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## **Interview of Chairman of the Investigative Committee of the Russian Federation Alexander Bastrykin to Rossiyskaya gazeta**



Alexander Bastrykin talks about initiation of investigation on event in South Ossetia in 2008 by the International Criminal Court

On January 27 earlier this year the International Criminal Court authorized the prosecutor of this court to initiate investigation of war crimes committed during the armed conflict in South Ossetia in 2008. The date 08.08.08, a day of Georgian troops attack, has become a symbol of this tragedy. In the exclusive interview to "RG" Chairman of the Investigative committee of Russia Alexander Bastrykin mentioned Georgian military leaders accused in the framework of a criminal case being investigated in Russia on events in South Ossetia.

Alexander Ivanovich, please, tell as about the procedure of Russian investigation on a criminal case related to events in South Ossetia in 2008 went.

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Alexander Bastrykin: Based on the criminal case unprecedented investigation work on scale, as well as on complexity has been undertaken.

Consider: in the course of investigation of the criminal case more than 1000 places of incident (including dwelling houses, administration buildings, facilities of energy, communication, social infrastructure, positions of peacemaking forces battalion) situated in Tskhinval and other South Ossetian towns have been inspected.

Over 3000 items and documents have been declared physical evidences. Around 900 forensic judicial-medical, graphology, explosion technology and other examinations have been appointed and conducted. Over 1500 witnesses have been interrogated. More than 6000 persons, inter alia, 270 Russian peacekeepers' contingent soldiers who sustained injuring in varying degree of severity have been declared victims.

Volume of the criminal case consists of more than 500 volumes.

In addition, work on checking more than 600 appeals on crimes committed by Russian soldiers in the territory of more than 60 Georgian towns has been undertaken. In order to check information set out in appeals over 2500 soldiers of Armed forces of the Russian Federation have been identified and interrogated, headquarters, expeditiously-service and other documents of more than 50 Russian military bases and forces taken part in Georgia peace-enforcement operation have been received and examined.

For purposes of completeness and objectivity of investigation in 2008-2012 more than 10 requests about the legal assistance had been directed by the Russian investigators to the competent bodies of Georgia, but the Georgian side didn't give any answer.

What circumstances were established by Russian investigation?

Alexander Bastrykin: The initial stage of investigation has already shown evidences that the actions of the top political and military leadership of Georgia, as well as of the soldiers of the Georgian army were aimed at intentional destruction of an ethnic group of Ossetian living in the territory of South Ossetia.

For these purposes in the period from the 8 to the 10 August 2008 the Tskhinval cities, villages Khetagurovo, Dmenis, Tbet, Znaur, Leningor, and other towns of the Republic of South Ossetia were subjected to the mass artillery fire.

At the same time, in violation of the Convention about usage prohibition or limitation of particular types of weapons which can be deemed doing excessive injuries or having indiscriminate effect (Geneva, 10.10.1980) Georgian armed forces have been using "Grad" rocket system with 9M27K projectiles and cluster fragmentation warhead 9N210, as well as 500-kilogram aerial bombs

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FAB-500.

The Georgian side have been using aviation as well. In particular, facts of using over two Su-25 planes in the course of combat operations by Georgian Armed forces of Georgia have been established. During the further "clearance" Georgian soldiers had carried out billing of the places from which the civilians hiding in basements were conducting phone conversations, after which artillery attacks were delivered in these places.

As a result of enumerated actions 162 civilians of the Republic of South Ossetia were killed, harm to health of varying degree of severity has been caused to 255 civilians, 2139 residential buildings have been demolished and burned, housing and public utilities facilities and vital infrastructures, hospitals, child and educational institutions have been completely or partly destroyed. Over 16 thousand inhabitants of the Republic of South Ossetia abandoned permanent seats of their residence.

Repeating myself all these criminal acts were committed with a single premeditation aimed at deliberate destruction of an ethnic group of Ossetian living in the territory of South Ossetia, which is qualified as genocide by both international humanitarian law and Russian legislation.

Why did the Georgian troops need to bomb Russian peacekeeper forces contingent?

Alexander Bastykin: The Russian peacekeeper battalion was subjected to an attack precisely because it could have intervened mentioned plans of Georgian leadership. In fact the Georgian troops had a possibility to bypass the territory our troops' location, but they still have simply decided to destroy it.

For this purpose on August 8, 2008 at 5 am near Zemo-Nikozi town Georgian Armed forces started forming column of armored vehicles consisted of infantry, tanks, armored cars, "jeep" cars with machine-guns and automatic easel grenade launchers were.

This column moved in the direction of the southwestern part of Tskhinval and at 6:35 started concentrated fire at Russian peacekeeper battalion using small arms, mortars, artillery and tank gun fire. This fire continued with slight breaks even in night time until the August 9 evening.

At the same time it is found out that the tanks of Georgian Armed forces had fire from the distance precluding a possibility of their defeat on the part of soldiers of Russian peacekeeper battalion which in accordance with international agreements did not have heavy weaponry and Georgian command have been obviously awared of this fact.

Facts of intense aimed fire at a health troop unit post (field post 64787) and the battalion's medical cars marked with "Red Cross" and peacekeeper forces signs, which are under special international legal protection, have been established by investigation and deserve special attention.

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As a result of unexpected Georgian military units and regular armies assault against Russian peacekeeper battalion position committed on August 8-9, the mentioned unit lost 10 people in the killed ones, 40 soldiers sustained injuring of varying degree of severity. In addition, infrastructure of peacekeeper battalion, as well as almost all the military equipment that belonged to it were completely ruined. Buildings of the Combined Headquarters have been partially damaged, communication unit has been out of operation.

What conclusions did investigation come to?

Alexander Bastrykin: It was a mean, planned in advance and carefully thought-out operation. At the same time neither residents of South Ossetia nor Russian peacekeepers gave any reason for invasion.

Many facts including attack scale itself, analysis of orders and official documents of Georgian military command as well as coordination of actions of separate units of Georgian Armed forces indicates that the attack on Russian peacekeepers was carefully planned and was hold on the order of senior management in power of the country for that period.

The criminal case on tragic events in South Ossetia which the Investigative committee of RF investigated consists of 500 volumes

In particular, it is the fact that a day before the invasion, referring to orders of the higher command, the Georgian officers left a location of the Unified Combined forces for the peacekeeping in the zone of a Georgian-Ossetian conflict Headquarters and all the military observers present in the bilateral observation positions from Georgia left locations of posts.

Respect to whom from the amount of the former soldier and political leadership of the country are you conducting a criminal prosecution with?

Alexander Bastrykin: On the criminal case it has been decided to accuse the former Defence Minister of Georgia Kezerashvili, the former minister of the Interior Ministry of Georgia Merabishvili, former commander of the fourth infantry brigade of ground forces of Armed forces of Georgia Kalandadze, the former commander of Air forces and air defence of Georgia Nairashvili, and former commander of peacekeeper operations of the Combined Headquarters of Georgian Armed Forces Kurashvili.

Are you satisfied with a decision of the International Criminal Court in this connection and do you expect objective investigation?

Alexander Bastrykin: I would like to believe in it very much. But unfortunately the facts testify the converse one. For example, this court has defined the war crimes and the crimes against humanity which on preliminary conclusions were committed by armed forces not of Georgia, but of South Ossetia against ethnic Georgians as a discipline of investigation. In other words, the ICC has turned

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circumstances of the case on its ears, having left facts of murdering and mutilations of Ossetian population of South Ossetia and a forced relocation from the place of residence of 16 thousand Ossetian outside the framework of investigation subject. In addition, this conclusion has been made contrary to the conclusive evidence which was directed by the Investigative committee to the prosecutor of the ICC on request of the International Criminal Court. And these are more than 33 volume material of the criminal case copies, as well as significant volume of photo- and video materials. The clarifications were issued to materials by employees of the Investigative committee in the course of working visits of representatives of Public Prosecutor's Office of the ICC to the Russian Federation.

Also the ICC ignored the decision of the International Court of Justice in the Hague of April 1, 2011 which terminated the proceedings on a claim by Georgia v. the Russian Federation about application of the norms of the International Convention on the Elimination of all forms of racial discrimination.

What other conclusions of the International Criminal Court do you consider strange?

Alexander Bastrykin: The ICC preliminarily qualified events that occurred in South Ossetia as an international armed conflict between Russia and Georgia in the course of which Russia controlled actions of South Ossetian authorities.

I believe thus the ICC gave course of investigation and began to justify circumstances of the case to the dubious judicial doctrine "of de facto territory control" which was formulated in a number of other invited decisions of international judicial bodies directed against the interests of Russia. For example, by the decision of November 19, 2012 "Katanas and others against Moldova and the Russian Federation" the European Court of Human Rights declared Russia guilty of violating rights of 170 citizens of Moldova by means of closing schools with learning in Moldavian language in Transdnistria. Herewith the court noted Russia have been controlling the territory of Transdnistria de facto, in connection with which Moldova was exempted from liability and Russia was attributed the sanctions for violation of rights by Transdnistrian authorities.

What can you tell us about legal assessment of South Ossetia events as an international military conflict between Georgia and Russia?

Alexander Bastrykin: In the course of investigation of the criminal case no data which could become the grounds for such a legal assessment has been determined. After events described above, peace-enforcement operation against Georgia was aimed solely at protection of life and health of Russian peacekeeper forces based in the territory of South Ossetia, as well as of russian citizens living there. We were obliged to act this away by the Russian Constitution as well. To qualify those event in terms of the Geneva 1949 Conventions which regulate a legal regime of an armed conflict, it would be more logical to grant the status of a non-international armed conflict. I will remind you these conventions define a non-international armed conflict as a conflict which was localized in the

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territory of one of the participant countries, arose between a country's armed forces and anti-government troops or other armed groups under the command and exercising such control over a part of a territory of the country which allows them to conduct continuous and agreed military action.

In addition, making a conclusion that Russia has been controlling actions of the authorities of South Ossetia, the ICC completely ignored presence of combined peacekeeper forces in the territory of South Ossetia at that period, consisted of peacekeepers' Georgian, South Ossetian and Russian contingents, which in accordance with a mandate jointly and coordinately controlled occurring processes and brought peace. It is worth noting that at that period Russia recognized belonging of South Ossetia to Georgia territory. This position has been changed only after an armed attack on Ossetian nationality residents of the republic. In addition, we shouldn't forget the South Ossetian conflict per se had arisen long before events of 2008, in the beginning of 1990s when Russia could not exert any influence on the South Ossetian authorities. In one of my interviews to Rossiyskaya Gazeta devoted to investigation of Ukrainian events, I talked about the fact that there are reasonable excuses to consider armed conflicts arising and continuing in that time in the territory of post-soviet territory countries being significantly provoked and funded from abroad. As a result of so-called "Rose Revolution" precisely in the spirit of these ideas Mikhail Saakashvili controlled by the US came to power in 2003 in Georgia. In fact he did not even hide this fact. Moreover, it was the US who was financing delivery of military armament to Georgia used in course of South Ossetian conflict, they have been training Georgian soldiers as well. Therefore, using de facto doctrine it would be more logically to use it in respect of the United States and not Russia.

01 April 2016

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