

DECLARATION OF JUDGE *AD HOC* GAJA

While I have voted in favour of all the provisional measures, including those under A, I cannot share the view that the conditions are met for addressing the latter measures also to the applicant State. The respondent State did not even allege that in Abkhazia, South Ossetia or adjacent areas the conduct of Georgian authorities or of individuals, groups or institutions under their control or influence may cause the risk of irreparable harm to rights conferred under CERD. Nor does the Court give an adequate explanation when appraising that risk (see Order, paragraph 143).

In the present factual situation it seems unlikely that the applicant State could be responsible for violations of rights under CERD that may occur in the relevant areas. Even before the recent events in those areas, the Committee on the Elimination of Racial Discrimination found that Georgia had “difficulty in exercising its jurisdiction with regard to the protection of human rights and the implementation of the Convention in those regions” [Abkhazia and South Ossetia] (CERD/C/GEO/CO/3, 27 March 2007, para. 4).

*(Signed)* Giorgio GAJA.

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