent of Georgia. In accordance with article 51 of the Charter, the Security Council was informed by the Russian Federation about its exercise of the right to self-defence. The Russian military operation was aimed at achieving just one goal: to end the Georgian attack and prevent its recurrence. It was organized and carried out in such a way that it was strictly proportional to the threat posed by Georgia. Once the military conflict was over, the Russian contingents were withdrawn from Georgian territory in accordance with the agreements reached. The Russian armed forces never replaced the legal authorities in either Georgia or South Ossetia. They never issued any legal enactments binding on the local population.

6. The Russian military is now in South Ossetia at the invitation of the host State, as established in the Treaty on Friendship, Cooperation and Mutual Assistance between the Russian Federation and the Republic of South Ossetia, of 17 August 2008, and also, in respect of the border troops, as set out in the Agreement on Joint Efforts to Protect the State Border of the Republic of South Ossetia, of 30 April 2009. The terms of reference for Russian troops are strictly limited to defending the Republic of South Ossetia against
external threats, and their number — under 3,000 — is not consistent with generally recognized situations where such a force would exert effective control.

7. In this connection there is no reason to assert that during, before or after the August conflict, the Russian party had de facto or effective control over the territory (or population) and/or the authorities of South Ossetia and Georgia. What is more, the report of the International Fact-Finding Mission on the Conflict in Georgia noted that a large number of violations of international humanitarian law and of human rights law took place and “were due to the action of irregular armed groups on the South Ossetian side that would not or could not be adequately controlled by regular Russian forces”.

8. In the light of the foregoing, we consider that the Committee’s assertions regarding control of South Ossetia by the Russian Federation and its responsibility for crimes supposedly committed in South Ossetia by armed groups under the “control” of Russian forces are unjustified, and that the corresponding comments and recommendations of the Human Rights Committee do not apply to the Russian Federation. At the same time, the International Court of Justice and the European Court of Human Rights have had proceedings initiated by Georgia against the Russian Federation, in which one of the main issues is likely to be the question of effective control. We consider that the Committee’s inclusion, in its concluding observations issued following consideration of our country’s sixth periodic report, of assertions regarding effective control is an attempt to interfere in the activities of the international judicial bodies considering this matter and to bring pressure to bear on them.

9. In this connection the Russian Federation cannot accept the Committee’s recommendations contained in paragraphs 13 and 30 (for the part pertaining to the provision within a year of information on the implementation of the Committee’s recommendations relating to South Ossetia) of the concluding observations, and insists that they be deleted from the document in question.