



PRESIDENT'S REPORT
INTERNATIONAL CRIMINAL COURT

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Cour
Pénale
Internationale

International
Criminal
Court



***Alleged crimes against humanity and war
crimes committed in the context of an
international armed conflict between 1 July
and 10 October 2008 in Georgia***

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Please Note:

This report is in two Sections.

Section I will explain the essential procedural details of the International Criminal Court at IASAS MUN 2017 and is the same in both topic reports.

Section II will provide insight into the topic at hand. However Advocates will be expected to present more specific evidence than provided in this report. Here part 6.0 (only for advocates) is also the same in both reports.

Treatment of the Report and the Requirements of the ICC have been specified in an E-mail briefing to you by the President. If you have not received said briefing please contact the President at 18alessandrop@nist.ac.th

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BKKMUN International Criminal Court Co-President

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1.0 Relevant Judicial Terms

The following are terms that should and will be used during court proceedings by Advocates, Judges and the President:

Term	Definition
Applicants	The members of the advocate team of the prosecution
Respondents	The members of the advocate team of the defense
Pleading	Short speeches concerning the case from each side's point of view of approximately 10 minutes in length
Hearsay	Evidence in the form of a witness recounting another person's statements. Such evidence is not admissible in the court
Deliberation	Time taken to consider whether the applicant's case has met the burden of proof.
Verdict	The decision made by the judges at the end of the case
Stipulations	Facts and figures concerning the case that have been agreed upon as true and cannot be questioned in trial, including any information contained in this report. <i>Note: If you would like to have fact added as a stipulation, both advocate teams must agree on it and the president must be informed</i>
Burden of Proof	The Burden of Proof is shouldered by the "applicants" or "prosecution" and defines that they must "prove beyond a reasonable doubt that _____ is guilty of the charges at hand." This means that the evidence and arguments presented

	by the advocates must be considered as truthful, to the degree of a simple majority.
Objection	A plea made by one advocate disagreeing with the procedures or evidence of the opposing party. Generally, objections are made to question the admissibility of evidence (whether the evidence can be used in court). <i>See 'IASAS MUN Admissible Objections' for a list of possible reasonings for objections.</i>
Sustained	Statement by the President to entertain an objection
Over-ruled	Statement by the President to disregard an objection
Tesitmony	Evidence which comes from a witness
Admission of Evidence	Advocates are required to ask the President to admit each piece of evidence by number or letter. Opposing counsel can object to the evidence being admitted on grounds of authenticity, reliability, accuracy, and/or relevance. A president who feels that either he or a judges would give certain evidence undue weight or would be greatly prejudiced by seeing it or hearing it would not allow that evidence to be presented.
Authentication of Evidence	The duty of the advocates to establish the origins and credibility of a given piece of evidence.
Direct Examination	Questioning of your own witness
Cross Examination	Questioning of the oppositions witness
Rebuttall	Counter arguments made by each side after examination of evidence.
Statement of Prayer	The specific requests or damages which a side is asking the court to approve and are presented during the closing arguments. This is similar to writing a “resolution” to your case, as in, what a party believes would solve the issue and what must be done about it.

Separate, But
Concurring Opinion

A decision in which all judges agree with the decision but some may disagree on its reasoning

2.0 General Rules

- Respect the decisions/authority of the judges
- Only one advocate may speak at a time per side; dialogue between advocates is NOT in order
- Advocates MUST stand to speak. Only one advocate should be standing at a time.
- Only objections may interrupt a speaker
- Neither the applicants or respondents should talk to the judges without the presence of the other
- Advocates must ask the judges for permission to submit physical evidence
- All physical evidence must be labeled with a number (applicants) or letter (respondents)
- Be on time at the beginning of each session and from any break
- Place any suit jackets and bags away from judges' or advocates' desks

3.0 Roles:

3.1 The President

The President (in this case consisting of two individuals) is the guiding force of the court and as such is responsible for administering Court procedure as well as overseeing Registry and organizing the work of each judicial division. During the trial, the President's primary role is to act as the head judge. All "final says" will be made by the President and they will assist in guiding judges through their deliberations, weighing of evidences, and questioning periods. In essence, the President acts as "the foreman of the jury" in the following ways:

- **Head arbitrator of the court:** The president of the court acts as the head judge in every case put before them. This means that questions asked, or objections raised during court proceeding must be addressed through the president.
- **Oath of witnesses:** The president will conduct the oath for all witnesses in court. The oath exists as follows: "I solemnly affirm that the evidence I am about to give shall be the whole truth as best I know it."
- **Final deliberations:** It is the role of the president to guide all judges through the case. While presidents do receive an equal vote, they will not be present during final deliberations. Once deliberations are finished, the president will be invited back to cast their vote.

3.2 Judges

The chief responsibility of the judges requires a sense of fairness, responsibility, intuition, an understanding or willingness to learn about the topic being addressed in court, and diligence in learning courtroom procedures and terminology. Judges sit through the case, inquire during pleadings, and weigh the evidences presented by the advocates. The judges are also responsible for making the final verdict for the case, detailing the final solution to the court president.

Judges responsibilities include:

- Assessing the validity of presented evidence
- Questioning both advocacies to better understand arguments being made
- Objecting to the admittance of evidence believed to be invalid using one of the [‘IASAS MUN Admissible Objections’](#)

3.3 Advocates:

Advocates are the members of either the prosecution or the defense. They work within their team (advocacy) to prove the prosecuted guilty or innocent respectively by presenting evidence and making substantiated arguments

The two advocacies are known as:

- The Prosecution - Which is accusing the prosecuted and arguing in favour of his/her guilt
- The Defense - Which is defending the persecuted and arguing in favour of his/her innocence

3.4 Witnesses

Individuals related to the case that can be called upon and questioned as a form of evidence.

At IASAS MUN, if an advocacy wishes to call upon a witness, they may choose a delegate in another committee and train this delegate as a witness in preparation to the conference. The names and allocations of witnesses to be used must be submitted to the Presidency together with all other pieces of evidence (Max 5) 2 days prior to the conference.

4.0 Procedure

(approximately 3 hours and 2 minutes per case)

Note:

- This procedure is repeated for each case
- Timing is of the Essence
- The applicants will proceed first in all proceedings

4.1 Opening Statements (10 min)

1. PRESIDENT calls the court to order
2. PRESIDENT makes short opening remarks (**2 min**)
3. ADVOCATES make their opening Statements
 - a. applicants, followed by the respondents will give **4 minute** opening statements. These statements do not include evidence but detail the beliefs of each advocacy concerning the case as a whole
 - b. For advice on how to prepare for each section please see the [‘Advocate Preparation Guide’](#)

4.2 Evidence and Pleadings (60 min)

Pieces of evidence will be presented in an alternating fashion between the opposing parties with **4 minutes** allotted for each piece of evidence to be presented and **6 minutes** for questioning.

4.2.1 Presentation

Note: This section does not include witnesses

Each piece of evidence comes with a pleading and and be presented in the following manner:

1. Advocates present a piece of evidence:
 - a. If the applicant is presenting: “Your honor the prosecution of would like to present source (A...)”
 - b. If the respondent is presenting: “Your honor the defense of would like to present source (1...)”
2. A copy of each piece of evidence must then be presented or shared with the President 2 days prior to the conference. Each piece of evidence must be labeled.

3. The applicant will then present and might choose to do so by reading the document or text, stating the author, date of publication and the such. The presentation of the evidence is not a pleading.
4. **ADVOCATE'S pleading:** The advocate then explains their interpretation of the credibility and importance of the evidence presented. The pleading is similar to an MUN "For" speech for the evidence you are presenting.
5. At the end of the presentation of each piece of evidence, the **ADVOCATE** rises and asks the court to **ADMIT** the real or physical evidence they have used.
 - a. **ADVOCATE:** "Your honor, the advocacy would like to ask the court to admit evidence A (for example)."
6. Unless the evidence is missing or not labeled, the judges will declare that the evidence presented is in order.

4.2.1 Questioning

After the **ADVOCATE** has finished presenting each piece of evidence, there will be a time of **6 minutes** allocated for points of inquiry regarding the evidence and the pleading made by the applicant.

1. The Advocate must state that he/she is finished with their pleading and presentation of the evidence.
2. The **PRESIDENT** will open the floor for **3 minutes** of points of inquiry or points of information to the panel of **JUDGES**.
3. If and only if the judges are finished asking questions, the president will open the floor for **3 minutes** points of inquiry from the opposing party.

4.4 Rebuttals (10 min)

ADVOCATES have the opportunity to counter the evidence presented by the opposing **ADVOCATES** during their presentation of evidence (**5 minutes each**)

Purpose:

- Discredit the witnesses or real evidence presented by the opposing **ADVOCATES** by focusing on its limitations
- Provide counter-arguments to the arguments presented by the respondents
- No new evidence for their case can be brought up.

4.5 Presentation Witnesses (40 min)

All witnesses of the prosecution will be presented following by all witnesses of the defense using the following procedure. Each witness presentation will be allotted a **maximum of 10 minutes (5 minutes per side)**

1. ADVOCATES: “Your honor (country) would like to call to the stand.”
2. The applicants then DIRECTLY question the witness
 - a. Purpose:
 - i. To establish the credibility of the witness
 - ii. To get the witness to provide evidence to support the charges they have brought to the court.
 - b. Upon completion please state “No further questions, your Honor”
3. Opposing ADVOCATES now question the witness
 - a. Purpose:
 - i. To call into question the credibility of the witness
 - b. Upon completion please state “No further questions, your Honor”
4. After ALL witnesses of one advocacy have been presented, the ADVOCATES announces the completion of their case
 - a. “Your Honor, we rest our case”

4.6 Second Rebuttals and Judge’s Questions (20 min)

Each advocacy will be allowed to counter the newly presented evidence as well as the testimonials given by the witnesses in the trial in a **2 minute** rebuttal.

After each rebuttal, each advocacy will be opened to **8 minutes** of questions by the judges about their witnesses, evidence, or arguments that will clarify the case for them.

4.7 Closing Arguments (6 min)

1. The PRESIDENT invites the ADVOCATES to begin their closing arguments (3 min each):
2. Applicants then present their closing Arguments in which they should summarize the charges, their main arguments and evidence

- i. Visual aids are highly suggested here.
 - ii. Presentation of the “prayer” – what the applicants would like out of the case. this is the time for the applicants to outline the amount of damages they wish for and why.
3. Respondents then present their closing arguments, in which they should summarise their case for the dismissal of the charges.
 - i. Visual aids are highly suggested here.

4.8 Deliberation (31 min)

1. All JUDGES will be asked to state their opinion, along with their reasoning (examples of evidence, their weight, etc.)
 - a. Speaking for up to **1 minute** in turn *without interruption*. **(11 min total)**
2. At the end of this, JUDGES enter an unmoderated discussion and have 20 minutes to decide on a verdict. If the majority of judges agrees with a verdict it is considered binding and a document detailing the verdict must be submitted to the President. However, if a minority group judges does not agree they may present their verdict as a separate minority verdict to the president.

4.9 Presentation of Verdict (5 min)

If applicable the minority verdict is read out by the president, followed by the binding majority verdict.

II Alleged Crimes Against Humanity and War Crimes Committed in the Context of an International Armed Conflict between 1 July and 10 October 2008 in Georgia



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1.0 Introduction:

The ICC prosecutes individuals and is in this case prosecuting [Vladimir Anatolyevich Shamanov](#), former Colonel General of the Russian Armed Forces at the time of the conflict, for his involvement in it. As a military leader, the prosecution may argue that he is to blame for the war crimes and crimes against humanity committed.



The conflict in Georgia lasted only a bit more than a week, but represents far greater trends in the area politically. With Georgia getting closer to the NATO, tensions were already high when the Russian Federation instated diplomatic relations with the small semi-insurgent republic of South Ossetia. The result was a conflict within the territory of south ossetia as well as near the territory of Abkhazia, another insurgent region in the country.

2.0 Definition of key terms:

2.1 Jurisdiction and Offenses within The International Criminal Court

Note:

- *This section is paraphrased from the Rome Statute. For the full version please see "[The Rome Statute](#)"*
- *In court prosecuted must be accused of specific infringements from the following examples*

The Jurisdiction of the ICC is defined in the Rome Statute and gives the Court authority over the following Offenses:

2.1.1 Genocide

The Rome Statute defines the crime of genocide as any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group. This includes:

- Killing members of the group
- Causing serious bodily or mental harm to members of the group
- Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part
- Imposing measures intended to prevent births within the group
- Forcibly transferring children of the group to another group.

2.1.2 Crimes against Humanity

Crimes against humanity are defined as any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack. These include:

- Murder
- Extermination
- Enslavement
- Deportation or forcible transfer of population
- Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law
- Torture
- Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity
- Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender, or other grounds that are universally recognized as impermissible under international law
- Enforced disappearance of persons
- The crime of apartheid
- Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health

2.1.3 War Crimes

Under the Rome Statute, war crimes are any of the following breaches of the Geneva Conventions of 12 August 1949, perpetrated against any persons or property. These breaches include:

- Willful killing
- Torture or inhuman treatment, including biological experiments
- Willfully causing great suffering, or serious injury to body or health
- Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly
- Compelling a prisoner of war or other protected person to serve in the forces of a hostile power
- Willfully depriving a prisoner of war or other protected person of the rights of fair and regular trial
- Unlawful deportation or transfer or unlawful confinement
- Taking of hostages

2.2 Pre-Trial Chambers

The initial stages of a Trial, immediately following warranted arrest or arranged summons of a persecuted individual, in which the Pre-Trial judges assess whether or not there is sufficient evidence for a case to proceed to trial.

2.3 Autonomous Region

An Autonomous Region, also known as an autonomous administrative position, is defined as dependent territories of a recognized countries that hold a degree of self governance from external authorities. In the case of South Ossetia, the regional council proposed an upgrade to the region and renewed title of an “autonomous republic”, a proposal that was denied by Georgian Parliament before removing the region’s leading First party Secretary.

3.0 Background information

3.1 South Ossetia

South Ossetia is a self governing region of Georgia that has been riddled by separatist sentiment ever since Georgia's creation with the fall of the soviet union. The area is located in northern georgia, over along its border with russia and is inhabited by a population closely ethnically related to the population found in it's neighboring region of north Ossetia in Russia. It has a population of 53,000 people who live in its area of 3,900 km² south of the Russian Caucasus, with 30,000 living in its capital city of Tskhinvali.

After an attempt at independence from Georgia was made by the region in 1991, the Georgian government responded by cementing its grip on the region and removing its right to autonomous self governance through force. However this conflict escalated into what is known as the [1991–92 South Ossetia War](#), a conflict that ended only when russia intervened and helped to negotiate a ceasefire. Since then, the region was officially recognized as part of Georgia until the conflict at hand, which has put it back under de-facto control of the the local autonomous government as an [autonomous Oblast](#). After the conflict, the Oblast was recognized by Russia, Nicaragua, Venezuela and Nauru, and stated that it planned to become a part of the Russian Federation, although Russia has rejected this claim since, and no further steps have been taken.

3.2 Russian Involvement and Tension between Russia and Georgia

Tensions between the Russian Federation and the State of Georgia can be traced back from when Georgia originally split from the Soviet Union in early 1991. Since then, diplomacy between the two countries has spiraled downwards with notable events including the deportation of four alleged Russian spies in Georgian territory as well as the declaration of independence from autonomous states such as South Ossetia and Abkhazia. Russian involvement and allied combat against Georgian forces with South Ossetian and Abkhazian forces was stated to have been “peace enforcements”. At the height of Russian aggression within Georgia, Russian air force attacked targets beyond the conflict zone, in undisputed parts of Georgia. Furthermore, Cluster munitions were used by Russian and Georgian forces, causing

civilian deaths and putting more civilians at risk by leaving behind unstable "minefields". Following the ceasefire agreement of the 12th of August, Russian assets within Georgia occupied key towns such as Poti, Gori, and Zugdidi, where South Ossetians were then accused of pillaging property and displacing a large number of Georgian individuals. Today, Russia has withdrawn a significant amount of combined arms forces from Georgian territory yet, in further occupying regions within South Ossetia and Abkhazia, violated the ceasefire agreement.

3.3 Military Campaign and Disagreement on Territorial and Administrative Authority.

The military conflict in South Ossetia lasted only about a week, but can in its full complexity only be understood if one understands the flow of events within the conflict and the accusations made by each side. The following is a general description of what occurred, but please know that in order to find adequate evidence relating to specific events and actions you will need to access the link given in the '[General Timeline of Conflict](#)' section of this report.

The Conflict is said to have been caused by tensions between Russia and Georgia, which lead to an escalation, but in essence it can only be said that there were multiple attacks on Georgian officials in South Ossetia starting in the beginning of August. Here there are reports of both sides inciting such conflict, but each has blamed the other for provoking or executing these actions.

As a result of these attacks on Georgians and reported attempts at the ethnic-cleansing of them from South Ossetia, Georgia began to arm the administrative border with the region, citing that Russia was going the same and claiming that the troops being moved into the region by Russia were not peacekeeping forces as the Russian government insisted.

The Russian military is said to have prepared for the conflict by training South Ossetian forces and evacuating more than 80% of the area's population from the future combat zone, but the large-scale military combat was initiated by Georgia with its attack on Tskhinvali from the 7th to the 9th of August. This attack included air raids as well as multiple attempts to take the city through land troops, but was ultimately unsuccessful as the Georgian forces were outnumbered by the combined South Ossetian and Russian forces. The level of involvement of Russia in this

conflict is still under question, but it is reasonable to assume that the Russian military was involved not only in the preparation but also in the fighting.

In the following days, the Russian military reportedly executed continuous air strikes on Tbilisi as well as its surrounding area, and occupied the port and city of Poti through military action that sunk 6 Georgian military vessels. Furthermore, Russia reportedly bombed and occupied the city of Gori, leaving many civilian casualties. Although many of these actions and the harm caused to the Georgian military and the population have reasonable levels of accuracy to them, it should be noted that they are not to be considered proven, and that the Russian government renders a version of the occurrences which presents a far smaller military presence.

The conflict ended on the 12th of August upon the signing of a peace treaty, but there is still disagreement on the blame for harm to civilians incurred during the fighting.

For a general timeline of the conflict including the accusations and statements made by either side, please do read the Wikipedia page on "[russo-georgian war](#)", but be aware that the dates may not be accurate and that in the case of any conflicting information between this source and other sources mentioned in this report, the other sources are to be trusted.

4.0 Major Parties Involved and Their Stances

4.1 Georgia

The Georgian government and forces under it hold the position that both Russia and South Ossetia are to blame for the conflict, striking first in the case of South Ossetia and failing overwhelmingly in their duty under international humanitarian law to ensure public order and safety. It is for this reason that the Georgian government called for a trial under the international criminal court, reasoning that South Ossetian forces have not been trialed due to lacking judicial systems within the region and that Russian trials have not been progressing at an acceptable rate. The state of Georgia is very much of the opinion that initial shelling and military action by the proclaimed autonomous state of South Ossetia was both uncalled for and needlessly disproportionate. Furthermore, that Russian involvement only served to escalate tensions and worsen conflict by failure to abide regional humanitarian responsibilities.

4.2 Russia

In 2006, following Georgia's deportation of four suspected Russian spies within the region, relations between the two countries spiraled resulting in a full-scale diplomatic and economic war as well as persecution of Georgian citizens living in Russia. Prior to military conflict between forces of South Ossetia and Georgia, Russia openly recognized the independence of South Ossetia as well as Abkhazia, causing tension and severing relations between the Federation and Georgia. In 2008 a majority of South Ossetian citizens held Russian passports and International news agency "Reuters" estimated that Russia supplied two-thirds of South Ossetia's annual budget. Following tensions between South Ossetian and Georgian forces, the Russian Federation claimed to involve itself, deploying tank and infantry units to unoccupied regions of South Ossetia and disputed Georgian territory, as a measure of ensuring the safety of Russian research stations. Russia has accused Georgia of "aggression against South Ossetia", using this as justification for land, sea, and air invasions of the areas during the 2008 war.

4.3 South Ossetia

Tensions between South Ossetia and Georgia arose primarily after South Ossetia's attempts at establishing independence being unrecognized by the Georgian government. South Ossetia's early aggression began with a bomb explosion on the 1st of August 2008 allegedly targeting a convoy of Georgian peacekeepers. During the war, the region employed the use of mortars, infantry, and occupied various Georgian villages where they were then accused of ethnic cleansing of Georgian citizens. The Human Rights Watch estimate that Approximately 22,000 villagers, the majority of whom had fled South Ossetia before the conflict started, remain displaced. Furthermore, South Ossetian leader Eduard Kokoity said he would not allow Georgians to return once conflict was resolved.

4.3 Abkhazia

Abkhazia is another self governing and independent region situated in the Northwestern corner of Georgia. Much like South Ossetia, Abkhazia is also not recognized as an independent state from Georgia by the international community as well as Georgia itself, though has established itself as self governing in 1999 and

recently gained formal recognition from Russia following the 2008 conflict. Previous conflicts with the state of Georgia in 1992-1993 developed initial tensions between the two states and in the conflict of 2008, Abkhazia deployed a small group of infantry to assist South Ossetian forces as well as opening the region to Russian combined arms, opening a second front into Georgia.

5.0 General Timeline of Conflict

No efforts undertaken by the President of the International Criminal Court at IASAS MUN to concisely present a timeline of the conflict and the events relevant to the case, would adequately render justice to its complexity. This being the situation, to fully understand the case at hand the President asks that you read the “The relevant facts” section of the official [International Court of Justice briefing on the “Pre-Trial Chamber I” concerning the case](#), if you wish to successfully argue the case. This section begins on page 5 of the document and ends on page 12. The rest of the report is not essential to understanding the timeline of relevant events, but should be the starting point for advocates once they have finished reading this chair report.

6.0 Further Reading to Guide your Research (start looking for evidence here)

The Official ICC website on the case at hand:

<https://www.icc-cpi.int/georgia>

A Human Right Watch report on the humanitarian law violations and civilian victims caused by each side of the conflict:

<https://www.hrw.org/report/2009/01/23/flames/humanitarian-law-violations-and-civilian-victims-conflict-over-south>

A report on a possible witness that was part of the conflict and whose witness report may significantly impact the factor of guilt on the russian side:

<http://civil.ge/eng/article.php?id=19846>

7.0 Possible Approaches to Argumentation for Advocates

6.1 Discussing the Confines of the Jurisdiction of the International Criminal Court

In justifying their pleading, advocates should prove or question, depending on their side, whether the case at hand falls under the jurisdiction of the ICC. This is

the basic assumption upon which the ICC gains its authority to try the case. Proof of the case not falling under the ICC's jurisdiction would render the trial obsolete and conclude the proceedings.

6.2 Evaluating the Validity of Presented Evidence

During the course of the Trial, the Judges within the ICC hold the responsibility of assessing the validity of presented evidence. The strength and extent to which such evidence is reliable should be evaluated and argued upon by the advocates.

6.3 Discussing extent of Guilt and Suggesting Verdict

At the end of the case's discussion, advocates of both sides should state whether they believe the prosecuted is guilty and clarify to what extent. Taking this into consideration, advocates should then suggest a verdict for the case. This includes statement of guilt as well as suggested punishments.

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