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**UNSOUND ENDEAVOURS OF THE ABKHAZ SIDE TO  
THE CONFLICT IN ABKHAZIA, GEORGIA, TO PROVE  
THE LEGITIMACY OF CLAIMING "THE RIGHT  
OF ABKHAZIA TO SELF-DETERMINATION,  
INCLUDING SECESSION FROM GEORGIA"**

In the course of armed conflict imposed onto Georgia in 1992-1993 in one of the historical regions of Georgia-Abkhazia, a separatistically minded part of ethnic Abkhazians (representing a little bit more than 17% of populations in the region) was able to submit the almost entire region to its control with the support of foreign mercenaries and armed military formations. On the 12 of October 1999 so called parliament of Abkhazia adopted "Act on State Independence of the Republic of Abkhazia". These claims were stipulated from the very beginning of 1993 by the International Community of States like the UN, OSCE and later by the European Union and the Council of Europe. However, the separatists are still making attempts to prove their rights to secession. The eloquent proof to that is a seminar on "State-legal Aspects of the Settlement of Abkhaz-Georgian Conflict" hold in Pitsunda (a small town in Abkhazia, Georgia) under the auspices of the Council of Europe and the UN on the February 12-13, 2001.

During last time the separatists have intensified their efforts to prove their rights to secession using several arguments, in particular distorting a real status of Abkhazia within the borders of Georgia in 1918-1921 and 1922-1993.

Therefore, it has become necessary reveal the unsoundness and unlawfulness of claims aimed at proving the right to self-determination and secession propagated by the separatists.

Their position was focused in statements of the Abkhaz participants to the seminar and in two letters sent by V. Ardzinba to the UN Secretary General Mr. Kofi Annan on February 14 and April 3, 2000.

1. I am not going to refer to the historical aspects of the problem lasting through centuries.<sup>1</sup>

I shall only remark on the fact that in contrast to present day claims regarding the absence of any common between Abkhazia, its people and Georgia and the Georgians in the sense of politics (save sporadic and superficial unification in VIII-XII centuries) and in the line of culture, law and religion – the Abkhazians at the end of XIX and the beginning of XX centuries draw a totally different picture.

On march 23, 1899 elected by all social strata of Abkhazian people, – Prince B. Emukhvari, Prince M. Marshania, Prince T. Margani, Prince K. Inal-Ippa – in their letter to General-Adjutant Prince Sviato-polk-Mirskoy characterized Georgian-Abkhazian relations in the following way:

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<sup>1</sup> G. Zhorzholiani, S. Lekishvili, L. Toidze, E. Khoshtaria-Broceet, *Historic, Political, and Legal Aspects of the Conflict in Abkhazia*. Tb., 1995, pp. 5-18.

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*"Since the time immemorial Abkhazia had been the part of the former Georgian Kingdom. The Georgian Kings had never excluded Abkhazia from the large Georgian family.* And before the division of the Kingdom and after it, till the very last days of their reign kings were titled as the Kings of Georgia, Kartli, Abkhazia, Imereti and Kakheti. When the Georgian King Vakhtang VI at the beginning-of the last century summoned all deputies from all provinces- of the former Georgian Kingdom to involve them then in the work of establishing laws – there were deputies from the Abkhazian people that so far faithfully preserved the most ancient Georgian customs.

Besides, Christian churches, the ruins of various mundane and military constructions speak not the less conspicuously about relations between Abkhazia and Georgia. The Abkhazians were hoping to remain in the joined family of the Georgia whom they had always belonged to.<sup>1</sup>

In 1916 Tbilisi was visited by Abkhazian deputation in the contingency of princes – M. Shervashidze, M. Emukhvari, A. Inal-Ippa, P. Anchabadze and the representatives of peasantry – B. Ezukhbaia and A. Chukbar. On behalf of Abkhazian people they submitted a request to an economic and cultural development of the country and put on the agenda of the day the issue of turning the Sokhumi Okrug in a separate Gubernia (an entity to which the, Russian Empire was divided – L.A.) "If this is impossible – they declared – Sukhumi should joint no other than the Kutaisi Gubernia". As well as this, the deputation was insisting on remaining of Abkhazia within the dominion of the Georgian Churches to which Sukhumi church had always belonged.<sup>2</sup>

Without a doubt among Abkhazians there were supporters of disruptive actions in Georgian-Abkhazian relations. Some of them were in favor of the alliance with the North Caucasus, others expressed loyalty to the Russia declaring Abkhazia to be the immanent part of the Empire having no connection with the fate of Georgia.

It should be mentioned that among Georgians also could be found people who would willingly hinder the Abkhazians in retaining their language and culture.

Fortunately, the major part of Georgian intelligentsia such as writers, poets, social and political figures – I. Chavchavadze, A. Tsereteli, I. Gogebashvili, G. Tsereteli, and others, were concerned with bringing back home thousands and thousands Abkhazians expelled by the Empire in 1870 for helping North Caucasus people in their struggle against the Empire was known as "mohajiroba".

I. Gogebashvili – whom the separatists proclaimed colonialist for his attempts to avoid Russians settlements on the territory of Abkhazia (Annex #3, 14-15) and was calling peasants to cultivate and settle deserted lands of Abkhazia, was writing the following: "Some newspaper correspondents unfavorably regard the issue of translating theological literature into Abkhazian, as well as find undesirable perform Good service in the Abkhazian language. It's very surprising. Yes, indeed Abkhazia had been a constituent part of the Georgian political body and the worship ceremony were always rendered in Georgian, likewise writing according to the own will of the Abkhazians was Georgian. But the Abkhazian language is not a dialect of Georgian, being nevertheless related. Existing on its own, it is

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<sup>1</sup> Central State Archive of Georgia – #416, de-scrip. 3 file #1020, p. 1-18.

<sup>2</sup> "The Sakartvelo", 1916, N 94.

of no doubt that the Abkhazian language should exercise its right to having its own God worship ceremony, its own writing letters and literature.

A man of cloth, enlightened Episcoposes Kirion (Sadzaglishvili) was enthusiastically promoting the idea of creating the Abkhazian Alphabet and literature, what is more, he asked for permission to participation in creating the Alphabet and literature, a notebook for the Abkhazian language. The Sukhumi Georgians ought to in all ways assist the Abkhazians in this cultural undertaking.<sup>1</sup>

Now let us see what was recommended by the Russian politicians and scientists.

Chief Civil Executive Officer in the Caucasus, and Exarch Alexei brought it to the notice of the Chief Procurator of the Holy Synod that "it is highly desirable to shield the Sukhumi bishopric from the baneful Georgian influence. With this end in view, it would be exceedingly useful that the Sukhumi bishopric be joined to the Kuban area with its 1,716,245 Russian orthodox population. This mass will easily engulf the 100,000 indigenous multilingual population of the Black Sea littoral". The same idea was also emphasized in a report of the Deputy Military Governor of Kutaisi, dated Sept. 15, 1887: "Georgian national movement here impedes Russification of the area."

Particular attention was devoted to the language policy. In this connection, E. Weidenbaum, a renowned explorer of the Caucasus and a steadfast apologist for the Russification policy recommended: "The Abkhazian language that has neither an alphabet, nor literature, is doomed and will doubtless disappear in the more or less near future. The problem, however, is: Which language will come in its stead? It is obvious that cultural ideas and concepts are to be brought to the native population not via Georgian, but via the Russian language. My feeling, therefore, is that introduction of an alphabet as a means of Abkhazian writing should not be an end in itself, but rather a means to weaken, through church and school, the need for the Georgian language with a view to eventually fully superseding it with our state language".<sup>2</sup>

Even the Chairmen of the Commission for Working out the First Abkhazian ABC, scholar and General P. Uslar believed that mountaineer nations of the Caucasus couldn't have a written literature and maintained that "the native alphabet must have one sole purpose: it must be a facility for the natives to learn Russian".<sup>3</sup>

Such are the facts! However, the Abkhazian side is "shyly" silent on the horrors of the Russian colonialism and its savage treatment of the "unreliable Abkhazians" resulted the "mohajiroba" which can be equated with genocidal acts. But let us leave this in separatists understanding to the conscience of those whom we call "modern interpreters of history".

2. The Abkhaz side tries to "prove" the right to secession from Georgia on the pretexts that the region was colonized by the Georgian Democratic Republic: "The Georgian Democratic Republic (existed in 1918-1921) allegedly had occupied and forcefully incorporated Abkhazia into Georgia in July 1918; in March of 1921 the Abkhazians attained independence thoughts the Bolsheviks pushed Abkhazia into Soviet Georgia imposing the Union Treaty which unilaterally was cancelled by Georgia in 1931. And since then Ab-

<sup>1</sup> I. Gogebashvili. "On Abkhazia." Vol. IV, 1955, pp.200-201.

<sup>2</sup> G. Zhorzholiani and others. Dp. cit, p. 15.

<sup>3</sup> Ibidem.

khazia being turned into the Autonomous Republic, has been moaning under the yoke of the Georgian colonialism".

a) First of all a few words on so called Georgian intervention of 1918. After the October Revolution in 1917 the Russian Bolsheviks and their party members in Georgia were trying their best to submit the country to their control. At the beginning of 1918 Sukhumi Bolsheviks decided to establish the Soviet form of government in Sokhumi Okrug (Abkhazia). As they had no corresponding forces they appealed to the Bolsheviks of Ekaterinodar (at present Krasnodar) for help incorporate the Sukhumi Okrug into Black Sea – Kubban Soviet Republic and move the part of the Red Army in order to establish soviet power in Abkhazia and later on launching an offensive onto Democratic Georgia, There emerged a danger of pro-Turkish forces under the leadership of Allexander Shervashidze who in 1918 led the Turkish troops attacking village of Tskhurgili by the River Kodori. On top of that, Abkhazia was facing another threat of being occupied and severed from Georgia due to General of "the white army" Denykyn. All these forces of invaders were supported only by some insignificant number of Abkhazian inhabitants, but the greater majority of the population adhered pro-Georgian orientation. So, Abkhazia was going to be simultaneously assailed by the Red Army, Turkey and General Denikyn – the White Russia. Georgia was approached to send the troops to defend Abkhazia that was done in July of 1918. All enemy forces were defeated, but at the same time some clashes occurred between the Georgian forces and peasants supported by Bolsheviks. Some members of the Abkhazian National Council were against the presence of the Georgian troops. At the meeting of Abkhazian Peoples' Council the Georgian government representative I. Ramishvili declared the following "If this is the orientation of the population of Abkhazia – the Georgian forces will be withdrawing from Abkhazia in order to abstain from unwarrantable bloodshed." However, the Abkhazian Council once again confirmed its decision about the urgency of staying in Abkhazia of Georgian forces.<sup>1</sup>

Besides it is impossible to talk on any "intervention or occupation" when as a mater of fact by this time the Sukhumi District had already been the autonomous part of Georgia.

b) After the Russian Empire had fallen, in 1918-1921 there started process of the restoration of the Georgian statehood and its independence was declared on the 26<sup>th</sup> of May, 1918. In parallel to this, there took place an unfication of Tbilisi and Kutaisi Gubernias, districts and regions, Originated on the territory of Georgia in the period of domination of the Empire.

Neither Sukhumi District stood aloof from the started movement, where the Abkhazian Council, took the power. In February 1918, before the independence of Georgia was declared, the Council approached the National Council of Georgia requesting the recognition of the autonomous status of the District. In response to them was reached an agreement, which later was followed by an agreement (June, 1918) granting the Abkhazian People's Council excessive rights to internal self-ruling. At the same time, there was worked out several constitutions by different organs and organizations of Abkhazia proceeding from the principle that Abkhazia is to be regarded as an autonomous unit.

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<sup>1</sup> Central State Archive of History. Fond-1861 descrip. 2, file 37, pp. 9, 11, 24.

The Constitution of Georgian Democratic Republic (of the 21<sup>th</sup> of February, 1921) contained a chapter under the heading "Autonomous Ruling," which was applicable also to Abkhazia (Sok-humi District), the indivisible part of Georgia." Besides, there were set out the major provisions, referring the ruling of Abkhazia, that was regarded as a "self-ruling autonomous unit of the Republic of Georgia with the set of rules, stipulated in the Constitution of Abkhazia".

During the whole period that the Democratic Georgia existed-1918-1921-Abkhazia was regarded as an indispensable part of Georgia by the international commonwealth. On May 7, 1920 Russia made a Treaty with Georgia which reads as follows: "Russia recognizes as undoubtedly belonging the Georgian State in addition to a part of the Black Sea Gubemia in accordance with art. 3,1 of the present Treaty (i.e. the Gagra region – L.A.), the following gubernias and oblasts... as well as the Sukhumi Okrug" (art IV).

The border of Georgia in the Abkhazia region in the north was delimited along the river Psou i.e. as it is now.

The Gagra land was coming back to Abkhazia (Sukhumi Okrug) separated in 1904 by the Empire and included into "the Black Sea Province".<sup>1</sup>

It should be mentioned that with the Treaty concerned Georgia was fulfilling her promise she had made to the leaders of Abkhazia to return the Gagra land to its native part and on the whole restore the old historical borders of Abkhazia under the proviso that the latter would constitute an autonomous unit within the borders of Georgia (February, 1918).

The Georgian Government did all to have restored the historical name of the region – Abkhazia.

The western countries recognized Georgia "de facto" (in 1920) and "de jure" (in 1921) within the borders secured by the Treaty, made with the Soviet Russia on May 7, 1920.

However, the Red Army intervention in February of 1921 overthrew the government of the Democratic Georgia and paved the way for the Communist regime to come to force under the domination of Moscow; in fact Georgia was annexed.

V. Ardzinba is blaming Stalin for his annihilation of independence of Abkhazia declared on March 4, but if Stalin is to be accused of anything, to say nothing of the role the latter played in the intervention in Georgia, – it is his personal pressing that Abkhazia be proclaimed the Soviet Socialistic Republic with the Red Army still there, i.e. 10 days after Tbilisi was seized.

A bit later at the end of March (not at all on March 4) the Soviet Socialist Abkhazia was given a temporary independence till defining its status in corporation of Georgia or Russian Soviet Federal Socialist Republic, though according to the legislative line of the Provisional Revolutionary Committee of Abkhazia the decisions of the Provisional Revolutionary Committee of Georgia had to serve us a source for the regulation material for the former.

The noted Abkhazian Bolsheviks – N. Lakoba and E. Eshba called this event "an independence for a minute", aimed at retaining and preserving the Soviet ideas, for reinforce-

ment of the soviet system in this tiny land of Abkhazia. "It was the immediate, necessity to do it somehow kurb the national disruptions (by the way invoked among inhabitants by the Reds themselves – L. A.) till the coming congress of Soviets"

It is to be mentioned that for these reasons many other "independent states" were created in 1920s (Stavropol, Kuban, etc) which later disappeared at all. Even as autonomous entities.

Continuing the policy of weakening Georgia, Moscow imposed on Georgia, just Georgia and not Abkhazia, a "Union Treaty", though couldn't completely ignore the interests of Georgian Communists – Abkhazia became a part of Georgia – so called a Treaty Republic enjoying rights of an autonomous state.

Soon after the conclusion of the Union Treaty, N. Lakoba noted that "declaring independence and anything like that – is nonsense, this shouldn't tempt us, we needed a signboard and we hang it out, but there is no use of bending before it".

And the constitution of 1925, to which Abkhazia refers has never entered into force as according to the definition made by N. Lakoba, this "constitutional stupidity didn't correspond to the real legal status of Abkhazia within Georgia".

Abkhazia was regarded as an integral part of Georgia in the period of Trans-Caucasian Federation, as well within the boundaries of the USSR. The 1924 Constitution refers to Abkhazia as an autonomous republic together with Adjara and South Ossetian Autonomous Oblast.

Further development of events were quite logical; the economic integration of Abkhazia as a part of Georgia was going on, the legal forms of intercommunications were changing. Adopted in 1926-1927 the Constitution of Georgian SSR and the Constitution of Abkhazian ASSR fixed this status of Abkhazia at that time. V. Ardzinba asserts that "in 1931 the rights of Abkhazians were unilaterally curtailed and it was transformed into an autonomous republic as a part of GSSR."

But this decision was finally adopted at the VI-th Congress of the Soviets of Abkhazia (February 1931). All this was reflected in the constitutions of Georgia and Abkhazia – the Union Treaty was cancelled and substituted by the formally fixed status of autonomous republic.

Thus the population of Abkhazia, and afterwards of Entire Georgia took part in adopting the decision enjoying the rights as much as it was possible under "the dictatorship of the proletariat," excluding at that time some stratas of population from the elections (for example "former exploiting classes", etc). ***As far as the separatists demonstrate the adherence to the Soviet legal order, logically they have to recognize the legality of this decision within the frames of then existing legal plant. But they do not do it!***

That is why we can't speak of "unilateral character" of the decision. As to "curtailed rights of Abkhazia", it is enough to compare the status of autonomous republic with the status of "Treaty Republic" in order to make sure of the contrary.

I won't debate, or refute facts on violating the rights of ethnic Abkhazians by the authorities of Soviet Georgia in 1937-1938, 1949-1960 years.

These facts really happened in the entire USSR and have been condemned since 1960s. Though speaking of "The Genocide of Abkhazian Culture and People" at large-

blasphemy. But this is what had been used by separatists for years on end up to nowadays to justify their attempts for secession and "set the Abkhaz on Georgians".

Depicting the horrors of Stalin regime, the separatists "forget" that from 1924 to 1937 100.000 Georgians were exterminated. In 1949 L. Beria concocted a so called "Megrelian case" and only the death of Stalin saved the lives of the arrested, and in 1951 thousands of Georgian intelligentsia were caught in one night and together with children were taken by the train to Kazakhstan "for ties with abroad." Many of them died in exile, others returned only in 1956.

Now let us look at the real picture of "the discriminatory" policy of Georgians in Abkhazia before the conflict started.

Abkhaz Autonomous Soviet Socialist Republic had the only constitution in the entire USSR in which its language (Abkhaz) was declared one of three official state languages as well as Georgian and Russian.

While by 1976 all schools of autonomous republics elsewhere in the northern Caucasus employed exclusively Russian instruction, in Abkhazia there were 25 schools teaching in Abkhazian, as well as numerous schools with combinations of Russian-Abkhazian-Georgian instruction.

At the onset of the 1989/1990 academic year, the autonomous republic had 73 Abkhazian and mixed secondary schools. In the mixed schools the Abkhazian language was used at the medium of instruction in the I-IV grades, while in the next V-XI grades all the teaching was done in Russian, and the Georgian language and literature were taught as a separate subject. The Georgian language never featured on the curricula of any of these schools. Moreover, the use of Georgian as the state language was drastically limited.

Functioning in Abkhazia were about 20 research centers and higher educational establishments, including such large ones as the Abkhazian State University, the Institute of Subtropical Cultures, the D.I. Gulia Abkhazian Institute of Language, Letters and History under the Academy of Sciences of the Georgian SSR, the Institute of Experimental Therapy and Pathology, the Physico-Technical Institute, the Abkhazian Institute for Advanced Studies for Teachers, several branches of Tbilisi higher, an agricultural and an industrial technical schools, medical and arts colleges and a wide network of secondary schools for training children in music and the arts. Considerable credit ought to be given to the Academy of Sciences of the Georgian SSR, to Tbilisi State University, the Georgian Technical University, the Shota Rustaveli Theatrical Arts Institute, Tbilisi State Conservatoire and other educational centers of Georgia for having trained ethnic Abkhazian specialists in every sphere of human knowledge, for having foster Abkhazian intelligentsia. Thriving in Abkhazia were the State National Theatre, the State Museum of Abkhazia, the State public library, affiliations of the Writers', Composers', Architects' Unions of Georgia, of the Theatrical and Music-cum-Choreographic Societies of Georgia, Abkhazian State National Song and Dance groups, the State Symphony Orchestra, the Choir Society, etc. Radio and television beamed their programs in Abkhazian, and a number of magazines, scientific journals and works of fiction came out in Abkhazian. According to the 1988 statistics, the Abkhazians occupied the first place in the USSR as regards the number of titles of their

mother-tongue per 1,000 of the population: – 4.3 titles, while the Georgians rated 13<sup>th</sup>-19<sup>th</sup> in the same respect: -0.3 titles per 1,000 of the population. An almost analogous picture was observable with regard to the circulation of these publications: here the Abkhazians rated the 3<sup>rd</sup>, being next only to Estonians and Letts.

In every governing body in abkhazia, the Abkhaz held the majority of seats:

- In the Supreme Soviet were 57 Abkhaz, 53 Georgians and 14 Russians.
- In city and regional councils Abkhaz held 1/3 of the positions.
- On the personal staff of the Council of Ministers and the City Committee of the Communist Party, more than half were Abkhaz.
- Out of twelve Ministers, eight were Abkhaz.
- Out of eight Chairmen of State Committees, five were Abkhaz.
- Out of eight city and regional Procurators Offices, five were headed by Abkhaz.
- By 1990, the Abkhaz were widely represented in the Government and party bodies of the Georgian SSR.

Furthermore, in 1991, in accordance with a new law, agreed upon by the Georgian and Abkhazian deputies in the Supreme soviet of the autonomous republic the Abkhazians (who account for 17.8% of the republic's total population) were represented by 28 voting deputies, where as the Georgians (45.7% of the population) had 26 voting deputies, and other ethnic groups (36.5%) had only 11 representatives there. Out of the 15 people's deputies of the USSR (of the last convention) who were returned from this autonomy, 8 were ethnic Abkhazians. Industrial managerial personnel were also about 40% Abkhazians.

Proceeding from the above concise data the Georgian analysts concluded that in Georgia the Abkhazians were far from being discriminated. On the contrary, most propitious conditions were created to foster their national cultural, social, political and economic development and prosperity. *Moreover, we witnessed a paradoxical situation in abkhazia when we faced the necessity to take measures to protect the rights and freedoms of Georgians who make the majority of the autonomous republic's population.*

3. Meanwhile being closely with imperial states of Moscow trying not to admit the disintegration of the USSR and doing everything undermine the strife of "Union Republics" and first of all Baltic States and Georgia to break through the pressure of totalitarian regime and restore their State independence, dissolved in the USSR, the Abkhazian leadership-beginning from the end of 1980s pursued the policy aimed at secession from the rest of Georgia and began adopting the laws that brought the jurisdiction of Georgia to zero(see, annex #3, pp. 48-55).

At the same time anti-Georgian propaganda and preparation for war had been continued in order to forcibly change the demographic situation in the region. So it was decided to turn "minority" into "majority" of the population under the slogan "Abkhazia without Georgians".

According to Dr. Svetlana Chervonnaya, the first Russian scientist who dared to tell the truth, a leading researcher at the Institute of Ethnology and Anthropology of the Russian Academy of Sciences, "from 1990-92, in the Abkhaz Nationalist press, radio and television, in tie lecture rooms of the University, in institutes and schools... the image of Georgia as the enemy was created in the public consciousness. This enemy was any Geor-



gian, including the next-door neighbor. He was blamed for all the troubles of the Abkhazian people, for lowering the standard of living, for the breakdown of the regular rhythms of the holiday season, for the shortages of essential goods. He, allegedly, grabbed everything, robbed everyone. He drank the blood of Abkhazian and pumped all its wealth into Tbilisi. The average Georgian was portrayed as a bandit, a murderer, a cruel sadist. Georgians of the past as well as the living came in for their share of calumny".<sup>1</sup>

After the collapse of the USSR (since December 1991), this process has acquired a new aspect.

Having taken advantages of the entry of armed forces of Georgia into the territory of the region in order to render assistance in the struggle against terrorists and bandits taking in hostage political refugees and placing them in Abkhazia, robbing the trains coming from Russia to the rest of Georgia and as well to Armenia through Abkhazia (there was a civil war in the West Georgia), the separatists managed to foster armed conflict on August 14, 1992 in which they participated not only armed formations of mercenaries from the North Caucasus and other parts of Russia but even Regular Russian Troops, including the bombers which were bombing Sukhumi and other places inhabited by the civilians.

Several times unsuccessful attempts were made (September 3, 1992-July 27, 1993) stop an offensive military actions on the part of Abkhaz side, but each time the Abkhaz side was violating the agreed cease fire. At last a truce was achieved, but by then nearly the whole territory of Abkhazia had been under control of the separatists and mercenaries (Sept. 27, 1993) As a result of the brutal "ethnic cleansing" and genocidal actions almost the whole Georgian population was forced to leave the region (see, below).

Since 1992 at Georgia's request the UN Security Council joined into the resolution of the conflict, a prior recognizing the territorial integrity of Georgia-a member of the UN since July 1992. By the end of 1993 under the auspices of the UN a Geneva process of the conflict settlement set in. The participants, beside the parties to the conflict, were – Russia, as a "facilitator", the personal representative of the UN Secretary General (who chairs all the rounds of the negotiations) and OSCE.

Since 1998 the friends of the UN Secretary General gave officially joined the resolution process -the USA, the UK, Germany, Russia, France being a coordinator.

As far back as April 4, 1994 a "Declaration on measures for political settlement of Georgian-Abkhazia conflict (S/1994, 397, annex #1) and a " Quadripartite agreement on voluntary return of refugees and displaced persons" (Ibid., annex 2) were signed.

As far as the UN Security Council was not able to find means for sending peacekeeping forces to the conflict zone CIS decided to direct there its peacekeepers, actually they were Russian formations.

On May 14, 1994 in Moscow the Georgian and Abkhaz sides concluded an agreement on cease-fire and separation of forces which allowed Russia to send its peacekeepers to the zone of the river Enguri, separating warring forces. At the same time the UN extended the mandate of its observers being in Abkhazia since 1992.

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<sup>1</sup> S. Chervonaya, "Conflict in the Caucasus, pages 78-79 of the English edition, Gothic Images Publications, 7 High Street, Glastonbury, Somerset BA6 9DP.

Since then the conflict actually has been frozen despite the fact that about 250. 000 Georgians banished from the region are not able to return to their original place of residence, just like 100.000 people of other nationalities.

Even to Gali district, inhabited before by 83. 000 Georgians only 311 persons could return officially. The rest – several thousands returned at their risk.

Punitive operations entailed a new wave of "ethnic cleansing" in May 1998. But the returnees still continue to "knife their way" only at their risk, without any guarantees of safety though the cordon of peacekeepers to their homes having no idea what is going to happen tomorrow.

These facts revealing ethnic cleansing the crimes against humanity have been condemned by the international community. (See Annex #4).

"Forgetting" all these the separatists are trying to make use of particular provisions only out of the documents, signed during the conflict "as a prove" of recognition of Abkhazia as a de jure independent state.

Let's expand this agreement:

a) The Abkhaz side asserts that on April 4, 1994 in Moscow, in the presence of the UN Secretary General "the parties to the conflict as well as the representations of the UN, OSCE and Russian Federation signed the statement "on Measures of Political Settlement of the State-legal Relations Between Abkhazia and Georgia and the belonging to Abkhazia of all competencies of a sovereign state.

The Abkhaz side also insists that the statement provides possible "restoration" of relations between the sides to the conflict on equal bases".

Let's turn to the above-mentioned document. There is nothing in it that would grant Abkhaz side the right to interpret its position in a beneficial for it sense.

First of all the document starts with the words "The negotiations were conducted in accordance with the resolutions of the UN Security Council...".

It is a matter of common knowledge that from the very beginning the Security Council underlined that Abkhazia de jure remained under the jurisdiction of Georgia – the words were in the adopted resolutions are following.

"Conflict (situation) in Abkhazia, Republic of Georgia, – res. 849 (1993), 854 (1993), August 6 (1993); 876 (1993), October 19 (1993); 881 (1993), November 4 (1993); 892 (1993), December 22 (1993)."

And this happened at the very first stage of joining of the UN to the settlement of the conflict.

Consequently, the statement of April 4, 1994 could not contravene with the decisions of the Security Council.

As to the "resolution of state-legal relations between Georgia and Abkhazia "- the words of the separatists grasped at. Actually these words meant the necessity of restoration of the legal relations broken during the armed conflict.

This is recognized by a so called "Act on State Independence of the Republic of Abkhazia" adopted on October 12, 1999 (here I shall not dwell on illegality of a given act) which states:

"The severance of the state-legal relations between Abkhazia and Georgia initiated by the Georgian authorities, and subsequent Abkhazian-Georgian war of 1992-1993, de jure and de-facto led Abkhazia to its "independence".

This is what the term "restoration of state-legal relations" is actually.

The special representative of the UN Secretary General Mr. D. Boden categorically certifies the following: "In the Statement it is fixed that state-legal relations need to be resumed as they were suspended as a result of war. *In another words, the question is not to create them once again but to restore those elements of relations, that were temporarily broken off*".<sup>1</sup>

If Mr. V. Ardzinba looks into the textbooks on the USSR State Law, he will find out that autonomous republics as parts of Republics, in contrast to all other autonomous entities, did not enjoy the right to free secession from a Union Republic though they had their Constitution, supreme organs of legislative, governmental and judicial power. The relations between central organs and autonomous republics were qualified as "state-legal relations".

This is how they are qualified in the Russian Federation at present.

The very Constitution of the USSR of 1978, the Constitution of Georgia-of 1978, as well as the Constitution of Abkhazian ASSR of 1978 considered Abkhazia as the state being an inalienable part of the Soviet Socialist Republic of Georgia. Such was the status of all the autonomous republics according to the Constitution of the Soviet Union since 1936 and the Constitutions of concerned Union and Autonomous republics.

Formally Georgia was a unitary state and not a federation, but relationships between Abkhazia and central authorities were on state-legal level, i.e. Abkhazia was recognized to have within its exclusive competencies a full supreme state authorities. In other words this authority belonged to it if it was beyond the competence belonged to Georgia and the Soviet Union (art 64. Constitution of Abkhazia, 1978).

Even the decision of Georgian authorities of 1992, to abolish the Constitution of Georgian Socialist Republic, specially emphasized that the status of Abkhazia and Abkhazia shall be inviolable: These provisions, alongside with some others (not compatible with the new order) were to be in force till the new Constitution was adopted .

But even after August 24,1995 the provisions about Abkhazia are in force, de-jure, up to now, as a special omission was made in the Constitution of Georgia. It will be filled up when new aspects of state-structure of Georgia are decided on, though even now the provisions coming from autonomous status of Abkhazia are saved (see art. 1 and 55, of the Constitution).

So, the Constitutional legislature of Georgia and Abkhazia considered the latter as a state formation being the organic part of a larger political entity-sovereign state of Georgia. Abkhazia enjoyed wide competence in all the spheres of state and social life, except the right to secession from Georgia, as it s recognized in all the federative, especially in unitary decentralized states.

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<sup>1</sup> "Republic of Abkhazia", Oct. 13, 2000.

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***So, reconstruction of state-legal relationships between Abkhazia and Georgia can be seen only within the frames of one sovereign state. This state recognizes the status of some state-formations and bases the relationships with these territorial entities on constitutional level recognizing their limited statehood.***

All the above-mentioned points out that, the attempts to interpret the declaration of April 4, 1994, as recognition of independence of Abkhazia-failed. Just on the contrary, it was the first step on the way to the full-scale regulation of the conflict on the ground of the UN Security Council resolution, mentioned above of.

In the declaration there is no Statement about independence of Abkhazia. As for the delegation of competencies between the sides agreed on that stage, and derived from postulate, that the transformation of status of Autonomous Republic of Abkhazia into the subject of Georgian Federative State was to provide this political entity with a new set of competencies.

There is nothing unusual in the forming of federation instead of a unitary state. But it can be done only by a proper constitutional needs. For example, not long ago unitary Belgium turned into Federative state consisting of entities belonging to different levels.

So, the absolutely clear-cut situation the separatists interpret willfully-as "recognition of independence of Abkhazia". It's interesting to know the opinion of the well-known International Law expert, who was at the same time one of the leaders of Foreign Office of Russia, a leading member of the Russian delegation at the Geneva negotiations, the ambassador Kovalev: "There is no mentioning of the equal legal personality of Abkhazia neither in this nor in other documents adopted during the negotiations". There are not even the phrases like Georgia and Abkhazia permitting to speak about the equality between them. That is right, Abkhazia is regarded as the side to the conflict equal to the Georgia an another side to the conflict.

Recognizing one, as the side to the conflict does not give to it any reason to claim to be recognized as "the equal subject of International Law". Situation de-facto caused by warfare is no ground to claim that Abkhazia has become a separate state from Georgia de jure. There is not a single word about the delegation of any new authorities to Abkhazia in this declaration. The question is that Georgia as a sovereign country gives consent that, in future, after the final resolution of the conflict, it's ready to cooperate with Abkhazia in the spheres where Abkhazia as former autonomous formation had no access.

When Russian Federation and other powers recognized sovereign republic of Georgia in 1992, this state existed within the boundaries by 21 of December 1991 (i.e. moment when the Soviet Union was disintegrated and CIS created – L.A.). When independent Georgia became a member of the UN, *this* organization fixed its state borders existing by 21 of December 1991.<sup>1</sup>

b) Abkhazia refers to the annex of the report of the UN Secretary-General of May 3, 1994 on political and legal elements of the Georgian-Abkhazian Conflict.

Yes, such a document exists, and it's the annex the report of the Secretary -General, but it has absolutely different meaning – Abkhazia will become the subject with sovereign au-

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<sup>1</sup> "Rossiskaya Gazeta" 23.05.95.

thority in the structure of the Union State; This state will be created as a result of negotiation and etc.

But in the Western Countries sovereignty of autonomous or federated entities means that they have authority to act independently in the spheres that are beyond the competence of the central authority. For example. Constitution of Switzerland grants to the lowest entities-communities sovereignty in the sphere of taxation, while the cantons (hold) sovereignty beyond the power.<sup>1</sup>

4. It's hardly possible to draw a parallel between the history of creation of Swiss Confederation (Federation Swiss 1860) and the ambitions of the Abkhazian separatists.

Let's go back to the position of the Secretary General of the UN. The title of his report is – "The Report on the situation in Abkhazia, Georgia". A bit earlier – in March, 1994 Butros-Butros Gali informs the security Council: "Abkhazian leaders claim as before, that their aim is independence. In the process of negotiations it was explained clearly to the Abkhazian side, that independence gained at the points of guns is unacceptable for the international Community (p.2. document S/1994/253, March 3, 1994)." After the report the Security Council adopted a resolution ignoring the above mentioned provisions as they were not coordinated with Georgia and were disputable. And what is more important-afterwards resolutions became bitter and allegiance to the inviolability of the sovereignty and territorial integrity of the Republic of Georgia-later Georgia, remains to be the pivot of all the resolutions.

It's meaningful that the group of experts designated by the UN Secretary-General and led by the famous Swiss Scholar, Prof. Giorio Malirvani, in its first report stated :

23. "The political status of Abkhazia should be defined in a way that respects the sovereignty and territorial integrity of the Republic of Georgia" (Security Council resolution 876(1993) 1). It being understood that the territorial integrity means preserving the territory of this state, as constituted when it was one of the Republics making up the Soviet Union (Art. 1 of the Moscow Agreement).

24. The political status of Abkhazia should be such as to safeguard and preserve its state structure and juridical structure, as well as its specific characteristics, which stem from a long historical tradition. (Report, First meeting of the group of experts responsible for preparing recommendation on the political status of Abkhazia.<sup>2</sup>

c) The Abkhaz side asserts that the first report of the UN Secretary-General and resolutions of the Security Council used the term respect of the territorial integrity of Georgia. In the UN documents of that followed, in particular, in the report of the Secretary General of January 19, 2000 and a Resolution of the Security Council of January 31, 2000 the term was changed by political status of Abkhazia, within the borders of Georgia.

First of all, we must emphasize that adherence to the sovereignty and territorial integrity of Georgia has been expressed in all the resolutions of the Security Council from 1993 up to day. Later on it was pointed out that these are internationally recognized boundaries. The formula was to define political status of Abkhazia within the structure of Georgia ap-

<sup>1</sup> "Basis report of Switzerland presented to the Committee of Human Rights 2 of July 1993.

<sup>2</sup> Moscow, 15 and 16 December, 1995) submitted by Professor Giorio Malirvani, chairman of the group of Experts, to Ambassador Eduard Brun-nor. Special Envoy of the UN Secretary General for Georgia.

pears in this context since 1996, and not 2000, i.e. four years earlier (Res. 10 95(1996)July 12,1996).

***So, the position of Security Council is absolutely clear- the political status of Abkhazia, which temporarily, at the point of guns, de-facto exists outside the jurisdiction of Georgia, must be defined exactly within the internationally recognized boundaries of "the state Georgia".***

This position has been supported by OSCE, the European Union, the Council of Europe and CIS.

It's well-known that the summits of participating states of CIS condemned separatism repeatedly and declared it out-law (Memorandum on Maintenance of Peace and Stability in CIS, Alma-Ata, February 10, 1995). Later, the Abkhaz separatism was specially condemned, CIS expressed adherence to the territorial integrity of Georgia and the necessity to solve the status of Abkhazia in the structure of Georgia within the boundaries of indivisible federative State! This idea was proposed by Georgia and proceeds from granting Abkhazia the status of one of the subjects of the federation, but with the largest authority (see the Declaration of the CIS heads of states in Minsk, May 26, 1993). Following decision of CIS summits referred to Alma-Ata and Minsk documents, demanding to overcome threats of separatism (March 28,1997), charge separatists because of their destructive position in the process of defining political status of Abkhazia, Georgia (March 28,1998), Summit held on January 19,1996 confirmed that Abkhazia is "an indivisible part of Georgia!"

OSCE summit in Istanbul held on November 19, 1999, firmly mentioned that an agreement on the division of competence must be secured between the central authorities of Georgia and authorities of Abkhazia, Georgia.

Where did the separatists find that the UN, OSCE and CIS regarded Abkhazia as an independent state?! On the contrary, all these organizations constantly confirm that de-jure Abkhazia remains as a part of Georgia.

B) The Abkhaz side blames the UN that "in its documents the terminology and assessment of Georgian-Abkhazian relations have been changed", namely instead of the term "Georgian-Abkhazian conflict" met in the documents signed by the sides appeared the term "conflict in Abkhazia, Georgia".

***Let's see, if it is so. In fact, the term "conflict in Abkhazia, Georgia" used by the UN was initially fixed in the Security Council resolutions, as far as it was clear that only a separatistically minded part of the Abkhazians was involved in the conflict. More than 40 000 Abkhaz fled their country, not willing to associate with the criminal regime.***

***At the negotiations, aimed at finding peaceful means of the conflict settlement, the term "Georgian-Abkhazian conflict" emerged. Unfortunately, this term is being used by mass media in Georgia and Russia. But once again shall repeat that the UN, OSCE and CIS always have been operating by the term "conflict in Abkhazia, Georgia".***

***Let's turn to the facts. Above we presented some very first (1993-1994) resolutions of the UN Security Council, there the only term that dominates is "a conflict in Abkhazia, Republic of Georgia". This term runs through all the subsequent resolutions, where "Republic of Georgia" is substituted by a new denomination- "Georgia".***

The final document of the Moscow meeting on September 3, 1993 stressing the necessity of the "settlement conflict in Abkhazia" contains a commitment of "ensuring the territorial integrity, of the Republic of Georgia"(act. 1), and the term "conflict in Abkhazia, Georgia", only.

It is not clear, what is the UN to be blamed for? There can we see the UN's encouragement of Georgia's wish for "putting Abkhazia into Georgia in the capacity of an autonomy?!" During the negotiations the only question of uplifting of the status of Abkhazia from the autonomous republic up to the subject of a federation was discussed, which will differ from other *subjects by high status determined not by an International Law agreement, but by means of the domestic law adjustment*. This position of Georgia has been always supported by the International Community.

As the Special Representative of the UN Secretary-General MR.D. BODEN noted – this is the position of 189 member-states of the UN.<sup>1</sup>

5. V. Ardzinba asserts that "under Soviet legislature, adopted in the period of Georgia being in the USSR, the former autonomous republics, in case of secession of a Union Republic from the USSR, could exercise their right to freely determine their future and their state-legal status", and that is what was done.

It seems that V. Ardzinba means "Law on order for settlement of issues, connected with the secession of a Union Republic from the USSR" (April 1990) which flagrantly violated the USSR Constitution, granting Sovereign Union republics the right to freely (i.e. not subjected to any restrictions) secession from the USSR. This law turned to be abortive, since it was rejected by all the Union Republics, but it reached the goal-stirred up the separatist movement in a number of autonomous republics and even in autonomous regions.

Georgia also refused to participate in the referendum on the preservation of the USSR, but the Abkhaz separatists zealously began to exercise "the right granted to them" though being obviously unconstitutional.

On the USSR referendum of March 17, 1991, the separatists held the referendum excluding the inhabitants of Gali (93 000 people, i. e. as many as there were the Abkhaz in the whole territory of Abkhazia), and all the representatives of Georgian population in other parts of the region. Of course the results were in favor of staying in the USSR.

Today the separatists declare that on March 17, 1991 Abkhazia became an autonomous republic of the USSR and is not able to be at the same time a part of Georgia; this indicates the severance of legal relations between Abkhazia and Georgia. They "forget" the referendum, held on March 31, 1991 for independence of Georgia, which showed different outcomes (just the opposite), more than a half of population of Abkhazia voted "for".

This was that "convinced" the separatists in the necessity of expulsion of the undesirable component of the population, went at the cost of ethnic cleansing and genocide.

6. Recently there appeared a "very persuasive argument" from the point of view of separatists. Abkhazia seems to have lost legal relations with Georgia since April 9, 1991.

a) V. Ardzinba declares that as far as in April 1991 "the Act on the Restoration of State Independence of Georgia" was adopted which made Georgia the successor of the Geor-

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<sup>1</sup> "Newsp. "Respublika Abkhazia", 13.10.2000.

gian Democratic Republic of 1921. From this moment the Georgian SSR de jure ceased to exist.

This is actually right -Georgia restored its state independence. Amendments to the Constitution were to legally guarantee the status in the transitional period.

Consequently the Act of April 9 did not create legal vacuum, through abolished the status of Georgian Soviet Socialist Republic, which was quite natural.

Thus it was perceived in Abkhazia, through separatistically minded leadership continued measures to constrain the jurisdiction of Georgia.

A very important detail. In the Summer of 1991, i.e. after the Act on the Restoration of the State Independence of Georgia (April 9, 1991) / *personally visited Sukhumi and conducted the negotiations with V. Ardzinba concerning the expiration of the term of the Supreme Soviet of Abkhazian Autonomous Republic and the necessity of new elections to be held on the basis of its Constitution and the Constitution of Georgia still in force.*

New provisions of the elections has drafted in the Parliament the Abkhaz were given 28 seats out of 65, through they accounted for 17% of the total population, Georgians (47%) had 26 seats and the representations of other nationalities (30%) inhabiting Abkhazia -11.

*At my disposal there is a "Decree of the Supreme Soviet of Abkhazian ASSR " of August 27, 1991, signed by V. Ardzinba which gave effect to the interim law of Abkhazian ASSR on the procedure of elections and appointment of the organs and officials in the Supreme Soviet of Abkhazian ASSR.*

*The very provisional law also signed by V. Ardzinba on August 27, 1991 provided that the chairman of the Supreme Soviet of Abkhazian ASSR could only be a person of Abkhazian nationality and his deputy – a person of Georgian nationality; In the Council of Ministers of Abkhazian ASSR the chairman could be a person of only Georgian nationality, where as his first deputy – the representative of the Georgian population.*

*On August 27, 1991 the "Law on Making Amendments to the Constitution (Basic Law) of Abkhazian ASSR" was adopted, according to which "Law and other acts on the issues of legal status of Abkhazian ASSR were to be adopted by 2/3 of votes out of the total number of Deputies of Abkhazian Supreme Supreme Soviet, stipulated by the Constitution. Here we have the essence of adopted decisions – only mutual decisions of Abkhazian and Georgian Deputies could solve the issues connected with the status.*

Its worth to be mentioned that soon the Georgian deputies had to leave the Parliament since the Abkhazians broke all the agreements and started an intensive preparation for the secession .

*But another question arises – if since 1991 all the legal relations between Abkhazia and Georgia had been broken, how the above-mentioned laws could be adopted and amendments to the Constitution of the Abkhazian ASSR made stressing that Abkhazia as an Autonomous Republic remained within Georgia?!*

Understanding that the existing legal plant does not leave any chance to separate Abkhazia from Georgia, the separatists started preparing an armed conflict aimed at forcible elimination of the Georgian population (partly killing, partly terrorizing) and "build the independent state" on the "freed from occupants territories".



B.) V. Ardzinba insists that "in February of 1992 the Military Council of Georgia decided to abolish the Constitution of 1921 in which there was no mentioning of Abkhazia as a subject of the state-legal relations".

Firstly, as it was shown above, in 1921 Constitution of Abkhazia "appears" as the subject of state-legal relations, that were rather progressive for those times.

***Secondly, if V Ardzinba considers this decree of the Military Council of Georgia to be legally binding act, then why is it silent on the following: the act states in black and white that the status of Abkhazia and Ajaria is preserved inviolable, taking into consideration the existing relations, Le. these autonomous republics were to maintain all the powers prescription by their constitutions, in conformity with the Constitution of Georgia.***

It is worth to note that many provisions of the abrogated Constitution continued functioning "till the adoption of a new Constitution". That was inevitable during transitional period. That above-mentioned realism intended the restoration of that principles of the 1921 Constitution and not immediate abrogation of all existing political institutions and legal acts.

***Consequently, after the February of 1992 Abkhazia legally continued to be an integral part of Georgia. The abrogation of the Constitution in force in Georgia, and later of already amended version in post-Soviet Georgia, was conditioned by the necessity of the legal severance till the tragic past – the result of the occupation and actual annexation of Georgia. However the validity of legal acts, though being imposed but formally having force of law were never neglected.***

***Any state having broken away from the foreign domination, enjoys the right to revise legal base and establish the needed legal order within the frames of territorial integrity.***

Here it is relevant to speak of the document attached to the first report of the group experts headed by Prof. G. Malinverni, presented to the personal representative of the UN Secretary General (December, 1993). The title of the document is – "Terms and concepts fixed in the document adopted by the parties to the Georgian – Abkazian conflict".

According to this document the term "territorial integrity of the Republic of Georgia" meant " the preservation of the Republic of Georgia within the state borders of the former Georgian SSR, a member-state of the USSR" (Moscow agreement, Sept. 3, 1993, The Resolution of the UN Security Council N 876, P.I) under "the territory of Abkazia" the territory of the former Abkazian autonomous republic as a part of Georgian SSR is meant". (Sochi agreement, July 27, 1993).

This is how the UN, OSCE, CIS, the Council of Europe and the European Union interpret the term "territorial integrity of Georgia".

I have already cited propositions out of the report by Prof. G. Malinvemi, based on the adherence to the inviolability of "territorial integrity and sovereignty" of Georgia expressed in all the resolutions of the Security Council, since 1993 up to nowadays.

Later it was underlined that these are "internationally recognized boundaries. Since 1996 this has been the context where the Formula of the necessity of the determination of

the "political status of Abkazia within" the state Georgia" emerged. (res. 1095 (1965), July 12, 1996).

***Thus the position of the Security Council is quite clear – the political status of Abkazia, which temporarily de-facto had withdrawn from the Jurisdiction of Georgia shall be determined exactly within the boundaries of "the state Georgia ".***

This was the position adhered by the OSCE, European Union, Council of Europe, CIS.

7. As to the right of the people to self-determination up to secession, the modern International Law is rather categorical in this respect: recognizing the right of all people to self-determination within the frames of already existing state and different small in number people existing on the same territory as a part of the population constituting a part of the population of such a state. International Law at the same time rejects ***the right of these people inhabiting a democratic state, to unilateral secession without reckoning with the will of a whole state.***

Modern International Law and first of all International legal practice connects the right to self-determination with the principle of territorial integrity of a sovereign demarcate state "Declaration of the UN on the Principles of International Law" (1970), as well as the base documents of the OSCE, Vienna World Conference on the Human Rights (1993), unanimously recognizing the right to unilateral secession (even by force) only of colonial peoples and people being under foreign domination underline ***that this right should not be understood as the permission and encouragement of any action violating or undermining wholly or partially the territorial integrity or political unity of sovereign independent states, committed to the principle of equality and self-determination of people and accordingly have government, expressing the interests of a whole population living on their territories without distinction of any kind.***

In this respect it is reasonable to quote the extracts from "The conclusions and recommendations of the Conference of law experts of CIS participant states – "Right to Self-determination and Secession in Modern International Law" (July 12-14, Moscow).

"Conference reminds that Modern International Law does not sanction and encourage any kind of action that would lead to the violation (partially or wholly) of territorial integrity and political unity of states, enjoying the principles of equality and self-determination of peoples. Secession is not an unavoidable element of exercising the right to self-determination. It shall not be carried out off the frames of the right to self-determination. National, ethnic, language and religion minorities have no right to self-determination".

It is to be noted that the Abkazian people has never been considered by Georgia as a national minority. It was always emphasized that it is a people historically living in Abkazia together with Georgians and deserving a different treatment than national minorities under international law. That's why the Constitution of Georgia of 1995 particularly states that the Abkazian language in Abkazia enjoys the status of "the State language along with the Georgian one as it was seen above this status of Abkzan language has been in force long before, but until 1995 it was provided only by the Constitution of the Autonomous Republic.

Let's return now to the decisions of the Conference.

"According to the interpretation recognized in the practice of the UN and relying namely on the Declaration of 1970, Vienna Declaration of 1993 and program of actions the secession is admitted in the following circumstances:

- a) If it concerns the people of the territories, subject, to decolonization. Nowadays this has lost its former importance as the process of decolonization is practically finished.
- b) If it is stipulated by the Constitution (or any other law) of a state concerned.
- c) If the territory inhabited by a definite people, was subject to annexation after 1945.
- d) If some peoples inhabit the territory of a state, that doesn't observe the principle of equality and self-determination with regard to these peoples and doesn't guarantee the representation of all sections of population without any kind of discrimination in the governmental structures.

### III

Conference considers that the stipulations quoted above make it possible to formulate the following ensuing conclusions:

1. A state shall not resort to the use of armed force if the question of self-determination arises in a manner not violating the constitutional procedures. A state, however, enjoys the right to resort to an adequate use of force, including the use of armed forces, if in case when the issue of self-determination has been put forward the constitutional order is violated or violence is resorted to.

2. When the question on self-determination and exercising the right to self-determination comes into being in any case the universally recognized norms in the sphere of human rights shall be observed.

3. In case of emergency situation and armed conflict of international and non-international character it is possible to derogate from international obligations in the sphere of human rights within the frames and according to the procedure prescribed by the Constitution of a state and in accordance to the norms of International Law.

4. Actions aimed at combatant terrorism and mercenaries using as a pretext the right to struggle for self-determination, shall be carried out in conformity with law of a state and norms of International Law.

5. States created in violation of the principle of equality and self-determination of peoples, shall not be recognized as the subjects of International Law.

6. An armed interference into the conflict by the third states when the struggle for secession is going on is inadmissible without the sanction of the UN Security Council.

7. A state enjoys right to defend its sovereignty, territorial integrity and political unity (within the frames of its constitutional order and observing its international obligations) against any unlawful act, committed under the pretext of realization of fight to self-determination.<sup>1</sup>

***The right to self-determination up to secession is especially inadmissible, when people "having claims on secession" constitutes not only the minority with respect to the population of a state, but in the very region it inhabits and in which it tries to get an independent power.***

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<sup>1</sup> Moscow Journal of International Law N4, 2000.

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***To say nothing of the case, when nearly a half of this people is in mixed marriages, with the representatives of majority and on the whole the territory of the region doesn't constitute an indivisible compactly living ethnic community (see the map).***

This principle is followed by the International Community of States on global (UN) as well as on regional (OSCE, European Union, CIS, etc.) levels otherwise, as it was many times underlined by the UN Secretary General Butros Butros Galli, the world will become an arena of chaos ("Agenda for Peace" a-19, 1992).

***This is why not a single political entity on the post-soviet space "seceded" from a Union Republic with arms in hands is recognized by the UN, OSCE, European Council and CIS.***

Today the right to self-determination for a such people is considered as the right to maximum self-expression in the sphere of language, traditions, culture and even political institution, but within the boundaries of the state having respect for these rights.

And in concluding my comments I shall examine the separatists' attempt to claim "the lawfulness" of all kind of "election" to the so called parliament and to called president, as well as holding so called "Referendum on independence of Abkazia".

It is known that the UN Security Council and the summits of OSCE and CIS, Union and Council of Europe condemned these "elections" and the "referendum", conducted in the absence of 4/5 of the population of Abkazia, when as a result of ethnic cleaning taking lives of 10.000 innocent civilians, thousands civilians died, women and children raped and many of them killed. Being terrorized more then 200 000 Georgians left the region, more then 100.000 representatives of other nationalities had to follow them as it was already mentioned about 40.000 Abkazians left the region not to be associated with the existing criminal regime.

Today separatists claim that 350 000 of pre-war population live in Abkazia, and among them are 100.000 Georgians. What gives them the right to "take there such political measures".

According to the calculations of the UN bodies, nowadays in Abkazia there are not more than 150.000 people out of 5.500.000 being before the conflict. Taking into consideration the fact that several thousands of Georgians having again returned to Gali district at their risk after the events of May 1998, basically shuttle up and down, being afraid to become victims of a new terror, and the fact that they didn't participated in "elections" and "referendum", that beyond the borders of Gali district practically no Georgian population is left, then it appears that ***less than 1/7 of eligible voters took part in "these political measures "***,

This was one of the grounds for condemning these "measures" as legally invalid by the UN Security Council, OSCE and CIS as well as by the European Union and Council of Europe.

V. Ardzinba blames the UN Security General: "the statements in your report of January 19, 2000 and the security Council Resolution of January 31, 2000 about inacceptability and illegality of elections may cause only bewilderment".

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For some reason V. Ardzinba "forgets" an acute criticism by the Russia Ministry of Foreign Affairs: "these measures could not be logical in the absence of the major part of the Abkazian population".

For some reason V. Ardzinba "forgets" that he himself has been heading the criminal regime condemned by the International Community for ethnic cleaning (see above).

***These are the main arguments dismissing the attempts of the Abkazian side to prove "the legitimizes to cession and claims to be really "an independent state de jure".***

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It is obvious that the Abkhaz separatists having managed with the foreign military support to violate the territorial integrity of Georgia and proclaim so called "Independent State of Abkhazia" ignoring the will of International Community of States, as well as the core principles of International Law including International Humanitarian Law.

All the efforts of the UN, OSCE, CIS and the Council of Europe to settle the conflict peacefully basing on the respect of territorial integrity and sovereignty of Georgia have been failing – the separatists reject any kind of the Status of Abkhazia within Georgia until Abkhazia is not recognized as an independent state.

Meanwhile more than 300. 000 refugees and IDPs continue to be in a tragic conditions being deprived of the right to return home on the whole territory of Abkhazia.

In my understanding it is a unique case when a criminal regime stands against the whole world community being sure that nobody can force it to obey to the existing rules of International Law.

How long it will continue, that's the question.