



**Open Society – Georgia Foundation**

***N1***  
***Policy Paper***

**On the Reasons, Dynamics, Ways, and Possible  
Directions of a Solution to the Georgian-Ossetian  
Conflict**

**Tbilisi  
2005**

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## **On the Reasons, Dynamics, Ways and Possible Directions of a Solution to the Georgian-Ossetian Conflict**

### **The motivation for the given work**

#### ***The problem***

The conflict in the former South Ossetian Autonomous Region (SOAR) has today evolved into a new phase. The frozen conflict, which has been at an impasse for years due to the complexity of the problem, rather negative interference of external players, and the failure of the conflicting parties to compromise, seems to be thawing. The developments of the summer of 2004 also demonstrated that the conflict dynamic could revert to negative trends.

The Georgian government and Georgian society need to make great efforts to keep the situation under control and, at the same time, ensure progress in the conflict resolution process. The government has enough leverage to work towards this end. However, NGOs and the academic community can also make a valuable contribution to these efforts and there are various ways that they can do this. Independent analysis of the problem and outlining potential developments and scenarios is one possibility. Until recently, unlike the Abkhaz-Georgian confrontation, little effort has been directed towards studying the reasons and dynamics of the Georgian-Ossetian conflict or to prepare respective recommendations.

At the same time, apart from alarming events unfolding in the region, Georgian society and the government have intensified the search for proposals directed towards full conflict settlement. This process should not be overlooked and must be supported. Georgian President Mikheil Saakashvili's statement at the 59<sup>th</sup> session of the UN General Assembly in September 2004, promising a phased resolution of the conflict, deserves attention. Also noteworthy are peace initiatives brought forward in Strasbourg in January 2005 and a conference in Batumi, organised in cooperation with the Friedrich Ebert Foundation, where the above-mentioned initiatives were presented as more detailed projects. The process actually culminated at the OSCE ministerial meeting in Ljubljana, during which Georgian Prime Minister Zurab Nogaideli put forward a timeline for the peace plan.

Under such circumstances, society must become more active, pushing ahead with the development and advocacy of peace initiatives. Respectively, two factors have led to the creation of the given work. The first is that this policy proposal, i.e. the package of analysis and recommendations for the problem of South Ossetia, is quite timely, since the Georgian government's proposals need further elaboration, while their themes must be justified and explained in more detail. It is likely that alternative proposals may become necessary regarding some issues, especially the search for reasons behind the conflict and confidence building. Above all, this work can help facilitate a dialogue both within Georgian society and between the Georgians and Ossetians.

The second factor is that the perspective that the peace approach does not have any viable alternatives is not yet widespread. The syndrome of irreconcilability is firmly rooted in both conflicting parties. Under such circumstances, even a minor provocation by external players or internal forces interested in extending the conflict – or even an accident (which remains a constant danger) – can lead to a large-scale escalation of hostilities.

Acknowledging the reasons behind the government's statements in New-York, Strasbourg and Batumi, as well as the government's general action plan, we think that it is essential to elaborate on them further and promote the idea that the only viable solution to the conflict is a peaceful

one. Any form of violence, even verbal, can significantly hamper the peace process. The given policy proposal was written with the strong belief that the conflict cannot be settled without this process and is intended for all Georgians and Ossetians. Of course, this work does not answer all the questions about the reasons and likely solutions for the conflict. This package of proposals is based on several fundamental principles of conflict resolution and is open to public debate and/or amendments. At the same time, a large part of the work is focused on the underlying causes and dynamics of the conflict. We think that without such a publication it would be hard to develop any comprehensive legal, political or economic models for resolution. Past injuries, mistakes, and the intensity of the conflict largely determine whether proposals are accepted or rejected. We have to trace the conflict from its outbreak to the present day and find out how and why alienation and irreconcilability gained a foothold. This will give a clearer view of potential methods and stages of conflict de-escalation.

### ***The objective***

The Open Society – Georgia Foundation set-up a working group to collect and classify available verbal and written data on the Georgian-Ossetian conflict, its dynamics, and the search for solutions, and then to analyse the collected materials. The working group tried to use the results of the project to outline measures for confidence building and formulate a vision for the potential status of South Ossetia.

### **The following results were achieved during the project:**

- Facts relating to the Georgian-Ossetian conflict were compiled: analysis of the political, legal and public relations issues on the basis of respective documents, literature and periodicals from pre-Soviet times to the present day;
- Recommendations were made aiming to restore confidence between the conflicting parties; some economic aspects of the conflict resolution were analyzed;
- Basic principles to define the status of the former S.O.A.R in the Georgian state were drawn up;
- Appendix I: comments were made on some political and public figures who are involved in analytical or political processes aimed at a final conflict resolution (results of the focus group discussions in the framework of the project)

### **The project was carried out by:**

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*Authors would like to thank Mr. Tamaz Diasamidze, the author of the of the book “Regional Conflicts in Georgia – South Ossetian Autonomous Region, Autonomous Republic of Abkhazia (1989-2005). Political and Legal Documents”, which they consulted often while working on the present work.*

## **The origin of the conflict**

### **The creation of the South Ossetian Autonomous Republic**

Comment: The given work does not aim to analyse the centuries-long relationship between Georgians and Ossetians in depth. Without disparaging the importance of the people's collective memory, we think that the past history should be dealt with by (honest) historians, while the current problems must be addressed by politicians.

Still, giving the floor to representatives of the social sciences, one should take into account the views of S. Arutyunov, a corresponding member of the Russian Academy of Sciences and the director of the Caucasus Department of Ethnographic Studies of the Institute of Ethnology and Anthropology of the Russian Academy of Sciences: "Remember how this terrible fire unfolded in South Ossetia – only because Ossetia declared independence from Georgia. The conflict was inevitable, as this territory is not Ossetia. It is essentially a central part of Georgia, which has been dominated by the Ossetian population for the last several centuries. No doubt, the Ossetians have legitimate rights to live on this land. But they have no right to create an independent state there. The case of North Ossetia is quite different."<sup>1</sup>

The South Ossetian Autonomous Region (SOAR) was created in Georgia immediately after the Soviet government came to power in the country. The "specifics" of the Soviet law make it difficult to assess legal aspects of the Soviet period. Having usurped power the Bolsheviks set-up various illegitimate bodies to rule the country – revolutionary committees, bureaus, councils, and different kinds of sittings or central committees. Although the government was formally elective, it had nothing to do with actual free and fair elections. The Soviet rulers not only ignored the public interests; their policies were in direct contradiction to them. This style of leadership gave birth to an endless series of crimes against nations and citizens. That is why the Soviet legacy cannot provide the foundation for the development of relations between former Soviet republics and nations today.

However, the Soviet past should not be ignored, considering that:

- Past decades, and the lives of past generations, cannot be removed from history;
- These decades continue to have a strong impact on the mentality and lifestyle of citizens in post-Soviet territories;
- The failure to learn the lessons of history can lead to new tragedies;

At the same time, a selective approach to the Soviet legacy – highlighting some politically beneficial facts and turning a blind eye to others – does not have any logical or legal justification. Controversial issues cannot be settled on the basis of such an approach.

The SOAR was formally created in Georgia by a decree of the Central Executive Commission and the Board of the People's Commissioners of the Georgian Soviet Socialist Republic on April 20, 1922. However, the term "South Ossetian autonomy" first emerged in political documents much earlier, in late 1917. At that time "a congress of South Ossetian delegates" elected the "National Council of South Ossetia" and requested that the Georgian government set-up a respective administrative unit. On March 28, 1920, the National Council of South Ossetia founded the Revolutionary Committee of South Ossetia. That October the "revkom" appealed to

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<sup>1</sup> Interview with the *Rodina* magazine, No.1, 1992, p.71 (extracts from the almanac "Ossetian Issue", a collection of articles, Tbilisi, published by Kera-XXI, 1994, p.267)

the Russian Communist (Bolshevik) Party, requesting the status of autonomy for South Ossetia.<sup>2</sup> After Georgia was forcefully turned into a Soviet republic, the new Bolshevik government revisited the issue. On October 31, 1921, the Caucasus Bureau, which was also interested in the case, awarded South Ossetia with the rights of an autonomous region and requested that the Georgian revkom and the executive committee of South Ossetia delimit the region's borders.<sup>3</sup>

**Comments:** The decree was one of the steps towards the establishment of the so-called 'Lenin principles' of the national policy. At the same time, it was recognition of the Ossetian Bolsheviks' fight against the government of the Georgian Democratic Republic. The 1920 uprising was one of the most dramatic episodes of this fight. The Georgian government crushed the rebellion with the help of regular army units and national guards, which carried out a punitive raid on rebel Ossetian villages even though the revolt was actually over. Painful memories of the ensuing bloodshed and destruction continue to haunt the Ossetians even today.

Unlike Abkhazia and Ajara, the autonomous status of which was based on firm political and historical grounds and traditions and was recognized by the independent democratic Georgian republic, the Ossetians were viewed in Georgia at that time as an ethnic minority with constitutionally guaranteed rights, though without territorial or any other form of autonomy.<sup>4</sup> Under the law on the representation of ethnic minorities in the National Council of Georgia, which was passed on September 13, 1918, ethnic minorities had 26 seats in the Council, including 10 ethnic Armenians, 4 Azeris, 3 Abkhazian, 3 Russians, 2 Ossetians, 1 Jew, 1 Greek, and 1 German.<sup>5</sup>

**Comments:** Consequently, the idea of South Ossetian autonomy was a product of the Soviet government. However, the term "South Ossetia" (some Russian documents specify the region as "Mountainous Ossetia") emerged about a century before the idea of autonomy was born.

The issue of Tskhinvali played an exceptional role in the creation of the SOAR. The Central Executive Committee of Georgia resolved on December 12, 1921, that until the attitudes of the district's Georgian population changed, power in the city and neighbouring villages should remain in the hands of the district's revkom, which was under the Gori Mazra.

**Comments:** This decision was conditioned by the ethnic structure of the Tskhinvali population. In 1922 the city was home to 1436 ethnic Georgians, 613 Ossetians, 765 Armenians, 64 Russians, and 1651 Jews.

The 1922 constitution of the Soviet Socialist Republic of Georgia already stipulated that the SOAR was an integral part of Georgia. The following constitutional amendments did not change this status. The Georgian central government had the exclusive prerogative to carry out the country's domestic policy, manage the national economy, approve constitutions (in Abkhazia and Ajara) and regulations (in South Ossetia) of autonomies, and to suspend or abolish unconstitutional decisions of the authorities of the autonomous regions.

The law on the South Ossetian Autonomous Region of the Soviet Socialist Republic of Georgia, passed on November 12, 1980, is maybe the most comprehensive document about the administrative structure and competences of the South Ossetian governing bodies.

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<sup>2</sup> According to the book: *Ossetian Issue*, Tbilisi, published by Kera-XXI, 1994, p.244-246)

<sup>3</sup> *ibid*, p. 301

<sup>4</sup> The Constitution of the Georgian Democratic Republic, Chapter 11, passed on February 21, 1921

<sup>5</sup> *Legal Acts of the Democratic Republic of Georgia 1918-21*, Tbilisi, 1990

**Comments:** The idea of the unification of South and North Ossetia is another important issue in relation to the status of South Ossetia. Soviet leaders considered this idea at various levels from 1925-27.

A congress of the councils of North Ossetia demanded unification in 1925. A congress of the councils of South Ossetia backed the demand, emphasising in its resolution that the unified region should remain within the boundaries of Georgia. That same year the Central Executive Committee of Georgia and the Central Executive Committee of the Transcaucasus approved the idea. The 7<sup>th</sup> congress of the councils of South Ossetia on March 12-16, 1927 revisited the issue and approved measures aimed at unification. It also called upon the executive committee of South Ossetia to push ahead with the unification plan.

**Comments:** However, no other steps were taken. It seems that the Kremlin was not at all interested in the unification of South and North Ossetia. There were no tensions in relation to the status of South Ossetia until the late 80s, when the U.S.S.R. started to break up.

### **The development of the Georgian-Ossetian conflict in recent times: chronology and assessments**

**Comments:** The escalation of Georgian-Ossetian tensions began in the late 80s. It seemed as if the pre-Soviet history of the two nations “came back” and their old confrontation, which traces back to the last days of the Russian Empire, was revived in their collective memory. The conflict that broke out as a result of this has political, economic and criminal elements, and apparently reflects the contradiction between the Georgian and Russian/Soviet political projects. However, the Georgian-Ossetian ethnic confrontation is its main motive and form, giving the conflict a specific “flavour.” It can be illustrated by: a) the “war of laws” between Tskhinvali and Tbilisi; b) the confrontation in Georgian and Ossetian rhetoric and discourse, reflected in quarrels between public figures and political leaders, or the so-called ‘authors of views’; and c) conflicts between Georgian and Ossetian armed forces. Respectively, the conflict in South Ossetia and neighbouring territories is apparently ethnic. This can be seen in the following material regarding the events of 1989-2004.<sup>6</sup>

The conflict in the SOAR evolved into an armed confrontation through several phases of escalation. The initial stage of the conflict corresponded with internal political processes in the Soviet Socialist Republic of Georgia and in the U.S.S.R. in general. On the one hand, this process was greatly fuelled by the development of “informal” movements in Georgia. On the other hand, it was facilitated by the demise of the Soviet Union.

Public debate on potential amendments to the constitution of Georgia and the legal status of the Georgian language was one of the first signs of the looming escalation of tensions. The debate triggered parallel tendencies in both autonomous regions of the former Soviet Socialist Republic of Georgia (SSRG) – Abkhazia and South Ossetia.

#### **1. The conflict development in the South Ossetian Autonomous Region**

The newspaper *Literaturuli Sakartvelo* published lawyer and professor Tamaz Shavgulidze’s article about the legal status of the Georgian language on January 27, 1989. An extract from the article reads that: “Under the current legislation, the country’s state language, Georgian, should be used in the official procedures on the territory of the SOAR. At the same time, the Russian and Ossetian languages should be widely used there as well.”

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<sup>6</sup> These materials are based on the documents kept in private archives of the authors of the given article. All the documents or materials referred to in the article are available upon request.

Two weeks later the newspaper published a reader's (engineer Nodar Nebieridze's) letter titled "Let's Defend the Status of the State Language." A quote from the letter reads: "In November 1988 the Tskhinvali branch of the Savings Bank, No. 3503, refused to give out salary money to the Gori mobile-mechanical division of the 15<sup>th</sup> trust of the republican consortium 'Sakagromsheni.' Employees of the bank, Jioyev and Gogolayev, explained that the money order was turned down because it was written in Georgian, a language the personnel of the bank did not understand."

On May 5, 1989, *Literaturuli Sakartvelo* published comments on the developments in Abkhazia in March. The Iliia Chavchavadze Society had launched an unauthorized rally in Sokhumi, which led to the escalation of Abkhaz-Georgian tensions. The Gudauta-based *Bzip* newspaper published a letter from a reader named Vozba on April 4, 1989, accompanied with the article "My Dear Abkhaz Friends" by Alan Chichoyev, one of the leaders of the South Ossetian separatist movement "Adamon Nikhas." Vozba claimed in his letter that the leadership of the autonomous republic supported the informal Georgian rally and called upon the people to defend their land and language from Georgian extremists. The small Gudauta-based *Bzip* newspaper appeared in the vanguard of the secessionist campaign, having published letters from its readers Tatiana Bokuchava and Vano Dgebuadze, which asserted that there was no need to speak Georgian in the territory of Abkhazia. These publications drew a rather aggressive response from the Georgian national media.

After April 9, 1989, Georgian public opinion was mainly shaped by Zviad Gamsakhurdia, one of the leaders of the Georgian national-liberation movement who actually took control of the editorial policy of *Literaturuli Sakartvelo*. He instructed the newspaper to re-print virtually all publications of *Bzip*, including Chochiev's and Vizba's above-mentioned letters (before this the former was unknown to the Georgian public).

Afterwards, *Literaturuli Sakartvelo* published an appeal letter to the Central Committee of the Communist Party of Georgia (CPG), the Supreme Council of SSRG, and the editorial board of *Literaturuli Sakartvelo*, denouncing Alan Chochiev's position. The letter was unanimously approved by a congress of the Regional Soviet of the SOAR on May 6, 1989.<sup>7</sup> The authors of the letter emphasised that Alan Chochiev's views reflected the stance of the extremist organization "Adamon Nikhas," rather than the Ossetian nation's will. In addition, the newspaper published letters of some Ossetian intellectuals who also condemned Alan Chochiev's attitude.

On June 2, 1989, *Literaturuli Sakartvelo* published a letter from reader Diana Machabeli. A part of this letter reads: "Let one ask Alan Chochiev whether he was ever concerned with the discrimination of Georgian 'brothers'. If a consumer approaches a shopkeeper in Georgian, there is no response. Georgians are never appointed to key positions. Georgian residents of Tskhinvali and neighbouring villages seek jobs in Gori or the Gori district and the Georgian population is gradually declining in the region."

On June 16, 1989, *Literaturuli Sakartvelo* published an appeal to the Supreme Council of the SSRG from the congress of the Georgian Writers Union (GWU), held on June 15, demanding that "an agreement between the Russian Federation and the Democratic Republic of Georgia, signed on May 7, 1920, be recognized as disavowed by the Russian Federation and, respectively, the Democratic Republic of Georgia as annexed on February 25, 1921." The congress also stated that the "actual sovereignty of the SSRG should extend over the entire territory of the country...[and the] laws of the U.S.S.R. should be enforced on Georgian territory only if approved by the Supreme Council of the SSRG...If the current Supreme Council of the SSRG is

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<sup>7</sup> *Literaturuli Sakartvelo*, May 12, 1989

unable to settle these issues positively, Georgia must hold a referendum on invoking Article 72 of the U.S.S.R. constitution (the right to withdraw from the U.S.S.R.).”

The Supreme Council of the SSRG ruled on June 20, 1989, to set-up an ad hoc commission for a political and legal assessment of the violation of the 1920 May 7 agreement between the Russian Federation and the Democratic Republic of Georgia.

The CPG Central Committee, the Supreme Council of the SSRG, and the Council of Ministers of the SSRG issued a decree on August 15, 1989, about a state program of the Georgian language.<sup>8</sup> The program addressed only the issue of the Georgian language, stipulating its constitutional status and requiring its use in every party, soviet, administrative, scientific-research, cultural and industrial institution or enterprise, and public organization. It also called for the development of specific programs for the mandatory teaching of Georgian in non-Georgian secondary schools of the country and the wide use of Georgian in public utilities and information services.

**Comments:** Tensions immediately followed the August 15 decree. “Adamon Nikhas” used it as a pretext for its further actions. The state program of the Georgian language became the reason behind the first protest rally led by activists from “Adamon Nikhas.”

The South Ossetian Regional Committee of the CPG and the Executive Committee of the South Ossetian Regional Soviet of People’s Deputies (SORSPD) approved a state program of the Ossetian language, which received broad public support. They also appealed to the CPG Central Committee, the Supreme Council of the SSRG, and the Council of Ministers of the SSRG for respective amendments to the first article of the state program of the Georgian language, in line with the Georgian legislation and the Ossetian language program. The constitutional status of the Ossetian language was the centrepiece of the Ossetian language program: Ossetian, Georgian, and Russian (as the means of inter-ethnic communication in the U.S.S.R.) were declared as official languages of the SOAR and Ossetian schools had to be arranged for ethnic Ossetians living outside South Ossetia, while in areas without such a possibility Ossetian language and literature should be included in school curricula. Consequently, the Ministry of Education of the SSRG was to recruit inspectors of Ossetian language and literature and introduce the Ossetian language into the curricula of Georgian secondary schools and the Georgian language into Ossetian schools beginning from the 5<sup>th</sup> form. The program also called for the supervision of the production of TV programmes in South Ossetia.<sup>9</sup>

On September 26, 1989, at its 11<sup>th</sup> session, the SORSPD passed a special resolution on amendments to the constitution of Georgia. A proposal was submitted to the Supreme Council of the SSRG to amend article 75 of the constitution with the following clause: “The official language of the South Ossetian Autonomous Region is Ossetian.”<sup>10</sup>

**Comments:** Givi Gumbaridze, First Secretary of the CPG Central Committee and Chitanava, Chairman of the Council of Ministers, visited Tskhinvali in late September 1989 for talks with representatives of the local public and party nomenklatura. The talks came as a response to the resolution on the Ossetian language program approved by the South Ossetian Regional Committee of the CPG and SORSPD on September 4, 1989.<sup>11</sup>

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<sup>8</sup> *Kommunisti* newspaper, No. 196, August 25, 1989

<sup>9</sup> *Sabchota Oseti* newspaper, No. 170, September 5, 1989

<sup>10</sup> *Sabchota Oseti* newspaper, No. 188, September 28, 1989

<sup>11</sup> *Komunisti*, September 28, 1989

Similar processes developed in Abkhazia. The Abkhazia Regional Committee of the CPG, the Supreme Council of Abkhazia, and the Council of Ministers of Abkhazia approved an Abkhaz language program on October 10, 1989.<sup>12</sup>

**Comments:** A massive campaign of public rallies began in the SOAR in October 1989, with the first demonstration taking place in Tskhinvali. In response, the Georgian government sent additional Georgian police units to the town. However at that time the demands of “Adamon Nikhas” and its leader, Alan Chochiev, were quite moderate. In Chochiev’s opinion, it was too early to raise the issue of the status of South Ossetia at that moment.

**Comments:** At that time the SOAR was governed by Anatoly Chekhoyev. He demanded that the Georgian government take a tough line with “Adamon Nikhas.” In his words, the enforcement of the Georgian language program was only a pretext. “Some forces are not interested in the economic, social, and political stabilisation processes that have become evident in the South Ossetian Autonomous Region in recent times. They are trying to muddy the waters and fuel ethnic tensions to achieve their wicked goals. But we will never give in and will fight them to the end,» Chekhoyev said.

Despite efforts of the regional committee of the CPG, however, “Adamon Nikhas” prepared “a petition of Ossetian workers” addressed to the Supreme Council of the U.S.S.R., the Council of Ministers of the U.S.S.R. and the Central Committee of the Soviet Union’s Communist Party. In this petition the “Ossetian workers” and “Adamon Nikhas” jointly denounced processes that were going on in Georgia at that time.<sup>13</sup>

**Comments:** The 12<sup>th</sup> extraordinary session of the SORSPD, on November 10, 1989, marked the start of “an all-out war of laws.”

November 10, 1989 – The 12<sup>th</sup> extraordinary session of the SORSPD resolved to upgrade the status of South Ossetia from an autonomous region to autonomous republic. Participants of the session called upon the Supreme Councils of the SSRG and U.S.S.R. to consider awarding South Ossetia with the status of autonomous republic.

The delegates also decided to alter the first article of the resolution about the state program of the Ossetian language, which was passed at the 20<sup>th</sup> session of the SORSPD on September 26, 1989. They resolved to make Ossetian the region’s official language, while Georgian and Russian could be used freely in line with the U.S.S.R. language policy.<sup>14</sup>

**Comments:** This session was convened after the Georgian leadership refused to take into account the demands of the September 26 session regarding constitutional amendments on the issue of the Ossetian language. Thus the Ossetians themselves made Ossetian the official language. At the same time, however, they made it clear that everybody was free to use Georgian on the territory of the SOAR. The session also resolved to abolish the SOAR and establish an autonomous republic, and requested respective authorisation from the Supreme Council of the SSRG.

**Comments:** The central Georgian government was quick to respond.

November 16, 1989, – the Supreme Council of the SSRG passed a special resolution on the decisions of the 12<sup>th</sup> extraordinary session of the SORSPD of November 10, 1989. The Supreme

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<sup>12</sup> *Sabchota Abkhazeti*, No. 202, October 20, 1989

<sup>13</sup> *Literaturuli Sakartvelo*, October 20, 1989

<sup>14</sup> The central state archive of the modern history of Georgia, f.1165

Council underlined that the executive committee of the SORSPD decided to convene the extraordinary session on November 10 on the previous day, November 9, due to strong pressure and threats from activists involved with “Adamon Nikhas.” Following the regional public prosecutor’s protest, the executive committee of the SORSPD cancelled this resolution as unlawful and scheduled the extraordinary meeting for November 25. However, “Adamon Nikhas” pressed hard for the initial schedule and the session was held on November 10. Since the session was in breach of the procedural regulations and issues of the agenda were not within the competence of the SORSPD, the Supreme Council of the SSRG ruled to condemn the decisions of the 12<sup>th</sup> extraordinary session of the SORSPD as illegal.<sup>15</sup>

**Comments:** The Supreme Council of the SSRG discussed only procedural, or formal, aspects of the problem and did not look into its underlying causes, i.e. the fears and interests that drove the population of the SOAR to make such a move.

At that time leaders of the National Movement and active members of the society pressed the then Communist government of Georgia to take legitimate measures to restore the country’s sovereignty.

November 18, 1989 – The Supreme Council of the SSRG passed a resolution on the political and legal assessment of the violations of the agreement between the Russian Federation and the Democratic Republic of Georgia (DRG) of May 7, 1920. It also endorsed the conclusions of the ad hoc committee on the political and legal assessment of the break of the agreement, which was created by the order of the Supreme Council of the SSRG on June 20, 1989. Raising the issue of political and legal assessment of the violations of the May 7, 1920, the agreement between the Russian Federation and the DRG at the 2<sup>nd</sup> Congress of the U.S.S.R. People’s Deputies, was also proposed.<sup>16</sup>

The 13<sup>th</sup> extraordinary session of the Supreme Council of the SSRG convened on March 9, 1990, and passed a resolution on guarantees to protect the national sovereignty of Georgia. According to the resolution, from the legal viewpoint the deployment of Soviet troops across the entire territory of Georgia in February 1921 amounted to a military intervention and occupation aiming to overthrow the existing government, while from the political viewpoint it was actually an annexation of the country. The Supreme Council of the SSRG disavowed the May 21, 1921, agreement between itself and the Russian Federation, and the March 12, 1922, agreement on the creation of the Federation of Transcaucasus Soviet Republics.<sup>17</sup>

**Comments:** At the same time, Georgian society kept a close eye on the development of events in Tskhinvali. Basically, its reaction to these developments was rather aggressive. Nearly 15,000 Georgians led by leaders of the National Movement marched on Tskhinvali on November 23, 1989.

**Comments:** The march was widely seen in South Ossetia as Georgia’s attempt to flex its muscles.

From 1990, top party nomenklatura of the SOAR adopted views of “Adamon Nikhas” and began to echo its radical demands.<sup>18</sup>

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<sup>15</sup> Resolutions of the Supreme Council of the Soviet Socialist Republic of Georgia, No.11, 1989, pp. 7-8

<sup>16</sup> Resolutions of the Supreme Council of the Soviet Socialist Republic of Georgia, No.11, 1989, p. 97

<sup>17</sup> Resolutions of the Supreme Council of the Soviet Socialist Republic of Georgia, No.3, 1989, p. 8-10

<sup>18</sup> *7 Dge*, Aleka Aslanishvili’s article, November 2, 1990

January 29, 1990 – The board of the Writers’ Union of Georgia (WUG), chaired by Zviad Gamsakhurdia, condemned those Ossetian writers (for instance, Naf Jusoit) who allegedly contributed to Georgian-Ossetian tensions. A week later the WUG Board reconvened to discuss the following issues: the abolishment of the SOAR; future operations of the Roki Pass; measures to outlaw the informal association “Adamon Nikhas”; the disarming of the local population; and the punishment of extremists. Naf Jusoit’s case was discussed as a separate issue.

The Board sent an appeal to the Central Committee of the CPG and the Supreme Council of Georgia. Gamsakhurdia also censured the Tbilisi-based Union of Impartial Ossetians, led by scholar Otar Jioyev, and accused it of impotence.

On March 11, 1990, *Literaturuli Sakartvelo* published reader Nikoloz Otinashvili’s open letter to Gamsakhurdia, which described the difficult living conditions of the Georgian community in the SOAR and attempts to falsify the history of Georgia.

**Comments:** It is noteworthy that the Georgian media wrote nothing at that time about the position of Ossetian society. In contrast, Tskhinvali-based Ossetian newspapers regularly published articles reflecting the Ossetian point of view.

A typical example of the Ossetian position: the Ossetian newspaper *Ariag Mund* wrote in March 1990:

*“Hundreds of thousands of Ossetians, who are at the bottom of social and political processes, without any prospect of a political career in the republic, overworked and underpaid, realised that they are guests. Today, alongside other ethnic minorities, they oppose the idea of ‘Georgia Only for Georgians’, and are openly discriminated and suffer from ethnic pressure. The non-Georgian population of Georgia is silently watching how Georgian technology is forging the brown image of freedom. However, progress, rights and democracy, outside contacts with foreign citizens and agencies urge the dumb to break the silence... We are ahead of our time because we recognized pluralism at our own will... The so-called Impartial Ossetians, who received permission from the masters to take a bird’s position among the Georgian falcons of ideology, are so excited that they have forgotten their ethnic identity and created the Union of Impartial Ossetians to support the government. They jumped out of their comfy nests to slam ‘partial’ Ossetians and defend their motherland, Georgia. Each of them considers it a bounden duty to point a fat finger in the direction of the southern slopes of the Caucasus and confirm that the Ossetian residents of that area are crazy... It would be right if you and the likes of you revive the lost sense of dignity, and pride yourself on being members of the strongest tribe. Remember, every republic needs republicans. You will never become them, unless you kill a slave in your heart. In order to help you not get confused and take the events lightly, we quote one of the letters: ‘Dear Alan Chochit! Dear members of Adamon Nikhas! We, a group of Ossetians living in Tbilisi who disagree with the Association of Impartial Ossetians, are writing to inform you that we value your ideas very much, your concerns about Ossetia and the fate of the Ossetian language, because you have woken up the Ossetian nation. We are genuine Ossetian patriots with true Ossetian-Alanian blood in our veins’ (March, 1990). The letter was signed by 158 Ossetian residents of Tbilisi.”*

**Comments:** The letter mainly aimed to discredit the political tactics of Tbilisi, and the government should have thought about these claims. More importantly, the press and the public should have made the government think about the problem.

Against this background the central government of the Soviet Union created a legal base for the escalation of ethnic tensions. It passed a new law on April 3, 1990, regulating the procedure for

seceding from the U.S.S.R. The law actually facilitated the development of separatist tendencies in autonomous regions. The law stipulates: “Article 3 – In a Soviet republic with autonomous republics, autonomous regions, and autonomous provinces, referendums should be held in each autonomy. Populations of autonomous republics and autonomous units shall have the right to decide independently whether they stay in the U.S.S.R. or the seceding Soviet republic, and raise the issue of their legal status.”

**Comments:** Soviet republics responded adequately.

July 20, 1990 – The Supreme Council of the SSRG passed a resolution on the guarantees to protect the national sovereignty of Georgia and set-up an ad hoc commission for the re-establishment of the country’s independence and sovereignty.

**Comments:** The war of laws between Tbilisi and Tskhinvali continued against the backdrop of the legislative-political confrontation between the centre and the republics, and the continuous estrangement of ethnic minorities within the republics themselves. Blood had already been shed by that time. The first refugees emerged on both sides.

September 20, 1990 – The 14<sup>th</sup> session of the SORSPD issued the “Declaration of Sovereignty of South Ossetia”, which underlined that the Ossetian nation had an undeniable right for free self-determination. According to the declaration, full independence is a natural and indispensable prerequisite for the development of the Ossetian nation. South Ossetia was declared a subject of international law and the union agreement. The declaration announced that the SOAR was to be transformed into the “Soviet Democratic Republic of South Ossetia.”

*The session resolved that:*

1. The South Ossetian Autonomous Region should transform into the Soviet Democratic Republic of South Ossetia
2. The Supreme Council of the U.S.S.R. should be requested to give South Ossetia the status of an independent subject of the U.S.S.R. federation
3. Soviet republics should be requested to sign partnership and cooperation agreements with South Ossetia

**Comments:** The SORSPD unilaterally decided to break away from Georgia, though it was not entitled to make such decisions (under the U.S.S.R. constitution, it did not have these respective competences).

The Supreme Council of the SSRG abolished this decision on September 21, 1990.

**Comments:** At that time Georgian newspapers published numerous articles which described Ossetians as guests in Georgia.

The *Mamuli* newspaper published some archive materials of the *Tergi* newspaper in October 1990, which claimed that only Georgians were indigenous to Tskhinvali, while Ossetians settled there much later. An extract from the material reads: “Ossetian residents of Tskhinvali and neighbouring villages – Dvrisi, Tbeti, and Kverneti – appealed to the exarch of Georgia to found a special Ossetian parish in Tskhinvali and allocate funds of the Synod to the construction of a church. Three nations have inhabited Tskhinvali until recently – Georgians, Armenians and Jews. There were only three or four Ossetian families 20-25 years ago. Today more than 50

Ossetian families reside permanently in Tskhinvali. Just as many of them, involved in trade and other activities, live there temporarily. Tskhinvali is attractive for Ossetians as a centre.”

**Comments:** This pathos was characteristic of the political elite, which was dominated by activists of the National Movement at that time. However, there were also other, seemingly more tolerant statements, but they implied that ethnic minorities were not trustworthy and allegedly cherished anti-Georgian attitudes. Such statements could hardly facilitate confidence building and compromise between the ethnic communities.

October 1990 – In a televised address on the eve of the elections to the Supreme Council of Georgia Zviad Gamsakhurdia spoke about Georgia’s independence and sovereignty. He then went on to talk about the problem of ethnic minorities, saying that “Our relationship with the non-Georgian population is another issue, which draws a lot of questions. We have repeatedly stated that we do not mean to oust non-Georgians from Georgia, though some claim that we do. We do not mean to discriminate or persecute them. We want equality. It is an open secret today that Georgian residents are discriminated and oppressed in many regions. We only demand equal rights and an end to the discrimination of the Georgians. At the same time, of course, the rights of non-Georgian ethnic minorities should be legalised.”

**Comments:** This process did not turn into a dialogue, as both sides were unwilling to engage in discussions. The Georgian government did not bother to look into Ossetian proposals, and it seemed that the conflicting parties did everything they could to spite each other. The Georgian government insisted that it would ensure the rights of all ethnic minorities of the country but at the same time, ethnic Ossetians were sacked and evicted from their houses.

October 16, 1990 – The 15<sup>th</sup> session of the SORSPD confirmed its earlier resolution (“About the Sovereignty of South Ossetia”, September 20, 1990) and elected the executive committee of the Soviet Democratic Republic of South Ossetia (SDRSO). It also approved the provisional regulations of the Supreme Council of the SDRSO and elections to the local soviets of the SDRSO. The elections were scheduled for December 2, 1990. The session also endorsed the resolution of its previous, 14<sup>th</sup> session of September 20, 1990, “About the Transition of the South Ossetian Autonomous Region into the Soviet Democratic Republic of South Ossetia.” Participants of the session emphasised that these decisions were in full compliance with U.S.S.R. legislation. The session condemned the elections to the Supreme Council of the SSRG and respective polling stations on the territory of South Ossetia as illegal.

The elections, which would be the first-ever multi-party elections in the history of Soviet Georgia, took place on October 28. The majority of the ethnic Ossetian residents of South Ossetia boycotted them.

*Literaturuli Sakartvelo* published an interview with Vakhtang Razmadze, the prosecutor general of Georgia, about counter-crime measures on the territory of the SOAR.

**Comments:** Against the background of significant political processes the Prosecutor General of Georgia (i.e. the Georgian government) classified the developments in the autonomous region as criminal activities, though administrative measures must have been taken to deal with them.

Journalists went on strike in Tskhinvali on November 2, 1990. The publishing house of Tskhinvali refused to print a Georgian newspaper. The Georgian press reported: “We have received alarming news from Tskhinvali. Local colleagues, journalists and editors of the *Sabchota Oseti* newspaper told us that the illegitimate authorities of the so-called Soviet Democratic Republic of South Ossetia defied every resolution and decree of the Supreme

Council of the SSRG concerning the South Ossetian Autonomous Region. These authorities are making every effort to subdue Georgian journalists of Tskhinvali, trying to force them to publish their anti-Georgian documents and materials, fuelling tensions between the two nations. This policy has brought its consequences. The Georgian population has grown angry at the *Sabchota Oseti* newspaper. The newspaper is about to shut down. The Ossetian newspaper *Soviet Iriston*, published by the regional committee of the Georgian Communist party and the regional soviet of people's deputies, has been printed already as a publication of the regional committee of the Georgian Communist party and the Soviet Democratic Republic of South Ossetia. What does it mean? Did the regional party committee, and thus the Georgian Communist party, recognise the newly founded Soviet Democratic Republic? Editors and journalists of the *Sabchota Oseti* refused to comply with any supervisory bodies, including the regional committee of the Georgian Communist party, and found a new, fully independent public-political newspaper *Chveni Samkvidro* with the motto 'We Will Not Deprive Anybody of Their Motherland, Let Nobody Take Away the Ours'. They began to put the idea into practice but when the printing was about to start, the publishing house of the publishing association of the South Ossetian Autonomous Region (directed by A. Kavishova) refused to publish a newspaper with such a name. The publication was foiled. It is noteworthy that the newspaper was going to publish results of the elections to the Supreme Council of Georgia in the constituencies of Tskhinvali and the Tskhinvali district. The Georgian community of Samachablo did not get this information. On the other hand, the same night the publishing house printed *Ironi Gazeti*, an unregistered newspaper of Adamon Nikhas. Such lawlessness, discrimination and contempt for professional dignity filled the Georgian journalists of Tskhinvali with indignation. They went on strike in protest. The Georgian newspaper will not be published from November 1. We contacted Tskhinvali again on November 5. In the words of Vasil Sabanadze, the acting editor-in-chief of the *Chveni Samkvidro*, formerly *Sabchota Oseti*, the personnel of the editorial board are determined to continue the strike until justice is restored."

November 22, 1990 – The newly elected Supreme Council of Georgia abolished the SORSPD resolution of September 20, 1990, about the transition of the autonomous region to the so-called "Soviet Democratic Republic of South Ossetia" and, respectively, all its decisions, including the elections scheduled for December 2, 1990.<sup>19</sup> The Supreme Council of Georgia called upon all residents of the "South Ossetian Autonomous Region", especially ethnic Ossetians, to make a careful assessment of the dangerous separatist actions, which could lead to general instability and hard, unforeseen consequences.

November 28, 1990 – the 16<sup>th</sup> (2<sup>nd</sup>) session of the Soviet of People's Deputies of the SDRSO resolved to rename the Soviet Democratic Republic of South Ossetia the "Soviet Republic of South Ossetia", removing the word "democratic."<sup>20</sup> The resolution was signed by T. Kulumbekov, Chairman of the Executive Committee of the Soviet of People's Deputies of the Soviet Republic of South Ossetia. The session also appealed to the Supreme Council of the U.S.S.R. to recognise the Soviet Republic of South Ossetia (SRSO) as a separate entity of the Soviet federation. Elections to the Supreme Council of the SRSO were carried out on December 9. According to official sources of Tskhinvali, the voter turnout was 71%.

**Comments:** In the late 1990s, the war of laws, which seemed to be gradually moving towards an actual war, reached its apex: the Supreme Council of Georgia passed a law on December 11, 1990, which abolished the SOAR, the SORSPD and its executive committee, as well as other governing bodies of the autonomy, in accordance with Article 104, paragraphs 3 and 11, of the

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<sup>19</sup> Resolutions of the Supreme Council of the Soviet Socialist Republic of Georgia, No.11, 1989, pp. 57-58

<sup>20</sup> *Sovetskaya Osetia* newspaper, No. 226, December 1, 1990

constitution of Georgia. It also cancelled and invalidated the results of the December 9 elections to the Supreme Council of the so-called Soviet Republic of South Ossetia.<sup>21</sup>

The law stated that separatist forces of South Ossetia were trying to take away a historic and inseparable region of Georgia. The following arguments were provided for the abolition of the SOAR: 1) the SOAR was established in 1922 against the will of the Georgian population and contrary to Georgia's national interests; 2) Ossetian statehood already existed in the U.S.S.R.; 3) only a small number of the Ossetian residents of Georgia lived in the South Ossetian autonomous region.

The same day the Supreme Council of Georgia declared an emergency law in the territory of the former SOAR and passed a law on emergency regulations.<sup>22</sup> The constitution of Georgia was amended accordingly.

The National Congress of Georgia, which was in opposition to Zviad Gamsakhurdia's government at that time, issued a statement on December 14, 1990 denouncing the Supreme Council's decision as inadequate, though admitting that it was quite legitimate.<sup>23</sup>

**Comments:** The Congress was not the only political body of Georgia to look into the expediency of the Supreme Council's decision. Some members of the Supreme Council also disapproved of the law. On the whole, however, the majority public opinion in Georgia was in favour of the abolition of the SOAR and the name that the SDRSO had given the region. This attitude can be classified as nationalistic. Some clauses of the Supreme Council's law were obviously marked by emotional nationalism rather than political or, more importantly, legal correctness.

The law was clearly consistent with the publications of *Literaturuli Sakartvelo* and other newspapers. It would be hard to give a different evaluation of the arguments specified above for the abolition of the autonomy. The argument that nations with their own statehood have no right for autonomous enclaves in another country does not seem logical from the legal viewpoint. Another argument, claiming that the South Ossetian autonomy was created decades ago against the will of the Georgian population and contrary to Georgia's national interests, also does not seem legally valid. Such arguments required, at the very least, the setting up of a special commission, while the issue should have been analysed in depth and discussed extensively.

Obviously, the decisions of the South Ossetian leaders were not quite adequate or legitimate. But the response of Tbilisi, namely of Gamsakhurdia's government, must be also assessed as disproportionate. Under such circumstances, escalation of the conflict was inevitable.

## **II. Further escalation of the conflict – “hot stage”**

Mikhail Gorbachev, then president of the U.S.S.R., issued a decree on January 7, 1991, which addressed the Georgian-Ossetian war of laws and ensuing tension. Gorbachev's decree classified the recent decisions of both Tskhinvali and Tbilisi – the upgrade of the status of SOAR and the abolition of the autonomy – as unconstitutional. Gorbachev underlined that any change of the SOAR's status needed the approval of the U.S.S.R. Supreme Council. It was also emphasised that the Supreme Council of Georgia breached the procedural regulation on changing the status of autonomy. The Georgian government's decision to declare emergency law in Tskhinvali and Java district, and deploy Georgian police, security forces, and interior troops for law enforcement, was also seen as illegal in Moscow.

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<sup>21</sup> Resolutions of the Supreme Council of the Soviet Socialist Republic of Georgia, No.12, 1989, pp. 10-12

<sup>22</sup> *Sakartvelos Respublika* newspaper, 1990, December 12

<sup>23</sup> *Sakartvelos Respublika* newspaper, 1990, December 14

Referring to the Article 1273 of the U.S.S.R. constitution and the law on measures to ensure the enforcement of Soviet legislation, passed on October 24, 1990, the U.S.S.R. President ruled to outlaw the recent decisions of both the Georgian government and the South Ossetian authorities, and ordered the removal of all military units, except interior troops, from South Ossetia within three days. The Georgian government was given five days to notify the President of the U.S.S.R. about measures taken to ease tensions in the autonomy.

In response, the Supreme Council of Georgia passed a resolution on January 9, 1991. A quote from the resolution reads that: “No governmental institution of the Soviet Union can deny the legal power of the laws of the Republic of Georgia, because in accordance with the constitution of the Republic of Georgia and the constitution of the Soviet Union, the Republic of Georgia is a sovereign country with the right to exercise territorial supremacy on its territory, which makes the decisions of the Georgian government binding for every institution and organization on Georgian territory.” The resolution accused extremist and separatist forces of South Ossetia of discriminating against the local Georgian population and striving to secede from Georgia. It also emphasised that although the Supreme Council of Georgia was not going to restrict the right of nations for self-determination, including the creation of republics or nation-states, those ethnic groups of Georgia which already have their own national statehood outside the country should be denied this right.

The resolution denounced the U.S.S.R. President’s January 7 decree, which ordered the removal of all military units from the region except interior troops, as illegal and immoral.

**Comments:** At the same time, Gamsakhurdia’s government expected understanding and support from those leaders of the Russian federation who were in opposition to Gorbachev. This expectation was not met.

March 23, 1991 – Zviad Gamsakhurdia, Chairman of the Supreme Council of Georgia, and Boris Yeltsin, Chairman of the Russian federation, held talks in Daba Qazbegi. According to a joint statement, the parties agreed to try to restore stability in the former South Ossetian autonomy by having the Interior Ministries of Georgia and Russia set-up joint police units until April 10 to disarm all illegal paramilitaries on the territory of the former South Ossetian Autonomous Region.<sup>24</sup>

**Comments:** This document actually recognized that the SOAR no longer existed. In other words, Russia recognized on March 23 that the SOAR had been abolished, and referred to the region as a “territory.” Several days later, however, a congress of people’s deputies of the Russian Federation demanded the restoration of South Ossetian autonomy, and delegates of the congress appealed to the Supreme Council of the U.S.S.R. to take measures to normalise the situation in South Ossetia. The appeal was signed by Boris Yeltsin.

**Comments:** The above-mentioned resolution also addressed the tragic events that had taken place in South Ossetia. It is noteworthy that the newly created National Guards were deployed in Tskhinvali in March under Gamsakhurdia’s orders. While Moscow and Tbilisi were negotiating the issue, armed confrontation continued to escalate in the region.

The U.S.S.R. Supreme Council passed a resolution on April 1 addressing the situation in South Ossetia. The resolution called for the Supreme Council of Georgia and the SORSPD to fulfil Gorbachev’s January 7 decree. On May 4 a joint congress of the South Ossetian regional town,

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<sup>24</sup> *Sakartvelos Respublika* newspaper, No. 58, 1991, March 27

district, and village Soviets resolved to take steps for the implementation of Gorbachev's decree. The September 20 decision of the SORSPD to transform the autonomous region into a Soviet Democratic Republic was cancelled. At the same time, delegates of the congress emphasised that given the results of the March 17 referendum on the preservation of the U.S.S.R., the Supreme Council of the U.S.S.R. should be requested to make the region a separate member of the Soviet Union. The congress also accused Tbilisi of initiating the war of laws between the centre and the region, pointing to the resolutions of the Supreme Council of Georgia passed in November 1989, and March and June 1990. The congress argued that having outlawed all state structures created after February 25, 1921, the Supreme Council of Georgia actually abolished the SOAR even before it was formally dissolved in December 1991.<sup>25</sup>

**Comments:** Although the congress held Tbilisi solely responsible for the escalation of the conflict and demanded that South Ossetia become a member of the Soviet Union, its actions were a step back towards the pre-conflict status quo. However, the resolution of the congress was a bit late since the U.S.S.R. was rapidly disintegrating at that time and the legal-political reality was changing. On the basis of the results of the March 31 referendum, the Supreme Council of Georgia passed an independence act on April 9, and a war of laws then began between Tbilisi and Moscow. The May 7 resolution of the Supreme Council of Georgia, which invalidated the decisions of the congress of the South Ossetian people's deputies, should be seen in this context.

Still, although the situation had reached a deadlock, Tbilisi's response should have been more peaceful and conciliatory. No ethnic conflict has been settled only by highlighting historical injustice or adopting a strict legalistic approach and putting aside all other factors and ignoring modern circumstances. The independence act of Georgia should undoubtedly have been followed by an address to the Abkhaz and Ossetian autonomies, even to the separatist forces. The Georgian government should have made it clear that it was determined to settle all disputes through dialogue. The May 4, the Ossetian congress should have also offered a conciliatory tone, however weak it was. This requirement is based on the international experience of conflict resolution and peaceful negotiations. Unfortunately, the Georgian political elite lacked such experience at that time. The Georgian government's attitude to the issue, its form and language, remained emotional and aggressive.

The Georgian Minister of Education (Elizbar Javelidze) gave an order on July 31, 1991, banning Georgian children from enlisting in non-Georgian schools and kindergartens in South Ossetia.

**Comments:** At that time Georgian newspapers published analytical articles about the situation in South Ossetia by Ramaz Klimiashvili, Nodar Natadze, Henry Kuprashvili, Tedo Paataashvili and some others. These articles were looking only for a "trace of Russia" in every process or occurrence.

Tedo Paataashvili accused Russia of instigating the conflict in the Tskhinvali region, which violated the country's territorial integrity, in order to prevent Georgia from regaining its national sovereignty.<sup>26</sup>

**Comments:** While the confrontation – both the armed conflict and the war of laws – continued unabated, Gamsakhurdia's government was overthrown. However, the change of government in Georgia did not lead to any changes in Georgian-Ossetian relations. Interestingly, although the Military Council cancelled many decrees and resolutions of Gamsakhurdia's government, its

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<sup>25</sup> *Sovetskaya Osetia* newspaper, No. 41, 1991, May 16

<sup>26</sup> *Sakartvelos Respublika* newspaper, 1992, June 10

stance on the problem of South Ossetia was actually the same as the former government's position.

December 3, 1991 – The Supreme Council of Georgia passed a resolution on the situation in the Shida Kartli region (signed by Nemo Burchuladze, Deputy Chairman of the Council), which denounced and invalidated the resolutions of the Supreme Council of the so-called South Ossetian republic as unconstitutional and accused Russia of providing military assistance to Ossetian separatist forces.

January 3, 1992 – The Supreme Council of the South Ossetian republic resolved to carry out a referendum on the independence of South Ossetia.

February 21, 1992 – The Georgian Military Council issued a declaration (signed by Jaba Ioseliani and Tengiz Kitovani) demanding the restoration of the 1921 constitution and elections in Georgia. The declaration specified only two autonomous regions of Georgia – Abkhazia and Ajara – and said nothing about South Ossetia.

May 21, 1992 – An extraordinary session of the Supreme Council of the Autonomous Soviet Socialist Republic of North Ossetia (ASSRNO) passed a resolution which assessed the Georgian government's actions as genocide of the Ossetian nation and declared a period of national mourning on the territory of South Ossetia.

May 28, 1992 – The Supreme Council of the Russian federation resolved to include the situations in North and South Ossetia as separate themes to the agenda of its 4th session.

### **III. Sochi Agreement, 1992**

**Comments:** The Russian government took active measures in June to stop hostilities in the conflict zone. Rumours spread in Tbilisi that the authorities of Tskhinvali were unable to repel Georgian armed forces. According to these rumours, this was the reason for the Russian "peace" rhetoric.

June 8, 1992 – At their joint session the Supreme Council of the Russian federation and the Supreme Council of the ASSRNO passed a resolution which called for immediate ceasefire talks between representatives of North Ossetia, South Ossetia, and the Georgian government, and four-party negotiations with the participation of Russia.

June 10, 1992 – At talks in Qazbegi, Georgian president Shevardnadze and the Chairman of the Supreme Council of the ASSRNO signed a protocol on a ceasefire and the creation of joint four-party groups of observers. Georgian Defence Minister Tengiz Kitovani, Deputy Prime Minister and the Chairman of the Governmental Committee for Human Rights and Ethnic Relations Sandro Kavtsadze, and the Chairman of the Supreme Council of the ASSRNO Khetagurov also took part in the talks. The parties agreed to assign Georgian and Ossetian veterans of the war to a peacekeeping mission in Afghanistan.

**Comments:** This document is significant because it marked the first meeting between Georgian and Ossetian governmental officials after the bloodshed and the birth of the term "Georgian-Ossetian conflict."

June 24, 1992 – Yeltsin and Shevardnadze signed an agreement (between Georgia and Russia) in Sochi (Dagomys) with the following results:

- A ceasefire was enforced in the conflict zone;
- The conflict zone was divided into two parts controlled by Georgia and South Ossetia;
- The Joint Control Commission (JCC), a four-party body featuring the participation of Georgia, South Ossetia, Russia and North Ossetia, and under OSCE patronage, was created;
- A universal format for the JCC, covering all aspects of the resolution of the conflict, was defined;

A three-party joint peacekeeping force, made up of Georgian, Russian and South Ossetian military units, was also set-up under this agreement.

July 4, 1992 – Representatives of the parties held talks and signed a protocol on measures to implement the agreement aiming at conflict resolution. The protocol was signed by Shoygu, Kitovani, Galazov and Kulumbekov.

January 23 – March 1, 1993 – The conflicting parties and the OSCE mission signed a memorandum of understanding. It defined competences and the zone of responsibility of the OSCE mission.

September 14, 1993 – The Georgian and Russian government signed an agreement on the economic rehabilitation of the Georgian-Ossetian conflict zone. Georgia undertook to cover 2/3 of the reconstruction costs.

**Comments:** After the fall of Sokhumi the Georgian government's political and diplomatic activity centred on the problem of Abkhazia for some time. However, the issue of South Ossetia was not trouble-free. The Supreme Council of the ASSRNO decreed on March 6, 1993 to recognise the South Ossetian republic. Instead of denouncing the decree as illegal and stating that it has no right to recognise self-proclaimed republics on the territory of another country, the Supreme Council of the Russian Federation scheduled debates on the issue. It seemed that as soon as the OSCE placed the conflict settlement in the framework of the international law, Russia and North Ossetia opted to escalate the confrontation. When Russia was able to control the situation on its own, its policy was more constructive.

The dynamic of the Russian-Georgian relationship changed in 1993-94. Georgia became a CIS member and the development of an agreement between CIS countries began. These processes gave fresh impetus to the issue of South Ossetia. Prospects for the reconstruction of the conflict-affected districts by joint Russian-Georgian efforts were again put on the agenda.

The regulations of the Joint Control Commission (JCC) were approved on July 26, 1994.

October 31, 1994 – An agreement was reached on the prospects of a peaceful resolution of the Georgian-Ossetian conflict. The agreement also highlighted the need for the political settlement of the conflict. It was emphasised that the JCC, which was created for the implementation of the Sochi Agreement, had actually completed its function. A ceasefire was reached and armed units were pulled out of the conflict zone. The parties agreed to review the functions of the JCC and enlarge and renew its membership (the document was signed by Menagarishvili and Khachapuridze – Georgia; Gabarayev – South Ossetia; Khetagurov – North Ossetia; and Medvedev and Pastukhov – Russia).

**Comments:** The JCC held several sittings afterwards, and Georgian and Russian politicians held talks in Vladikavkaz. The parties began looking into political aspects of the conflict resolution, and groups of experts were created. The OSCE was also involved in the issue.

December 13, 1995 – Groups of experts met to discuss preparations for talks on the political settlement of the Georgian-Ossetian conflict.

February 9, 1996 – In an interview with the *Droni* newspaper the head of the OSCE mission, Dieter Boden, said that a draft document prepared by the OSCE in December 1995 was rejected by both conflicting parties. Boden also emphasised that the conflict resolution process was rather extended and slow.

#### **IV. The development of the interim (Baden) document. Positive dynamic of negotiations (1996-2000)**

April 18, 1996 – The OSCE mission announced that the conflicting parties had worked out and endorsed a draft memorandum on the final settlement of the conflict. The OSCE emphasised that the conflicting parties chose the Russian version (by Pastukhov) from several proposals. The OSCE said that the memorandum would be signed in Moscow or Vladikavkaz in the near future. Dieter Boden assessed the memorandum as a very significant document because it demonstrated the willingness of both conflicting parties to continue the peace talks. It is noteworthy that the Ossetian side proposed to arrange talks between Shevardnadze and Chibirov.

April 29, 1996 – Dieter Boden's report was published. According to the report, the April 17 memorandum would be signed in Moscow in the near future. The memorandum summarised the conflict resolution efforts. Dieter Boden notified ambassadors that the memorandum would probably be signed by the Foreign Ministers of Russia and Georgia, and the Prime Ministers of South and North Ossetia.

In Boden's words, he wanted to use the occasion and deliver a brief speech at the ceremony to sign the memorandum, which should include the following elements: "The OSCE appreciates the willingness of both conflicting parties to reach a compromise, which led to the endorsement of the memorandum. Let's be hopeful that large-scale and far-reaching confidence and security measures will be in place soon," he said, adding that "the momentum should be used to facilitate the negotiating process in order to achieve the full settlement of the Georgian-Ossetian conflict in the near future." Boden emphasised that the memorandum should be implemented fully and unconditionally, and the OSCE developed a working document on specific proposals. Special attention must be given to the preparation of the meetings of the members of parliament and journalists with the participation of representatives of both conflicting parties.

Boden's report addressed the problem of status as well. Shevardnadze told Boden about his vision of the problem – "I think it's not a major issue." Shevardnadze emphasised that hasty and thoughtless ideas must not be applied to solve the problem. He suggested that South Ossetia might not accept the status of autonomous region any longer. But, according to Dieter Boden, Shevardnadze did not rule out that the negotiations would be successful and result in an agreement.

May 16, 1996 – A memorandum on confidence-building between the parties of the Georgian-Ossetian conflict and security measures was signed in Moscow.

June 13, 1996 – South Ossetia called for the repatriation of refugees and IDPs, saying that it was prepared for the return of both Ossetian and Georgian refugees. At the same time, the Ossetian

side offered to conduct a scientific study of the problem, produce a joint programme about South Ossetia on Georgian national TV, and invite historians to discuss the problem.

August 27, 1996 – Shevardnadze and Chibirov held talks in Vladikavkaz.

**Comments:** The talks were important because they demonstrated the trend towards Georgian-Ossetian rapprochement, which stemmed from the May 16, 1996, memorandum.

September 10, 1996 – Zurab Zhvania, Chairman of the Georgian parliament at the time, appealed to the President of Georgia to reinstate the rights of Ossetian residents who suffered from ethnic discrimination.

November 9, 1996 – South and North Ossetia reached an agreement on social-economic, scientific-technical and cultural cooperation.

**Comments:** The agreement was not political and the Georgian government could have taken advantage of the document. On the other hand, the agreement opened the door to the smuggling of goods to Georgia. The signatories openly stated that they would exploit the Roki Tunnel. This document gave a green light to the notorious Ergneti Market.

March 4-5, 1997 – Delegations of the conflicting parties and mediators met in Moscow. Participants of the meeting resolved to create a secretariat for the coordination and organization of follow-up meetings, and it was decided that political and legal issues should be given priority. The Russian federation proposed to work out a so-called interim document, which was to define the basic directions and principles of the conflict settlement.

**Comments:** At the same time, the meeting demonstrated that the status of the third parties involved in the negotiating process posed a problem: should they be conciliators, guarantors or participants? North Ossetia enjoyed a higher status than the OSCE, even though the republic was not a subject of international law. This may be vindicated by an information bulletin of the meeting, which specified authorized delegations. Representatives of the OSCE were specified in the bulletin only as individual participants, not a party of the process. It is noteworthy that Georgia did not protest against such a ranking system. Presumably, Russia again tried to underline its dominant role in the conflict resolution process.

At the same time, as a result of the March 4-5 meeting, the delegations' groups of experts became the most active players in the negotiating process by providing consultations on political aspects of the conflict resolution. Consequently, these issues were removed from the sphere of competence of the JCC. Thus the role of the OSCE seemed to have diminished even more.

In May 1997 the parties began presenting project-proposals on the basic principles of the political and legal relationship (July 1997 – Russian project, September – South Ossetian project). Shevardnadze and Chibirov again met on November 14, 1997, and only after their talks did Georgia put forward its project.

**Comments:** The South Ossetian proposal showed that the Ossetians again sought to assess the underlying reasons of the conflict, something Georgia was not prepared to accept. However, Georgia's consent would have surely contributed to confidence-building between the conflicting parties.

November 14, 1997 – Shevardnadze and Chibirov held talks in Java, which were dominated by social and economic problems.

June 20, 1998 – Talks took place between Shevardnadze and Chibirov in Borjomi. Prospects of the economic rehabilitation of the conflict zone and repatriation of refugees were discussed. South Ossetia welcomed the Georgian government's measures to repatriate Ossetian refugees to Mitarbi village and suggested that the process would hopefully continue in other regions of Georgia.

**Comments:** The talks demonstrated that steps towards political settlement were slow. UN experts published a report in July 1998 on the restitution of property in the conflict-affected areas.

**Comments:** The Georgian government's reaction to the document remains unknown to the public.

January 9, 1999 – Georgian and South Ossetian delegations held talks in Tskhinvali. The Georgian delegation was chaired by V. Lortkipanidze, then State Minister.

**Comments:** The delegations discussed the creation of new functional groups. It was unclear, however, whether it was appropriate to set-up new groups without evaluating the activities of the existing ones.

#### **The OSCE mission's assessment of the negotiating process between the conflicting parties with comments**

**Comments:** At the same time, respective projects were drafted and the OSCE tried to actualise this main theme. The OSCE mission also systematically assessed the process and analysed the proposals of the parties. The OSCE mission's report issued on January 15, 1999 is noteworthy in this regard. The report looks into Georgian, Ossetian and Russian versions of the so-called 'interim document on political settlement of the conflict'. The parties agreed to prepare the document at talks in Moscow on March 1999.

The Russian Federation completed its draft interim document in July 1997. South Ossetia prepared its version in early 1998, while Georgia presented its own on November 30, 1998. According to the OSCE report, the Georgian government explained that its draft was late because the main attention was given to the development of the principles of so-called 'asymmetric federalism.' The OSCE report included a comparative analysis of the documents, which showed that the drafts were structured in a more or less similar manner. They included the format of negotiations, principles favourable for political development, general objectives of the interim document, and such principles as constitutional aspects, security issues, the repatriation of refugees and IDPs, economic rehabilitation of the conflict zone, the problem of damages and identification documents, and bilateral and international guarantees.

The problem of what signatures should be put on the document was also addressed. According to the South Ossetian version, the document should be signed by Georgia, South Ossetia and guarantor countries. Russia proposed that it should be signed by Georgia, South Ossetia, the mediator – i.e. Russia – and participants (North Ossetia and OSCE). The OSCE mission believed that the signature formula might require a compromise from the parties. It predicted that this compromise would be reached, since the document was only a declaration, a proposal. It was argued that the parties would easily come to terms over the issue because it was not a final document to define the principles of full conflict settlement.

The Georgian and Russian versions said nothing about the underlying reasons of the conflict and stopped short of making any assessments. In the opinion of the OSCE, these paragraphs could be added to the final version of the interim document without any problems. It was emphasised that only the JCC or an international commission is capable of making a fair assessment of the underlying reasons of the conflict.

Georgia proposed the term “Tskhinvali region – South Ossetia.” However, South Ossetia insisted that it be referred to as the “Republic of South Ossetia.” At worst it might agree to the term “South Ossetia” only.

According to the Georgian version, Georgian and South Ossetian representatives were to cooperate with each other under Russian mediation and the participation of North Ossetia and the OSCE. The Ossetian version specified Georgia and South Ossetia as parties of the negotiations, Russia as a guarantor, and North Ossetia and the OSCE as participants.

The Russian version called for Georgian and South Ossetia to hold talks under Russian mediation, with the participation of North Ossetia and the OSCE.

The OSCE found the Georgian version of the settlement plan to be the most acceptable. Constitutional aspects and the problem of legal and political status were examined afterwards. The OSCE assessed the Russian version of the status of South Ossetia as more realistic. According to the OSCE, South Ossetia would not become an independent state. It was proposed to discuss the problem of status in depth at follow-up talks, although the Russian version was expected to become the basis for the final version of this paragraph.

South Ossetia suggested that both parties should recognise IDs issued by the other side. In the opinion of the OSCE, this was unacceptable because it implied a border separating Georgia and South Ossetia. Also, the international community would only accept Georgian passports.

The forms of the OSCE guarantees were also specified in the drafts. The OSCE pointed to a problem: the interim document was supposed to define only basic principles; it was not intended to become an operational document and, therefore, did not need implementation guarantees. The document was a mere declaration, while the OSCE could guarantee only the final agreement on the conflict settlement.

**Comments:** The activities of the OSCE drew a lot of opinions. This document illustrated that the OSCE tried to facilitate the negotiating process and commented on the positions of the parties, laying the emphasis on the principle of inviolability of internationally recognized borders. At the same time, it was dependent on the will of the conflicting parties.

As to Russia, its position sometimes differed from its role. Sometimes Russian diplomacy helped increase the OSCE’s interest in ensuring progress of the conflict resolution process. However, the drawn-out nature of the negotiations, more than the above-mentioned document, illustrates that: a) Russia exerted strong influence on South Ossetia and often influenced the Georgian position too; b) Russia was anxious to diminish the role of the OSCE to some extent, while Georgia was not doing enough to challenge this tendency. As a matter of fact, the tendency to downgrade the role of the OSCE revealed Moscow’s intention to prevent the full participation of Europe or the USA in the negotiating process.

The Russian veto on the extension of the OSCE monitoring mission at the Chechen section of the Russian-Georgian border in 2004 also showed that the role of the OSCE was naturally positive for Georgia, while Russia viewed it as a danger to its dominance.

However, Georgian society was also critical of the OSCE. This criticism was marked by impatience, which was not new to Georgia. N. Natadze's position is interesting from this viewpoint.

In his article "No Confidence in the OSCE Mission," published by the *Sakartvelo* newspaper, N. Natadze accused the OSCE of legalising the term "South Ossetia" and criticised it for suggesting that the Ossetians should have the right for an official language. He accused the OSCE mission of misinforming Georgian society about the underlying reasons of the Georgian-Ossetian conflict and the results of measures aimed at settling the conflict.

February 16-17, 1999 – Expert groups of all parties met in Vladikavkaz to discuss basic principles of the interim document. South Ossetian experts called into question the necessity for an interim document. Many similar documents had been approved in the past, but none of them were implemented in practice, they said. As an alternative, South Ossetia presented a completely new agenda, offering to entirely revise the implementation of the earlier agreements mainly regarding the economic rehabilitation of South Ossetia. Georgia disapproved of the South Ossetian idea that economic reconstruction should be given priority over political issues.

September 10-11, 1999 – Expert groups from the different parties held talks in Java. In order to avoid unnecessary tensions, participants of the talks agreed to steer clear of the issues which had not been agreed yet, including: 1) the name of the so-called interim document (the Georgian delegation stressed that it would consent to discuss the issue only if the document was named "agreement" and not "treaty," as proposed by South Ossetia; the OSCE also viewed the term "treaty" as inappropriate); 2) the repatriation of refugees and IDPs (Georgia called for the repatriation of refugees to their permanent homes, while South Ossetia suggested that refugees should return to "potential places of residence"); 3) international guarantees (this issue also was a cause of disagreement; Russia considered itself as a "guarantor" and the OSCE as a "supporting party"; the OSCE offered to revisit this issue at the next stage of the negotiations); 4) IDs and passports; 5) the constitution of South Ossetia and the structure and symbols of the South Ossetian government.

The Java meeting was focused mainly on the issues that were bones of contention in the talks.

December 14, 1999 – Irakli Machavariani (head of the Georgian delegation in the JCC) and Lyudvig Chibirov held talks in Tskhinvali, at the request of Georgia and with Russian mediation. Chibirov emphasised that South Ossetia was awaiting the promised economic rehabilitation of the region. In his words, the reconstruction and investment projects in the conflict zones should take into account priorities set forth by South Ossetia. South Ossetia also demanded that Tbilisi clearly define its position on the power supply issue as soon as possible, i.e. whether it would pay for electricity supplied by the RAO ES company. According to I. Machavariani, the potential for progress has always been high at talks with Chibirov. It is also noteworthy that in an interview with Georgian national radio on December 13 Shevardnadze expressed a willingness to meet Chibirov at the negotiating table.

April 26, 2000 – The parties were getting ready for a meeting of expert groups in Vienna, which was supposed to address disagreements over the interim document.

**Comments:** The motivation for choosing the venue of the talks is interesting. The OSCE argued that the talks would only be effective if they were held outside the CIS, i.e. outside of the Russian sphere of influence. The parties disagreed over the following issues at that time:

- The relationship between the principles of the territorial integrity of the state and the self-determination of nations, the correlation between these principles, and the “vital interests” that linked South and North Ossetia;
- Georgian constitutional legislation and the South Ossetian constitution;
- The structure and symbols of the government;
- IDs and passports;
- The name of the interim document;
- The repatriation of refugees and IDPs;
- International guarantees.

May 31, 2000 – Preparatory talks in Java were intended to clear the way for a meeting in Vienna. Relations between Georgia and South Ossetia had become strained by that time. Five ethnic Georgians were killed in the village of Kheiti on May 22, 2000. The murder coincided with Memorial Day in South Ossetia. On May 26, South Ossetian forces attempted to take control of a second-hand clothing market. South Ossetian President Lyudvig Chibirov’s brother was in charge of that military operation. Commenting on the incidents, Zurab Zhvania, then Chairman of the Georgian parliament, alleged that South Ossetian residents might have been involved in the crime and emphasised that such cases would inevitably hurt the peace process. His words alarmed the Tskhinvali administration. Georgian President Eduard Shevardnadze said that he would personally oversee the investigation of the incidents to ensure that all those responsible were brought to justice. In connection with May 22 and May 26 incidents Georgia wanted to invoke the protocol of law-enforcement cooperation, which was signed in September 1997. However, South Ossetia rejected Georgia’s demands because the crime was committed on Georgian-controlled territory. Controversial issues of the interim document were examined in detail at the May 31 meeting in Java.

The contractual capacities of the parties were also discussed there, however, only the Russian and South Ossetian versions of the interim document included the paragraph regarding the kinds of contracts (agreements, treaties) South Ossetia would be entitled to sign. Under the South Ossetian project proposal, South Ossetia was given the same capacities as an independent state. The Russian draft considered such capacities acceptable only if Georgia received respective notification.

**Comments:** The interim document, named the Baden Document after the venue of the final discussion and endorsement, was signed by the parties on July 13, 2000. This can be seen as the culmination of a many years-long negotiating process. Analysis of the document shows that the parties could have settled all controversial issues if they had been willing to compromise and the will for legal and political resolution of the conflict, and interim document had been discussed by top-level negotiators and not expert groups.

The parties failed to come to terms on the following issues:

#### **Paragraph 4**

1. Georgian version: with due respect for the territorial integrity of states and the principle of self-determination of nations, the parties set-up their legal relations within the internationally recognized state borders of Georgia. Within these borders ethnic Ossetians, ethnic Georgians and

other ethnic groups shall be guaranteed all the internationally recognized civil and political rights and liberties.

2. South Ossetian version: in order to ensure the universally acceptable balance between the territorial integrity of states and the principle of self-determination of nations, the parties set-up their legal relations on the basis of equality. Vital interests that link South and North Ossetia shall be taken into account.

3. The Russian version: aiming to reach a mutually acceptable balance between the territorial integrity of states and the principle of self-determination of nations, the parties set-up their legal relations within the internationally recognized state borders of Georgia, taking into account vital interests that link South and North Ossetia.

4. The OSCE proposed the following interpretation of this paragraph: vital interests of South Ossetia shall be satisfied without violating the territorial integrity of Georgia.

### **Paragraph 5**

1. Georgian version: under the Georgian constitutional law, the Tskhinvali region will have its own representative, executive and judicial branches of government, and state symbols.

2. South Ossetian version: South Ossetia will have its own constitution, president, legislative, executive and judicial branches of government, armed (security) forces and state symbols. South Ossetia will have the right to sign international agreements (economic, scientific-technical, and cultural) independently.

3. The Russian version: South Ossetia must have its own constitution, legislative, executive and judicial branches of government, armed forces and state symbols. South Ossetia will have the right to sign international trade, economic, technological, and cultural and other agreements, provided the Georgian government is notified about them.

### **Paragraph 12**

1. Georgian version: only IDs and passports of the citizens of Georgia shall be valid.

2. South Ossetian version: residents of South Ossetia must be able to use Soviet passports, issued in 1974, for cross-border travel. South Ossetia also demands that a Russian consulate be opened in Tskhinvali.

3. Russian version: local IDs issued by South Ossetian authorities should be valid on the entire territory of Georgia. Residents of South Ossetia should use Georgian passports with a special sign "South Ossetia" to travel abroad.

**Comments:** The national sovereignty of Georgia would have been by no means violated if Georgia had given its consent to a Russian consulate in Tskhinvali. On the contrary, it would have been an effective compromise on the part of Georgia. The perceived risks which made Georgia reject the proposal to open a Russian consulate in Tskhinvali became a reality anyway in a much more dangerous and illegal form beyond Georgian control.

### **Paragraph 13**

1. Georgian version: the OSCE should be requested to create mechanisms to guarantee the agreement with broad participation of international organizations.

2. South Ossetian version: the agreement should be guaranteed by Russia, North Ossetia and the

OSCE. Besides this, South Ossetia emphasised that the parties must abstain from any unilateral actions and decisions contradicting the agreement. In the case of such decisions or actions the parties can appeal to the guarantor to help normalise the situation

3. Russian version: Russia considered itself a guarantor, while the OSCE was assigned the role of a “supporting party.”

**Comments:** As far as we know, after the Vienna/Baden meeting the OSCE and the Russian Federation attempted to arrange follow-up talks in Tbilisi and Tskhinvali, where the endorsed text of the interim document was supposed to be finally agreed and signed. In our point of view, if the Georgian government had really had the political will to achieve a political settlement of the conflict and restore Georgian jurisdiction in the conflict zone, it would have been more willing to compromise and wouldn't have turned the controversial issues of the interim document into a problem soon afterwards. Instead, it should have assessed the long-term positive potential of the document.

## V. Regression

December 23, 2000 – The Georgian and Russian governments signed an agreement on joint measures for economic rehabilitation of the conflict zone, agreeing to continue funding ongoing reconstruction projects in the conflict zone. This document dealt mainly with the repatriation of refugees and prospects of economic development.

Earlier, the Russian Duma unilaterally decided to supply South Ossetia with Russian electricity. In this case Georgia in fact consented to pay the costs of this electricity consumed solely by the South Ossetian side.

January 19, 2001 – The European Parliament passed a resolution which addressed the problem of refugees. The resolution acknowledged that Abkhazia and South Ossetia had de facto seceded from Georgia. It was the first document to highlight the Russian aggression against Georgia, evaluating the situation as annexation. It also cast doubt on the impartiality of Russian mediation in the conflict.

**Comments:** Georgia could have taken advantage of the document to initiate an international debate over Russia's aggressive attitude.

April 8, 2001 – Following a national referendum, South Ossetia adopted a constitution which declared South Ossetia a sovereign country with the right for independent decision-making. The constitution stopped short of defining the relationship between South Ossetia and Georgia. Ossetian was proclaimed the official language on the territory of South Ossetia, while Georgian became the official second language, along with Ossetian, in Georgian enclaves of South Ossetia. Under this constitution South Ossetia has the right to merge with another country on the basis of a respective treaty. The constitution also introduced citizenship of South Ossetia and the position of the head of state.

**Comments:** In our opinion, this document was a direct challenge to Georgia, since its adoption caught Georgia off guard. On the whole, the history of conflicts shows that conflicting parties often resort to such methods in order to strengthen their negotiating positions. We think that there is a direct link between the constitution and the Vienna (Baden) document of July 13, 2000, which was not signed by the parties. The constitution said nothing about the form and structure of government and, therefore, it appeared to be a declaration rather than a real constitution. By laying emphasis on sovereignty, not independence, and providing for a constitutional mechanism

for merging with another country, South Ossetia might have indicated that the door was still open to a compromise with Georgia.

April 22-23, 2001 – Expert groups from the different parties held their 5<sup>th</sup> meeting in Vladikavkaz. The Baden document was not mentioned at these talks, and the process of political settlement of the conflict began to regress. After the interim document, which specified the positions of the parties on specific political issues, the parties returned to implementing “confidence-building” measures. The JCC again came to the forefront of the process.

May 21, 2001 – Chibirov and Moscow mayor Luzhkov held talks and signed a memorandum on the results of their negotiations.

**Comments:** In our opinion, this is an interesting document. Although a bit earlier the newly adopted constitution of South Ossetia stated that South Ossetia was a sovereign country, the memorandum needed Georgia’s approval to become a legally valid document. In other words, even after adopting the constitution, South Ossetia still considered Georgia to be a factor in its development. In fact, the memorandum can be seen as an interaction between a Georgian and a Russian region.

September 14-19, 2001 – Expert groups held their 6<sup>th</sup> meeting in Bucharest. Representatives of the EU attended the talks. The JCC was funded and patronised by the EU.

February 1, 2002 – MP Guram Vakhtangashvili initiated debates over the Russian peacekeeping mission in South Ossetia. In his opinion, the time had come to pull out Russian peacekeepers from the region and replace them with joint units of Georgian and South Ossetian law-enforcement bodies. Vakhtangashvili also accused the Russian peacekeepers of involvement in fuel smuggling. There were 130 Georgian, 300 South Ossetian, and 500 Russian peacekeepers in the conflict zone at the time of his initiative.

May 11, 2002 – Tskhinvali was going to request the deployment of more Russian peacekeeping troops in the region. In the words of Eduard Kokoity, the newly elected de-facto President of South Ossetia, any armed conflict on Georgian territory, including Abkhazia or South Ossetia, will destroy the Georgian state. South Ossetian leaders were apparently alarmed by the American military assistance program to the Georgian army, in the framework of which Georgian servicemen received training from US military instructors.

October 4, 2002 – The expert groups held their 7<sup>th</sup> meeting in Tskhinvali. The talks were focused on the planning of the 8<sup>th</sup> expert meeting in Portugal.

October 26-29, 2002 - The 8<sup>th</sup> meeting of expert groups in Portugal took place. The protocol of the talks did not include any initiatives for political settlement of the conflict. European structures pointed out that the positive dynamic of the negotiating process had slowed down “for some reasons,» though they declined to specify these reasons.

February 27, 2003 – In one of his statements South Ossetian de-facto President Eduard Kokoity claimed that only the Russian peacekeeping troops, and not the Georgian or South Ossetian peacekeepers, were the main guarantors of peace in the region. In his words, in order to excuse themselves for being unable to counter growing crime, Georgian law-enforcement structures pointed the finger of blame at South Ossetia, describing it as the source of criminal problems. “These allegations are groundless”, he said, adding that South Ossetia was fully capable of maintaining law and order on its territory. In Kokoity’s opinion, any attempt of Georgian law-enforcement agencies to carry out counter-criminal operations in South Ossetia, like that which

was implemented in the Pankisi Gorge, was doomed to fail. That is why, he argued, the Russian peacekeeping force in the region should be enlarged to 1,500 servicemen in order to ensure a sustainable positive dynamic.

March 2, 2003 – South Ossetian de-facto President Eduard Kokoity made a statement that talks with Georgian President Eduard Shevardnadze did not seem expedient at that moment because, in his opinion, Shevardnadze was responsible for the genocide of the Ossetian people. In Kokoity's words, Lyudvig Chibirov betrayed Ossetian national interests by agreeing to talk to Shevardnadze.

March 14, 2003 – Murad Jioyev, a spokesman of the South Ossetian administration, appealed to the OSCE mission in Georgia, requesting that the conflict zone be inspected by the OSCE in order to refute Georgia's allegations that 13 units of military hardware were deployed in South Ossetia in December 2002 with the help of Russian military instructors.

May 23, 2003 – Georgia received a proposal to include North Ossetian police units into the coordination centre of law-enforcement bodies. The issue of patrolling was to be settled by June 2003.

June 23, 2003 – Russian-Georgian talks took place in Moscow on the development of a joint program of the repatriation of refugees.

July 16, 2003 – The 9<sup>th</sup> meeting of the expert groups took place in Tskhinvali. The talks were focused on the preparations for the 10<sup>th</sup> expert meeting in Netherlands.

October 17, 2003 – The 10<sup>th</sup> meeting of the expert groups was held at the Hague. European structures allocated 210 thousand EURO in 2003 to facilitate the negotiating process. The money was used to finance two meetings of the expert groups and one sitting of the JCC.

### **Post-revolution tendencies**

Post-revolution tendencies in the Georgian-Ossetian conflict can be conditionally divided into two stages: the crisis of the summer of 2004, and post-crisis processes. After successful revolutions in Tbilisi and Ajara, the “velvet revolution” seemed about to spill over into South Ossetia. At that time, it seemed that the conflict was over at the domestic level; Georgian and Ossetian traders conducted business together, and people could freely move around the conflict zone, including soon-to-be-President Mikheil Saakashvili, who visited the area on the eve of the January 4 presidential elections. Kokoity's criminal regime, which was involved in smuggling and did not have much support on the ground, seemed to be the only remaining problem. The tactics of official Tbilisi were clear and yet wrong, as the following events have confirmed: Ergneti Market was closed in order to cut off the main supply source of the region, while Tbilisi launched a familiar “humanitarian assault” in an attempt to win the hearts and minds of the residents of Tskhinvali region. The tactic failed because, unlike the population of Ajara, which was fully integrated into Georgia, and apart from the confrontation with the regime, the Ossetian residents of the conflict zone did not put much confidence in Tbilisi for obvious reasons, however critical they were of Kokoity and his policies. In addition, the Russian factor was apparently underestimated. As a result, a crisis and a bloody drama broke out in the summer of 2004.

The failed campaign led to serious negative consequences and, according to some experts, worsened the situation in the conflict zone. At the same time, however, these processes had some positive results, if the word “positive” can be applied to an event with such fatal consequences. The conflict passed from a static phase into a dynamic one, i.e. it “melted.” Also, after the

summer 2004 crisis the government reassessed its tactics, having realised that a peaceful settlement of the conflict requires long-term and coherent approaches. At the 59<sup>th</sup> General Assembly of the UN in September 2004, President Saakashvili called for phased conflict resolution, indicating a change of tactics. At talks in Sochi in November 2004 Zurab Zhvania and Eduard Kokoity signed a demilitarisation agreement. The parties also agreed that joint economic projects would be beneficial. At a session of the parliamentary assembly of the Council of Europe in Strasbourg in January 2005 Saakashvili voiced the Georgian government's new peace initiatives for the peaceful settlement of the Georgian-Ossetian conflict.

These initiatives were discussed in detail, though at the conception level, at an international conference in Batumi this July, which was organised jointly by the Georgian government and the Friedrich Ebert Foundation. Addressing participants of the conference, the President said that Tbilisi was ready to grant wide autonomy to South Ossetia with a high level of self-government along with privileged taxation and economic regimes. It is important that during and before the conference Georgian officials used the term "South Ossetia", which was a taboo for the Georgian political elite and the broad public in the past.

The Georgian government presented a more comprehensive action plan at the OSCE ministerial meeting in Ljubljana in December 2005, where Georgian Prime Minister Zurab Nogaideli put forward the timeline of the conflict resolution process. The plan consists of three stages: demilitarisation of the conflict zone, social and economic rehabilitation, and the definition of the final status of South Ossetia. OSCE member states welcomed the Georgian initiative and expressed hope that it would guarantee a peaceful settlement of the conflict. The development of the comprehensive action plan is indeed a rather significant initiative of Tbilisi. However, it has a rather tight implementation schedule – the three stages should be completed by September 2006 – which could make it hard to carry out.

Unfortunately, all the above-mentioned proposals and actions were unilaterally initiated by Tbilisi. This move may be vindicated by the fact that confidence, which is urgently lacking nowadays, is crucial for a successful dialogue. That is why our analytical article highlights the importance of confidence building and deals with the issue in depth in a separate chapter. It is also noteworthy that in terms of confidence building and dialogue, South Ossetian de-facto President Eduard Kokoity's letter to Presidents Vladimir Putin, Mikheil Saakashvili, and leaders of the OSCE member countries, is a hopeful sign. Kokoity's letter, which emphasised the need for the joint development of a peace plan, backed the three-stage conflict-resolution approach and proposed the development of a joint action plan in the framework of the JCC. However, some analysts viewed Kokoity's "strange" about-face as a tactic to drag-out the process in the face of the coming winter. We think that the Georgian government must not miss such a favourable opportunity for bilateral negotiations.

It should also be mentioned that Georgian and foreign analysts often assess Tbilisi's approach as incoherent. Some of them even say that the government is divided into peace and war camps, as governmental officials often make different statements to the media. As a rule, peaceful settlement of the conflict is said to have no alternatives. On the other hand, there are sometimes voices in favour of "aggressive peacemaking." Obviously, South Ossetia and not-less-unfriendly Abkhazia are concerned with the modernisation of the Georgian army and manifold increase of the country's defence budget. Georgia claims that the increased defence budget is an important attribute of the state building process rather than a sign of aggressive intentions. Georgian representatives believe that a Georgian-Ossetian compromise may be reached only if Tskhinvali has respect for Tbilisi, and this would be possible if Georgia had adequate military might.

As to the negotiation process, the JCC remains the only official mechanism of conflict resolution. Tbilisi has repeatedly offered to change the format under the pretext that Georgia has a minority representation in the commission and, therefore, it is impossible to take decisive steps towards settling the conflict. With this in mind, some governmental officials called for an international conference, with the active participation of the USA, to revise the current format. Frankly, it must be emphasised that a lot of important agreements reached in the framework of the JCC exist only on paper.

Joint peacekeeping forces – Georgian, Ossetian and Russian – monitor the implementation of the ceasefire agreement in the conflict zone. Nevertheless, the growing number of armed incidents and kidnappings gives enough grounds for concern. Such incidents could lead to a drastic escalation of tensions and renewal of hostilities. Georgian officials say that Russian peacekeeping troops must be held responsible for the tensions. The Georgian parliament passed a resolution threatening to demand the complete withdrawal of the Russian peacekeepers from the conflict zone unless they improve the situation by February of 2006.

The peace talks reached a deadlock in the autumn of 2005, and the situation became extremely tense after explosions in Tskhinvali on September 20. Talks between Zurab Nogaideli and Eduard Kokoity, first scheduled for the last days of September, were delayed several times and have yet to be carried out. However, the announcement of the Georgian initiatives at the end of the year and Eduard Kokoity's mutual proposals still offer hope. At the same time, crime has increased dramatically in the conflict zone and abductions are frequent. Under such circumstances, it is vitally important to take efficient confidence-building measures at both the governmental and public level.

#### **The initial stage of the confidence-building process in the Georgian-Ossetian conflict**

The "Peace Initiatives for the Settlement of the Georgian-Ossetian Conflict" announced by the President Saakashvili in late January are undoubtedly a positive step towards resolving this conflict peacefully. It is obvious, however, that as long as the confidence level between Georgia and South Ossetia remains low talks over the final status of the will not be able to produce any practical results. Both parties may put forward a package of proposals but the final status can ultimately be agreed upon during bilateral talks, the coordination of which are impossible without the existence of mutual confidence.

Precise confidence-building measures and steps to encourage frank dialogue between the parties should be given priority during the initial stage of the conflict resolution process. "Peace initiatives" must be never used as ultimatums, as fear is not conducive towards building confidence.

This does not dictate that the Georgian state should not be strengthened; on the contrary – only a strong Georgian state can be a driving force behind this confidence building and the peace process. Ultimately, the strength of the Georgian state should be help win respect and should not breed fear, for both moral and pragmatic reasons.

The Georgian government can, and must, take measures – even unilateral ones – to convince the Ossetian people that Georgia is genuinely interested in a peaceful settlement of the conflict. This means, first of all, that Georgia should use a language of peace and should take into consideration the interests and needs of the other party. The Georgian government must firmly state that it is determined to care for its citizens and has the will to satisfy every individual or collective need.

Respectively, the Georgian side has the moral obligation to admit the mistakes that were made during the late 1980s and early 90s, and thoroughly assess the processes behind the demise of the U.S.S.R in an objective manner. In our opinion, this step – which is symbolic to a certain extent – will greatly contribute to confidence building between the two parties. This move must not be symbolic alone, however, and must be reinforced by adequate and responsible political decisions.

The Georgian government's policies must be clear and directed. With this in mind, all forms of ethnic discrimination – direct, structural, and cultural – should be eradicated in the country.

From the outset it is necessary to ensure the efficiency and impartiality of the peacekeeping and police forces stationed in the conflict zone. These forces must guarantee security and stability regime for ordinary citizens, regardless of their ethnic identity or citizenship. In regards to counter-criminal measures – especially anti-smuggling operations and cross-border traffic at the de-facto border – should be as non-violent and non-discriminative as possible, and must be based on long-term objectives. Additionally, serious efforts must be taken to help explain these measures to ordinary citizens. The regime must satisfy the legitimate interests of the people as much as possible. In order to achieve these goals, joint police and customs services must be created as soon as possible. Representatives of Russia and other international organizations should also be granted the status of observers or instructors in these joint, transitional structures.

While time is necessary to implement such measures, a declaration of willingness and readiness for such parity cooperation from the outset is an essential prerequisite for any model. Agreements that have been achieved within the framework of the JCC and provide a good foundation for cooperation between law-enforcement bodies must be also taken into account. A JCC protocol over cooperation between Georgian and South Ossetian law-enforcement structures was signed in Java on September 26, 1997 which provided for the creation of a special coordination board. The board was tasked with coordinating the activities of the Georgian and South Ossetian law-enforcement authorities. Due to a lack of political will, however, the board ceased functioning despite the continued need for such coordination.

As it stands, those people captured by the side in the conflict become hostages and are often seen as political prisoners. To help regulate such issues it is necessary to create a joint Georgian-Ossetian law-enforcement mechanism which includes international elements. The law of Georgia should be brought into line with international norms and practices in order to streamline the implementation of the given recommendations.

The abovementioned recommendations represent just a few examples of measures that could be implemented to help eradicate direct and even structural violence, provided that respective political will exists. Structural violence is a situation wherein, for example, one conflicting party feels institutionally abused by the current legal framework. Joint measures to maintain law and order or investigate particular crimes would help alleviate that exact perception of structural violence. None of the above-mentioned measures, however, should be understood as steps towards recognizing the independence of South Ossetia, but instead serve as extraordinary, temporary cooperation between the conflicting parties that may serve as general agreements, not a final accord. This final accord can be achieved only if these extraordinary, temporary structures create the foundation for legal and political integration.

Georgia must also adopt a restitution law as soon as possible to ease the ongoing perception of structural violence. Restitution is defined as the restoration of the original rights of the citizens affected by the conflict.

Tens of thousands Ossetian residents in Georgia lost their property and were expelled from their homes during the Georgian-Ossetian conflict. According to the 1989 census conducted by the U.S.S.R, the Ossetian community in Georgia totalled 164 thousand residents –99 thousand of which lived outside South Ossetia. Only 38 thousand ethnic Ossetians presently live in Georgia. Full restitution of property and citizenship to the Ossetian refugees would undoubtedly contribute to confidence building and create the basis for further political dialogue. Several draft restitution laws have been worked out since 1997 by both governmental and non-governmental organizations. However, the former Georgian government lacked the respective political will to implement these laws and the process was not completed. It is worth noting here that the JCC has made exerted great efforts in this direction and many international organizations – including the Venice commission of the Council of Europe – have repeatedly presented expert assessments of the different drafts.

The accepted restitution law should heed the norms of justice, human rights and dignity, and should create effective mechanisms for the restitution of rights. This must be passed as soon as possible, and should not be viewed as a provisional measure which would take effect only after certain political demands are met. This provisional approach renders the law less imperative and invalidates its confidence-building capabilities. It is our opinion that the law must be a result of joint efforts in the most alacritous manner. Even if the other party refuses to cooperate with this restitution initiative the Georgian government should still adopt the law – upon receiving a positive assessment from respective international experts – and began implementing it on the Georgian-controlled territory. At the same time, the Georgian government should also indicate that the door for cooperation is always open, ensuring that the restitution of the rights of the residents on the opposite side of the conflict zone is available.

Restitution is an end unto itself and should be seen as a guarantee of justice and non-discrimination, rather than a means for achieving a greater objective, i.e. settlement of the conflict. Only after the Ossetian side is convinced that the desire by the Georgian side to restore justice, human dignity, and the rights of citizens is genuine can confidence building and cooperation become a reality.

The restitution law, of course, should not be discriminatory and must be applicable to all residents of South Ossetia – Georgians and Ossetians alike – who suffered as a result of the conflict, regardless of their ethnic identity. It is also important to ensure that the law is enforced on the entire territory of Georgia, not just in the conflict zone.

The third essential condition for the success of these initiatives is the understanding that the process is mutual. In other words, specific legal mechanisms (commissions, committees, quasi-courts for restitution purposes) should be created and staffed by Georgians, Ossetians, and representatives of international organizations. The international organizations who would be involved in these mechanisms should be given the right to make final decisions which cannot be challenged, providing that consent is granted by both parties in order to ensure that this is not prolonged indefinitely. Applicants should, however, be given the right to lodge complaints in court if they feel that their internationally recognized rights were violated during the restitution process (if they were forced to sign any documents against their will, etc.). In addition to the right to confirm violations of rights the restitution body must also be authorized to determine the amount of damages and the form of restitution.

Economic rehabilitation and special economic measures for the conflict zone should be considered within this same context (see the legal and economic aspects of the conflict resolution).

The theme of structural violence is intertwined equally with the problems of cultural and direct violence.

The Georgian side – politicians and a major portion of the Georgian society – views South Ossetian side's demand for self-determination of the Ossetian as illegitimate and influenced by Russia. There is strong belief among Georgians that the Georgian side is absolutely right in the conflict and that there are no absolutely no historical grounds for political self-determination of the Ossetian nation within the Georgian territory. Accordingly, Georgia is reluctant to assess the reasons behind the conflict or acknowledge its own mistakes – something South Ossetia has demanded they do for years. This aspect only helps fuel anger and an attitude of contempt towards the Ossetians – a form of cultural violence and a basis for direct or structural violence. This is not to say that the Ossetians are faultless in regards to the conflict nor does it downplay the destructive role that certain Russian military-political circles play in this situation. However, confidence-building logic and strategy require that Georgia meet South Ossetia halfway, moving towards reconciliation without hesitation or special conditions.

The following measures must be implemented in order to eliminate cultural violence.

The Georgian side must acknowledge that the Ossetians have lived on the Georgian territory for centuries and have participated in the state building process throughout these centuries. As the Ossetians are an ethnic group, just like the Georgians, they also have the natural desire for self-determination. It would be much more acceptable and understandable for the Georgians if self-identification of the Ossetians was achieved through voluntary political integration into Georgia. This would not rule out cultural autonomy for South Ossetia. Unfortunately, there have been two ethnic conflicts between the Georgians and the Ossetians in recent history– in 1918-21 and in the early 1990s. The South Ossetian autonomous region existed for decades and the South Ossetian de-facto republic has already been in existence for more than a decade. These historical facts and realities surrounding the relations between the Georgians and Ossetian cannot merely be written off. This is why we must acknowledge that the Ossetians have a natural and historically legitimate demand for political self-determination on the Georgian territory. This acknowledgment will pave the way for a final agreement with South Ossetia, granting the continued condition on behalf of the Georgian side that this political self-determination be achieved not only on the Georgian territory but also within the framework of the Georgian state. This principle is inviolable, as the Georgian nation also has the right to self-determination – something that is deeply rooted in psyche, culture and historical memory. It is necessary to redefine the objective picture of the role played by the Ossetian nation in the history of Georgia, an arduous task to be sure. Experience has shown that modern Georgian and Ossetian historians have difficulty agreeing on a common interpretation of historical events. However, taking into consideration the major achievements of contemporary historical and social studies, it can be assumed that the new generation of historians will reach a consensus on this issue.

The Georgian side must do its best to respect the Ossetian national dignity and, naturally, the restitution law alone cannot serve this purpose. The overall value of positive discrimination is questionable. Ossetia must find a significant place in the Georgian cultural-educational policy, meaning that monuments, museums, geographical names, textbooks and school curricula should be accordingly adapted to reflect this integration. The formal procedure for finalising an agreement, not only the division of functions (though many aspects – especially law-enforcement, public security systems and responsibilities on the territory of South Ossetia – are important from this viewpoint), is crucial in defining the legal status of the South Ossetian autonomy, which must be implemented with the full cooperation of South Ossetia. The South Ossetian side must be absolutely sure that they are equal and legitimate stakeholders in the processes that will ultimately determine their fate. Respectively, the creation of a joint

commission that may define this status should be agreed upon jointly by the two sides to ensure the legitimacy of the final product and help guarantee that the representation of the processes are not called into question. Such a process will also help guarantee that fundamental principles are not revised in the future. Georgia should pass a respective statute based on the conclusions of this joint commission.

Controversial views on the Ossetian problem often generally prevail in Georgian society today. Many Georgians regard the abovementioned initiatives being taken by the Georgian President as unrealistic and merely a means by which to drag the process out and strengthen the President's positions in the eyes of the international community, as opposed to a real solution to the conflict. The understanding that a conflict can only be solved by force and that in reality everything depends on external players is endemic in local society. The Georgians are unable – or unwilling – to put aside the imperative of territorial integrity. On the other hand, however, the overwhelming majority of Georgian citizens are against war. The development of a confidence-building strategy, therefore, is the only way out of both the real and perceived circle. This strategy requires a great deal of time to finalize a solution to the conflict and, moreover, the internal strength of the state and a favourable international environment are vital preconditions to make this strategy a success. In regard, Georgia should make noticeable progress in promoting the supremacy of law, progress which will be reflected in both the efficiency of the government and its ability to satisfy the basic needs of its citizens. On the other hand, the government must also coordinate its conflict-resolution policy with the EU and USA and, correspondingly, persuade these entities to exert more influence on Russia.

However, these measures will only become real and, subsequently, effective if a confidence-building strategy for the Georgian-Ossetian conflict is firmly in place. The philosophy and general outline of this strategy may correspond with the logic of the given work. In other words, this strategy must be backed by tactical initiatives, including a constant and multi-formatted dialogue and specific cultural, educational and economic projects. The youths in Tskhinvali will undoubtedly look with greater interest at the opportunities to receive an education in Tbilisi or establish joint trade, industrial and agricultural enterprises in Tskhinvali, Znauri or Java if Georgia agrees to assess the conflict, undertake joint measures to maintain law and order, respect Ossetian national feelings and adopts the restitution law. These are the preconditions for a “reunification” of Georgia.

### **Considerations on the economic aspects of resolution of the conflict in South Ossetia**

One single, separate factor cannot serve as the key to successful settlement of the conflict in South Ossetia. This reality is supplemented by the fact that many forces in Georgia, South Ossetia, Russia, and other countries have no interest in changing the current ambiguous status quo. By and large, the stakeholders within this process can be classified as the following:

- **The Russian political elite** and some economic, military and security circles who are interested in preserving the current situation;
- **Transnational criminal groups**, especially those involved in drugs and arms trafficking, who have a vested interest in such unstable territories in the Caucasus;
- **Some Georgian and South Ossetian** forces who are trying to take advantage of the current situation for financial gains. It would be delusional to assume that the closure of the Ergneti Market was a fatal blow to these groups. Many residents of Shida Kartli, a region that borders South Ossetia, are certain that small traders suffered the most from the closure of the market, while powerful groups – both Georgian and Ossetian –

continue their commercial activities;

- **South Ossetia**, which is specifically interested in peace and stability, as this is the only way the political elite and business people in South Ossetia may profit from the region's commercial potential stemming from the major road that links the region to Russia. South Ossetia may also retain the hope that may one day be recognized as an independent stateor, alternatively, be united with North Ossetia though such prospects must ultimately be labelled as bleak;
- **Georgia**, which, of course, is also interested in stability. Unlike South Ossetia, however, Georgia is anxious to settle the legal status in order to restore Georgian jurisdiction in the region;
- **International organizations** who have a mandate to settle the conflict;
- **Ordinary Georgians and Ossetians residing in the conflict area**, who generally take a pragmatic approach to the issue. These people do not benefit from the current status quo and, therefore, welcome change. This society's influence on the process is weak, however, and the role it plays is ambivalent. At the same time, the potential role of this sector should not be ignored and these social groups have national emotions and aspirations for eventual stability and security;
- **Georgian and Ossetian NGOs** whose missions are to facilitate the confidence-building process and peaceful settlement of the conflict. The influence exerted by these organizations on both the political elite and on ordinary citizens is weak.

On the whole, the forces advocating change in the region cannot compete at present with those groups who are interested in preserving the status quo. Moreover, Georgia alone supports a legal settlement of the problem at present and South Ossetia remains firm on its stance to achieve independence or unification with Russia – which, overall, is unrealistic and can be useful only to bargain and prolong the process. All of the above-mentioned aspects suggest that one-sided and out-of-context measures will not yield any positive results, best illustrated by the crisis in the summer of 2004. In light of this, it is believed that the efforts to settle the conflict and restore Georgian jurisdiction in the region should multi-faceted and should include:

- The defining of the territorial-administrative system of Georgia. The level of decentralisation and the status of South Ossetia must be formulated within this context. Negotiations with South Ossetia will not be successful until the Georgian government clearly defines its attitude towards decentralisation;
- The strengthening of economic links between the regional population and Georgia. In addition to governmental programs, horizontal contacts between business groups are also very important in this regard. Serious efforts must be carried-out to help rehabilitate the economy of the region;
- The strengthening and effective application of the existing potential of diplomatic, political, law-enforcement and security measures;

## **Economic issues**

South Ossetia is in a dire economic situation today. During the hostilities only small, elite groups were able to make any considerable monetary gains and many people migrated out of the area as a result of the conflict. According to various sources, the present population of South Ossetia is 50-60 thousand people. The region's GDP is estimated at approximately \$15 million, or roughly \$250 per capita – an extremely low figure. The region's budgetary revenue reached USD 4.452 million in 2003. Income from the Transcaucasus highway account for some 62% of the total South Ossetian budget and local industry and agriculture are in an economic depression. Only a few major industrial enterprises operate in the region at present: a timber factory in Tskhinvali, several bottled mineral water enterprises, and a small mining industry in the Znauri district. The majority of the local population depends on the Transcaucasus highway and (formerly) the Ergneti Market for their income.

Transportation in the region depended on the following scheme: the transportation of imports of goods through the Roki Channel (which were only semi-legal) across South Ossetia was formally legalised and regulated by South Ossetian legislation. However, these goods remained completely illegal in the Georgian-controlled territory. Expert assessments provide a glimpse into the monthly turnover of the Ergneti Market in the months leading up to its demise.

Petrol: 2,800 – 3,400 tons; USD 840,000 – 1.26 million  
Diesel: 4,000 – 6,000 tons; USD 950,000 – 1.45 million  
Grains: 1,500 – 3,200 tons; USD 300 thousand – 660 thousand  
Wheat flour: 1,200 – 2,500 tons; USD 400 – 850 thousand  
Liquefied gas: 420 – 800 tons; USD 72.8 – 140 thousand  
Cigarettes: USD 900,000 – \$2 million  
Fertilisers and complex feeds: 3,000 – 4,000 tons; USD 360 – 480 thousand  
Spare parts for Russian-made automobiles: USD 1.1 – 1.25 million  
Foods: USD 850,000 – USD 1.35 million  
Household goods: USD 400 – 500 thousand  
Building materials: USD 670 – 870 thousand  
Calfskin and sheepskin (for exports to Turkey and Greece): roughly 280 thousand

Agricultural products – estimated at GEL 1.2 million per month – were mainly exported from Georgia. This data, however, is based on the information from the Russian customs department and many more products may have been exported illegally in reality.

Overall, the monthly turnover of the Ergneti Market fluctuated between USD 8.4 and 11.1 million, or USD 100.8 – 133.2 million per year. These figures suggest that Georgia was losing between GEL 80 and 170 million in tax revenues every year. Given that the above figures may have even been much larger in certain years, the Georgian budget must have suffered significant losses during that period, to say nothing of the dangers associated with illegal trafficking (drugs, weapons, gangs, etc). Although the Ergneti Market was never legalised it remained a significant institution for Georgian-Ossetian economic relations. Strong suspicions that economic relations between small traders declined as a result of the Georgian government's measures in the summer of 2004 and that contraband trade continued on a larger scale – with increased volumes and informal tariffs – remain.

An important element of the South Ossetian economy is the fact that local markets are dominated by the Russian Rouble. This reality is a result of the fact that the infrastructure of commercial banks is lacking and their functions have been assumed by the “central bank,” which is unable to perform its primary function (regulation of monetary policy) in the absence of a national currency and foreign reserves.

Keeping in mind all of these aforementioned factors, two major directions can be identified to help integrate economic factors into aspects of conflict-resolution:

**I. Economic leverage of the government**

**II. Horizontal relations between private businesses**

In regards to the public sector, it is our belief that the essence of conflict resolution should be examined in conjunction with a real decentralisation within the country. From this viewpoint, it would be very important if the government delegated certain powers to local authorities in all the regions of Georgia. Such a move would send an important message to South Ossetia. Additionally, the granting of significant rights and responsibilities to South Ossetia’s neighbour regions – Imereti, Shida Kartli, Mtskheta-Tianeti – and giving of more powers to local municipalities may also become a vital foundation for the development of horizontal relations between South Ossetia and these regions. On the one hand, such relations reflect the common interests among these regions and, on the other hand, political factors may somehow be overshadowed by good economic relations, leading to an easement of militaristic attitudes and allowing opportunities for confidence building to arise. Within this context, however, the status of South Ossetia should allow it to be given broader rights and responsibilities than other regions of Georgia. This implies, first and foremost, that South Ossetia should have exclusive rights and competences. We also believe the following exclusive rights and responsibilities, apart from other political and legal responsibilities, can be considered:

<b>Education</b>
Pre-school education
Elementary education
Basic education
Secondary education
Special and technical education
Boarding schools
Higher education
<b>Public health care</b>
Hospitals (local)
Hospitals (regional)
Dispensaries
Public health care
Ambulance service
Preventive medical care
Family medicine
Special medicine
Planning/control of health care policy
Medical statistics
<b>Culture, entertainment, sports</b>
Protection of cultural monuments (local)
Protection of cultural monuments (regional)
Libraries (local)
Libraries (regional)
Archives
Clubs
Theatres (local)
Theatres (regional)

Museums (local)
Museums (regional)
Cinemas
Exhibitions (local)
Exhibitions (regional)
Sports facilities (local)
Sports facilities (regional)
Physical culture
Specialised schools
<b>Environment, natural resources and sanitary problems</b>
Protection of water and soil (local)
Protection of water and soil (regional)
Measures against air pollution
General environmental protection
Forest preservation (local)
Forest preservation (national)
Land management
Sanitary protection
Veterinary medicine
Disposal of hard waste
Utilisation/processing of hard waste
Sewage purification/utilisation
Disaster relief
Natural resources (local)
Natural resources (strategic)
Water resources (local)
Water resources (regional)
<b>Social security</b>
Social programs for the poor
Social programs for socially vulnerable groups (low-income families)
Social programs for disabled people
Social programs for the unemployed
Social services (diagnostics and care)
Social programs for homeless people (local)
<b>Roads and transport</b>
Motorways between local self-government units
Local roads
Public transport connecting municipalities
Municipal public transport
Railway transport
Metro
Trams
Trolleybuses
Cable-cars
<b>Spatial planning and construction control</b>
Urban planning
Regional planning
Construction control
<b>Amenities and utilities</b>
Disposal of hard household waste

Disposal of office waste
Preventive hygienic measures
Street clean-up
Drainage network
Tap water supply
Technical water supply
Local irrigation
Regional irrigation
Running communal waters
Planting and landscaping
Amenities and street lights
Cemeteries
<b>General tasks</b>
Registry office
Law and order
Fire service
Civil defence
Elections
Consumer protection

The following initiatives should accompany the Implementation of these responsibilities:

- Independent decision-making in respective administrative spheres;
- Independent planning/implementation of the civil service;
- Fiscal decentralisation, aiming to distribute financial resources to respective spheres, and independent appropriation of these resources;
- Transfer of responsibilities for civil regulations connected with the respective competences.

The creation of legal mechanisms for the division of the above-mentioned responsibilities between the regional governments and municipalities of South Ossetia is an important procedure. The regional authorities can be granted broad independence – within the scope of international local self-government standards – in determining this division.

The building and nurturing of relations between ordinary citizens and businessmen, however, is a much more important process. In order to strengthen these relations it is necessary, on the one hand, to take into account respective motivation and, on the other hand, to create specific incentives. On the basis of the current situation three major priority spheres in this direction can be identified: agriculture, natural resources, and commerce.

Regarding agriculture, the major problems faced by the local population are a lack of credit resources and the difficulty in selling products. This problem of viable credit resources may be solved through the creation of a specialised micro-finance institution, subsidised by the Georgian government, which would operate in a neighbouring region and would offer small loans for farming development. The procedures of this institution should be simplified in order to avoid legal problems.

In regards to the problem of sales, it would be useful to concentrate on the following three directions:

- I.** Neighbouring regions should establish strong links designed for fostering the sell of agricultural products;
- II.** Measures must be taken to develop agricultural markets in the region, taking into account the positive fiscal effects of this sphere, which led to the crackdown on the Ergneti Market;
- III.** The government must create special centres in neighbouring regions to purchase agricultural products. These centres should partially substitute for governmental procurement of agricultural products.

There is no denying that these mechanisms are not absolutely in line with the principles of a market economy and are subject to corruption; however, given the present situation, they may still be applied if stringent administrative control is in place.

Given the existing motorway and the Roki Tunnel, the trade sector has a clearer defining function than other spheres. Finding common ground between the parties within a legal framework is the biggest problem in this respect. In order to reach a suitable compromise both parties will have to make certain concessions. The Georgian government should offer a simplified scheme for trade legalisation. This aspect is very important, as trade serves as one of the strongest entities to promote horizontal economic relations and strong economic contacts determine public relations. There are also alternative models in regards to this issue: joint control over imports from Russia – which may seem unrealistic at present but may become a reality in the future; a certain legal regime that includes simplified procedures for the trade legalisation, et.

In terms of natural resources, Georgia should open its markets – especially for timber and mineral water. It would also be imperative to encourage investments from Georgian business circles.

In general terms, it is essential to enlarge the overall group of people maintaining economic links to Georgia, extend the circulation of the Lari into the region, and create specific incentives for the development of business.

As legal opportunities to stimulate the business development are limited, the following three directions should be given priority:

- I.** The credit resources of the Georgian government should be widely available;
- II.** Inter-regional and inter-communal joint projects must be encouraged;
- III.** Programs should be prepared to improve the qualifications and professional skills of businessmen.

The government must implement specific measures (e.g. risk insurance) which would enable Georgian commercial banks to offer their financial services to residents and organizations in the region without opening branches there.

Special social programs may be developed for residents in the region which may provide benefits for low-income families and other selected groups. Eligible residents could receive these benefits in the Georgian-controlled territories. It is imperative that these programs are not merely symbolic.

Special insurance funds can be set-up with the help of international donor organizations which would insure loans by the Georgian commercial banks to residents and organizations in the region. These funds would help create bank guarantees, subsidies on interest, etc. (this is a rare example of state intervention into private business which can be politically justified).

## **Considerations on the status of South Ossetia within the Georgian state**

- The 1995 constitution of Georgia is the main document which defines the legal status of any self-governing unit of the country within the legitimate boundaries of the Georgian state. The constitution defines the country's legal regime and political system. The constitution exerts supremacy over all lower-level legal acts while, at the same time, complying with the country's international obligations.
- First of all, the constitution guarantees human rights and liberties, equality, local self-government, and many other internationally recognized democratic norms.
- As mentioned above, the constitution defined the country's political system and the form of government. The constitution of Georgia does stipulate that self-governing units can be created in the country and granted the greatest autonomy. In view of the problems that were facing the country during the creation of this document, the authors of the constitution omitted paragraphs about the territorial arrangement of Georgia until all parties would be able to participate equally and fully in the process and their interests could be taken into consideration. Article 2 of the constitution ensures a division of responsibilities, the creation of a legal basis for relations between the central authorities and autonomous regions. This exact principle and specific aspects of the federal relations should be taken into account when developing a constitutional law which would define the legal status of South Ossetia in detail. It would not be an exaggeration to say that the current political and public elite of Georgia is overwhelmingly in favour of federalisation of the country and heated debates over this issue have already become a thing of the past.
- It must be mentioned that at a session of the parliamentary assembly of the Council of Europe in Strasbourg in January 2005 the president of Georgia presented peace initiatives for the settlement of the conflict in South Ossetia. This document specified the forms that legal-political relations between the parties would take and outlined the general principles of the social and economic reconstruction programs which must be implemented by the Georgian government during a transitional period of three years.
- The given document is based on fundamental provisions within the Georgian constitution and, at the same time, takes into account a considerable portion of the Georgian president's peace initiatives announced in Strasbourg.
- When amending the constitution of Georgia with clauses about the country's territorial arrangement, Georgia must, first and foremost, work out the most optimal and specific model, which will balance the interests of all the territorial units of the country and adequately reflect the interests of both the dominant ethnic group and ethnic minorities living in the respective territories. Thus the interests of all concerned parties must be taken into consideration and the vast experience of other countries in implementing the principles of regionalism and federalism must be utilized in order to achieve a peaceful settlement to this conflict.
- According to the Georgian constitution, the country can pass constitutional laws which will become part of the constitution and, respectively, will provide maximum legislative guarantees of protection. However, when developing the status of South Ossetia, legislators should envisage even stronger guarantees for protection of this new constitutional law by ensuring the equal and complete participation of the South Ossetian autonomous region in the process. Correspondingly, the status of South Ossetia will be defined by constitutional law and, therefore, may only be revised with the consent of both

parties. Georgia and South Ossetia should create a parity commission – which would include the participation of foreign experts – to develop the constitutional law on the status of the South Ossetian autonomous region. This law must receive a 2/3 vote in the Georgian parliament in order to be passed. Following this procedure, this law would become an inseparable part of the Georgian constitution.

- The constitutional law on South Ossetia must define:
  - A place for South Ossetia within the Georgian state;
  - A common legal framework for the boundaries and competences of the autonomy;
  - Regulations over the settlement of disputes between the central authorities and the autonomous region regarding overlapping competences and responsibilities;
  - The form of governance this region will assume;
  - All other issues that must be regulated by the constitutional law under an agreement between the parties.
  
- An agreement on the peaceful settlement of the conflict, which would regulate legal relations between the parties during the transitional period, should be reached prior to the adoption of a constitutional law. This agreement should also define the procedural regulations and format for the joint process of drafting this constitutional law.

**The constitutional law on South Ossetia must stipulate that:**

- I. South Ossetia is an autonomous territorial unit of the Georgian state named the “Autonomous Union (republic, region, province, district) of South Ossetia.”
  
- II. The South Ossetian autonomous unit will have its own territory, constitution, national flag and coat of arms. It is a political (not administrative) territorial unit of the Georgian state. The Georgian national currency – Lari – incorporating local symbols shall be the legal tender in the South Ossetian territory.
  
- III. Ossetian will be granted the status of the official language of the territory of the South Ossetian autonomous unit. Respectively, two languages – Georgian and Ossetian – will be used in all official procedures and courts within the territory of South Ossetia.
  
- IV. The administrative borders of the South Ossetian autonomous unit may only be changed through a coordinated decision by the South Ossetian parliament and a respective supreme state institution of Georgia. The territory of the South Ossetian autonomous unit shall be defined as the area included in the former S.O.A.R of Soviet Georgia.
  
- V. The political system of the South Ossetian autonomous unit is a parliamentary democratic republic. Respectively, legal residents of South Ossetia elect the parliament of their autonomy, the head of the territorial unit/South Ossetian government, as well as local government and self-governance bodies.
  
- VI. After the voluntary repatriation of refugees (Georgians and Ossetians) to South Ossetia, a special council made up of representatives of Georgia, South Ossetia, and international organizations will organise Parliamentary elections on the basis of universal suffrage. The newly elected parliament of the autonomy should adopt a

new constitution of South Ossetia with at least a 2/3 vote. The constitutional law on the status of the South Ossetian autonomous union is an inseparable part of the constitution of South Ossetia.

- VII. The interests of the South Ossetian autonomous unit will be guaranteed in all structures of the Georgian government by authorized representatives, meaning that South Ossetia will have representatives in the upper chamber of the Parliament of Georgia and a special system will be created to represent the interests of South Ossetia within the executive structures of Georgia.
- As mentioned above, the constitutional law should define the division of responsibilities between the state and its territorial units. Respectively, the law must specify the scope of responsibilities and the entities entrusted with making the final decisions on these responsibilities. Only respective governmental bodies of South Ossetia will have the right to make final decisions within the exclusive competences of South Ossetia, effectively excluding hierarchical norms and making it impossible for supreme state institutions to intervene in the sphere of the exclusive competences of South Ossetia. However, in extreme cases that may compromise the constitutional order or legal system of the Georgian state the Supreme Court and/or the Constitutional Court of Georgia will be ultimate controlling body/bodies. The Constitutional Court would represent the supreme body in relation to the normative acts of the governmental bodies of South Ossetia in instances wherein there is a need to decide whether certain acts conform to the constitution of Georgia.
  - The constitutional law must define the prerogatives of the parties and the rules for assuming them. Governmental competences are strictly defined in Georgia. Additionally the responsibilities and rights of the country's region must be determined by a law or agreement. However, it must be emphasised that all competences that are not assumed by the central government under the constitution should be passed to the autonomies.
  - Division of competences requires an answer to the fundamental question of which competences cannot be transferred to territorial units without jeopardizing the country's constitutional order and democratic regime. Democratic countries usually specify national security and defence, civil military control, border defence, monetary policy, foreign political and military relations, protection of human rights and liberties, and citizenship as absolute competences of the state that can not be transferred or distributed.

**According to the above-mentioned priorities, the central Georgian government undertakes the following duties:**

- Status, regime and defence of state borders;
- Status and defence of territorial waters, air space, offshore waters and special economic zones;
- National security and defence, armed forces, military industry and arms trade;
- War and peace issues and enforcement of emergency and martial law;
- Foreign policy and international relations;

- National finance and credit, monetary policy, banks, insurance and taxation systems;
- National statistics;
- National/strategic railways and roads;
- National energy system and regime;
- Mail and communications;
- National/strategic ports, airports and airfields, air traffic control, transit and transport control;
- Measures against terrorism, drug trafficking, organised crime and money laundering;
- Criminal police and investigation;
- Georgian citizenship, basic human rights and liberties, emigration and immigration policies, entry into/departure from the country, temporary/permanent residence of foreign nationals and individuals without citizenship in Georgia;
- Commerce, criminal, civil, administrative, penitentiary and judicial legislation;
- Competences of the South Ossetian autonomous unit should be defined by constitutional law and the constitution of South Ossetia. This latter document would specify in more detail the duties of the autonomous unit. The constitution of South Ossetia should specify: the name of the region in Ossetian, boundaries of the region, national symbols (flag, anthem and coat of arms), administrative-territorial arrangement of the region, procedure for creating South Ossetian governing bodies and their responsibilities, etc.
- It should be noted from the beginning, however, that the constitution of South Ossetia must undoubtedly comply with the principles of democracy, social justice, rule of law and republicanism stated by the constitution of Georgia.

**The duties of the South Ossetian autonomous unit should include:**

- Adoption/amendment of the South Ossetian constitution and other normative acts;
- Definition/division of competences and responsibilities of the supreme bodies of the South Ossetian government;
- Conducting elections of the supreme legislative body of South Ossetia and the head of the South Ossetian government; local elections;
- Outlining of the structure, responsibilities and regulations of the South Ossetian government and the supreme executive institution of South Ossetia;
- Defining the administrative-territorial arrangement of South Ossetia and division of competences between the central government of the autonomy and the local

government and self-government bodies;

- Property management and administration on the territory of South Ossetia;
- Management of culture, tourism and sport; creation and management of cultural and scientific institutions;
- Creation and enforcement of labour and social security policies;
- Public health care – including control over tobacco and alcohol – sanitation services, pharmacy, orphanages and facilities for disabled people;
- Meteorological service;
- Industry, manufacturing and craftsmanship, consumer protection and trade unions;
- Urban planning and housing policy, architecture, spatial planning and housing development;
- Agriculture, land management, cattle farming and veterinary services, forestry, hunting;
- Internal water reserves, hydraulic facilities, irrigation infrastructure, water supply systems, fishing regulations;
- Standards, land surveying and cartography;
- Local railways and roads;
- Local TV and radio broadcasting, transport and communications;
- Local airports and airfields;
- Intellectual property;
- Health resorts, national parks and wildlife reserves;
- Statistics for the South Ossetian autonomy;
- Historical, archaeological and scientific heritage;
- Archives, libraries, museums, publishing and printing;
- Markets, exhibitions, casinos and bookmakers;
- Law and order and traffic police;
- Observance of traditional public holidays and festivals for the South Ossetian autonomy, and;
- Awards, ranking system and insignia of the South Ossetian autonomy;

- The constitutional law must define the so-called ‘joint responsibilities.’ Both parties are entitled to make decisions regarding these responsibilities, granting that they are within the limits of their competences. These may be illustrated by the following examples.
  - ❖ **Example 1:** Education and science. Education should be a sphere of joint responsibility, meaning that Tbilisi and Tskhinvali should be entitled to make decisions independently of each other. To ensure the equality of all citizens of Georgia, common educational standards must be enforced nationwide. However, the local authorities can also make specific decisions that conform to these standards. For instance, the authorities may select particular textbooks from a list of officially approved methodological materials for school curricula. The Georgian state must guarantee the development of the Ossetian culture and language within the South Ossetian territory, as well as on the entire territory of Georgia. Accordingly, there can be guarantees for Ossetian education opportunities, subsidies for Ossetian TV, radio and newspapers, protection of Ossetian cultural and historical monuments, etc.
  - ❖ **Example 2:** Foreign policy. Foreign political and military relations must remain within the competence of the central Georgian government. This does not rule out, however, that South Ossetia, like any other autonomous region in the country, may establish foreign relations on its own, especially in the spheres of trade, economics and culture.

**These joint competences should include:**

- Foreign trade, customs and tariffs;
- Education and science;
- Pardons and amnesty;
- Land and natural resources;
- Quality control of foods and feeds;
- Environmental security;
- Pharmacy;
- It is very necessary to outline the absolute priority directions for the given transitional period. The Georgian government must unilaterally pass several legislative acts before adopting a constitutional law, so as to facilitate the confidence-building process. The list of such measures is rather large and the large detailed description is too extensive for this paper (especially if measures to encourage diplomacy among people and prospects for economic development are discussed) and only a number of issues have been highlighted. The given document does focus on recommendations for the development of a legislative base for the conflict-resolution process.

**Chapter III of the presidential initiative mentioned above deals entirely with the social and economic aspects of the conflict resolution process. With this in mind, we find the following steps indispensable:**

- First and foremost, the law on restitution must be adopted. This law should define in depth the process of restitution of property rights and payment of compensation for all citizens affected by the Georgian-Ossetian conflict in 1990-91. The restitution law must be based on several fundamental principles:
  - The procedure must be simplified and a real mechanism for restitution should be developed;
  - It should be applicable to all citizens who have suffered from ethnic discrimination – from 1990 until the date when the law will come into force;
 

The law should be enforced on the entire territory of Georgia, not only in South Ossetia;
  - Priority should be given to property restitution, though a compensation mechanism must also be in place;
  - A restitution mechanism (probably a commission) must be created on a parity basis and must incorporate representatives from the three parties: Georgia, South Ossetia and international organizations. This mechanism should be authorized to make decisions and should be assigned quasi-judicial functions;
- Along with the restitution law, the Georgian government must also pass a respective legislative act (amendments to the state budget and pension act) defining single allowances for all families affected by the conflict and the payment of all pension arrears.
- Refugees living in foreign countries and all those who were forced to relinquish their Georgian citizenship must be granted Georgian citizenship again through a simplified procedure.

## **Appendix I**

### **Results of focus group discussions**

#### **Aspects of the of the Georgian-Ossetian conflict settlement process**

A focus group discussion was carried out in February-March 2005. The two groups included 16 participants. The respondents chosen were:

- Leaders of organizations which are actively involved in the conflict-resolution process;
- Political analysts;
- Journalists;
- Scholars;
- Economists:

Members of each group spent two hours discussing the prospects of conflict resolution. The groups consisted of ethnic Georgians and some Ossetian residents in Tbilisi.

The focus groups triggered heated debates. Although the problem was obviously urgent and serious, the groups managed to discuss this problem in a correct manner And the participants seemed anxious to find solutions to the problem.

A special questionnaire was prepared for this discussion, which was mainly based on historical documents presented by the organizers and which covered the history of the conflict from the beginning up to the present day.

#### **Questionnaire**

1. How do you think the Georgian-Ossetian conflict should be settled – by force or peacefully? Which of these methods should be given priority and when?
2. What should be done to restore confidence between the Georgian and Ossetian nations and what measures are necessary to ensure efficient implementation of the process? (On the basis of the results of the past negotiations should new forms be developed? Should the process begin from scratch? Should mass media, NGOs, and international organizations play a greater role? should emphasis be placed on personalities? etc.).
3. Which country or party do you think should have peacekeeping troops in the region? (Russia, the UN, other countries, OSCE; what functions should they have? What tactics must they apply? Which party's interests do they represent or will they represent in the future?)
4. What mission do you think the Joint Control Commission or other groups (OSCE, Venice group, etc.) should implement in the conflict resolution process? (How should they act? How efficiently have they worked (or will the work)? Is this kind of activity necessary?)
5. How should be the given conflict be classified? Is it a political or ethnic conflict? (Georgian-Ossetian, Georgia and Ossetia, Ossetian conflict, conflict in South Ossetia, Georgian-Russian conflict, etc).
6. What name would be acceptable for both parties in the future? (Tskhinvali province, Tskhinvali region, South Ossetia, Osista, Autonomous Republic of Tskhinvali "Iron,"

Independent Republic of South Ossetia, Autonomous Republic of South Ossetia, Liakhvi Valley, Tskhinvali district, Samachablo, Shida Kartli, etc).

### **General outlines**

- 1)** The conflict in South Ossetia must be settled peacefully. There are no other alternatives.
- 2)** The use of force can be justified only against separatist leaders, not the people, who refuse to compromise and ignore the achievements of the peace process.
- 3)** All available resources should be applied to secure a peaceful settlement to the conflict.
- 4)** A peaceful settlement to the conflict can only be achieved through direct negotiations with the other party, without any external interference.
- 5)** Specific efforts are necessary in the political, economic and social-legal spheres to bring about peace to the region.
- 6)** First it is necessary to restore mutual confidence; diverse forms and methods should be used to this end.
- 7)** The spotlight should be focused on efforts to win and maintain political trust.
- 8)** Provocative actions should never be included in the confidence-building process.
- 9)** The renewal of high-profile peace talks is the first step in confidence building.
- 10)** Propagating positive historical events can benefit the confidence-building process and lead to readiness on both parties
- 11)** Past events must be assessed adequately and objectively.
- 12)** Confidence building requires the concerted effort of many organizations.
- 13)** Both parties should take steps to diminish the perception that the other side is the “enemy.”
- 14)** Peacekeeping troops should be replaced by local forces in order to facilitate the reconciliation process.
- 15)** Negotiations should be held at various levels to streamline reconciliation; each group must have strictly defined functions and responsibilities; each group must be responsible for a specific task.
- 16)** The idea to assign the Venice Commission the task of developing the status of South Ossetia is welcomed.
- 17)** There exists an alternative opinion stating that, in the absence of a comprehensive concept of conflict resolution, it is too early to discuss the status of South Ossetia.

18) The conflict must be viewed in a political, and not an ethnic, context

19) It is essential to agree upon the future name of the region; the two parties should come to terms with this issue.

20) It is important for the Georgian side to ensure that this future name does not include the word "South." Other guarantees can also be acceptable, provided that they are agreed upon by both parties.

## **Results**

1. Respondents specified that the conflict in South Ossetia must be resolved peacefully and that the use of force – a war – is absolutely unacceptable, provided that both parties want to live together in a common country. Forceful methods will only bring about disastrous consequences for the future and will create the preconditions for permanent confrontation.

The events in the summer of 2004 were a blunder and such methods of the conflict resolution should never again be used. There are no alternatives to diplomacy. The peaceful settlement of this conflict will facilitate the nation-building process in Georgia. In contrast, forceful methods will only hamper this process.

If force is used, it should be directed only against separatist groups in order to neutralize them, and never against the peaceful population. This, of course, is an extreme measure and in this scenario the Russian factor must be taken into account. The government must think thoroughly over all potentially peaceful methods to resolve the conflict and must avoid making spontaneous decisions. All available resources should be applied to this end. The use of force should not be viewed as a preventive measure, as it will lead to casualties. Can the demonstration of force justify these deaths? There is a huge body of historical evidence to illustrate that forceful methods are often futile.

Lots of people are in favour of a peaceful settlement of the conflict. These relations must be restored and maintained. Great effort should be put into encouraging warm relations between the parties. It is impossible to ignore all the past achievements on the road towards peace. There are hawks on both sides. This may be a result of another country's (essentially Russia) influence. This is why the Russian factor must be addressed. The involvement of Russia makes the other parties think only in terms of winning or losing, dictating that in the end there will be no winners.

In general, everybody is for peace. However, it is necessary to take specific measures to ensure this peace. The Georgian side must set their goals from the outset – whether it is seeking merely to regain the territory or to whether it is genuinely interested in reconciling with the Ossetian nation and securing harmonious relations with the Ossetians.

During the peace process any forceful interventions will destroy the existing relationship and links. If this occurs, both parties will be left in limbo and will face a major crisis. Both parties should strive to prevent future generations from developing hostile attitudes and the negative images of the other side.

2. In the opinion of the respondents, all available means and resources should be used to restore confidence between the parties. The persisting lack of confidence has not led to catastrophic consequences yet. The primary problem is a lack of political confidence and political factors must be given priority. The confidence-building process is unquestionably being impeded by

other involved parties, which often instigate tensions. Under such circumstances it is hard to seek even optimal ways of confidence building. Negotiations are essential to foster the confidence-building process. There is a lack of confidence at the political level, not at the grass roots level. One of the most important goals must be the ruling-out of any external interference in the peace process. Georgians and Ossetians have friendly and close cultural relations but certain instigators are able to manipulate both parties.

Direct contacts among Georgians and Ossetians can help solve a lot of problems. However, Russia has used its political and military leverage to break the balance of forces. The level of integration between the two parties can be increased through independent moves, taking into consideration the interests of each party.

Confidence building can benefit from propagating historical events that helped both parties to live peacefully alongside each other in the past. Naturally, there must be no disputes over which party is the indigenous population of the region. It is necessary to find common ground.

Preparedness is essential in confidence building. Personal factors are also important. Negotiators from both parties should be trustworthy people and there must be no attempts to discredit them.

Assessment of past events is important for confidence building. This assessment must be realistic and not adapted to serve the interests of one party or the other. It is not a good idea to begin everything from scratch every time. This assessment would help make the first steps toward implementing full-scale negotiations between the parties.

Discrete actions alone are not enough to restore confidence. From this viewpoint it is important to carry-out a coherent policy. Governmental officials, representatives of NGOs and international organizations, and journalists must be involved in the process as well. In other words, the problem requires a complex approach. Various groups are often ignored during this process, despite their having great experience in dealing with the issue. That is why active participation of various interest groups in the conflict-resolution process is important to secure its success. Decisions should not be made by one group alone. Such actions are not effective. The delegation of responsibilities to various groups will allow the problems to be viewed from a global perspective and in a broader context. The effective actions of these groups will help the government make adequate decisions.

To help facilitate the confidence-building process, political leaders should abstain from using politically incorrect and from making intimidating statements. Every such political statement will only draw a reciprocal response from the other side.

It is necessary to focus attention on the problem of identification in order to restore confidence. The terms “we” and “you” should be excluded from talks. The parties should jointly prepare state-building concepts and avoid highlighting specific positions. The problem should be viewed not from a Georgian or Ossetian perspective, but rather in the context of the Georgian nation as a whole.

Confidence building implies direct contact. During these contacts the parties must try to understand each other’s positions. Otherwise, they will be unable to find common interests.

Another important issue is the assessment of the terminology being employed. Such phrases as “political conflict” or “Russian intervention” are used quite often. Of course, other countries also have their own interests in the conflict. However, when speaking about the political aspects of the conflict, politicians often use the terms of ethnic confrontation. As a result, there are

disagreements and the conflict is viewed in a different context. The terminology used must be strictly defined. First of all, the conflict must be considered a political, not ethnic, conflict, as there have been a lot of ethnic conflicts on the Georgian territory. The ethnic aspects of the conflict should be analysed in order to facilitate the confidence-building process but they must be viewed from a different perspective.

The introduction of a separate program is necessary to accelerate the confidence-building process. Apart from the conflicting parties, this program should also involve international organizations. The diplomacy of the people is also essential to assist in confidence building.

**3.** The respondents believe that the peacekeeping troops in the conflict zone are essential to resolution of the conflict. However, in their opinion, the current peacekeeping force should be replaced. Russian peacekeepers are currently in charge of the conflict zone, but they should be replaced. According to one of the proposals, the peacekeeping troops should be manned by members of mixed (Georgian-Ossetian) families. Such a structure would be optimal for both parties. This resource, however, has not yet been applied. The mobilisation of such a force prerequisite for joint control of the region and, logically, would eliminate the need for the involvement of other parties. This peacekeeping contingent would be able to regulate existing problems.

Another proposal is to completely remove the Russian peacekeepers from the region, as Russia is actually a party to the conflict. Russia is not only a party it is a more powerful party than the others and has a vested interest than the others. Other, non-Russian peacekeeping troops could be deployed in the conflict zone. Their deployment would contribute to the peace and stability in the region. The withdrawal of the Russian peacekeeping force is not an easy task to fulfil. To this end Georgia must unequivocally state that Russia is involved in the conflict. One of the real results of the Russian peacekeeping mission has been the granting of Russian citizenship to President of South Ossetia, Eduard Kokoity, which is in breach of both the Georgian national legislation and the law of the “Independent Republic of South Ossetia.” Georgia has actually turned a blind eye to this problem.

A third proposal provides that the peacekeeping force should exclude troops from neighbouring countries. Georgia’s neighbours are Russia, Azerbaijan, Armenia, Turkey, Bulgaria, Ukraine and Romania. If the peacekeeping mandate is to continue in the future, troops from these countries should by no means participate in the peacekeeping mission.

A fourth proposal is that Ukrainian peacekeepers may be deployed in the conflict zone during the initial stage. Afterwards, these peacekeepers could be replaced by joint, Georgian-Ossetian, peacekeeping units. It must be noted that Georgian and Ossetian troops coordinated their operations at one time in the past. If the Ossetian party objects to Ukraine’s participation in the peacekeeping operation, both parties may be appeased if the peacekeeping mission is carried out under the auspices of the UN.

There is, however, a flip side to the idea of deploying foreign peacekeepers in the conflict zone. Convincing local residents to disarm will not be easy – if not impossible – and even a small provocation may give rise to an insurgency in the region. For this reason alone a joint Georgian-Ossetian peacekeeping force is the optimal option.

**4.** The respondents pointed to the significance of the peace talks. Negotiations have continued since the conflict became “frozen.” The Joint Control Commission was created under the Dagomys Agreement. The JCC fulfils certain functions but it would be better, it seems, if it dealt predominantly with particular (domestic) conflicts. The JCC has been unable to settle various

important issues. While participation by the OSCE was an expensive endeavor the negotiating process brought few positive results. The situation changed substantially since a new Georgian negotiator – Giorgi Khaindrava – was appointed to the JCC. At first, however, Khaindrava’s contribution was limited, as his responsibilities were not clear. Moreover, Georgia remains the minority in the JCC. Today there is an urgent need to change the format of the JCC. Some people say that Georgia and Ossetia are actually being ignored in this process. The JCC is completely inefficient and ineffective. The Baden Declaration was approved but never debated in public. The JCC is not capable of doing more than it is doing at present. Russia created the JCC as a tool to control the situation.

The activities of the Venice Commission of the Council of Europe are very important for resolution of this conflict. According to the respondents, in view of the President’s statements, the Commission must propose recommendations over the status of South Ossetia. This commission should meet groups interested in the problem in order to collect basic information and then continue to work independently over the status of South Ossetia. In the opinion of the respondents, they must talk to as many organizations as possible. South Ossetia may not accept their recommendations, however.

The future status of South Ossetia should not provide for the possibility to declare independence and break away from Georgia. Georgia should fear this possibility. If the status of the region provides for the opportunity to secede there will be a real danger that the Georgian state borders may eventually be re-drawn and there are historical precedents for such developments (Thao Klarjeti, Saingilo, etc). The concerns of the residents of other “hot spots” on the Georgian territory must also be taken into consideration when determining the status of South Ossetia, as these parties may also have similar aspirations.

The respondents suggested that the status of South Ossetia should be developed by the parties themselves, and there is no need for any commission. It would be important if the Georgian side (any interested group) offered a certain concept to South Ossetia before the Venice Commission prepares its blueprint. The Venice Commission will take into consideration the Georgian proposal and its success will depend directly on the efficiency of the proposed concept.

Some respondents argued that it was still too early to discuss the status of South Ossetia, since a concrete concept for resolution of this conflict does not exist. There must also be several concepts: a concept of the peace process; a concept of the political settlement of the conflict; a concept of the political arrangement; a negotiating concept; a confidence-building concept, etc. This is relevant in yielding positive results. As to the procedure, this should be implemented by different groups. Finally, a joint group of analysts must be created in order to compile and summarise the materials obtained. South Ossetia’s participation in this process is extremely important (Ossetian residents in South Ossetia and other regions of Georgia).

**5.** The respondents emphasised that the conflict can be viewed as both a global one and a Russian-Georgian confrontation. It is a political, not ethnic, conflict. It would be better to classify it as the “Georgian-Ossetian conflict.” If viewed from the global perspective, the conflict reflects a confrontation between world powers. In other words, there is an element of a clash between civilizations.

**6.** The respondents pointed out that the choice for a name of the region was important for both parties. Until the name is defined, the region should be referred to as “the former South Ossetian autonomous region” or “South Ossetia/Tskhinvali region” in political documents. The future name must not contain the word “South,” as this indicates that “South Ossetia” is part of another territory. The use of geographical terms in the name may bring about disastrous consequences

for Georgia and threaten the country's territorial integrity. Georgia must do its best to avoid this danger.

The respondents emphasised that apart from the specified examples, other names may be used as well. Only a politically and historically neutral name can ensure peace in the region. There must also be a broad consensus within the country on the name. The region may be named the "Ossetian autonomous region" but not "the autonomous region of Ossetia" or even "Iron." The Georgians and Ossetians must determine the name of the region jointly.

If Georgia becomes economically stronger, cultural autonomy will be sufficient to foster a solution. The Ossetians pay great attention to economic issues. If their living conditions improve in Georgia, they will make fewer demands. Georgia must take measures to bolster the economic development of the region.

## Appendix No. 2

### Comments on the document “On the Reasons, Dynamic Ways and Possible Directions of Solution of the Georgian-Ossetian Conflict”

*Written comments of four experts (Maia Tsaboshvili, Paata Gurgenidze, Tamuna Kovziridze, and George Khutsishvili).*

#### **Maia Tsaboshvili**

##### **The Georgian-Ossetian Association “Iber-Ironi”**

Over the last 13 years, confidence between Tskhinvali and Tbilisi has fallen to an all-time low due to the Georgian government’s failure to think out its actions and because Georgian representatives, including experts in conflict studies, were, until last year, under the illusion that the Georgian-Ossetian conflict was easy to solve. This was an objective, albeit indirect, reason behind the dramatic escalation of tensions in the Tskhinvali region/South Ossetia last summer, which caused dozens of casualties on both sides. Fortunately, the conflict was prevented from unfolding into a large-scale regional crisis. However, these events demonstrated that the Ossetian problem was not easy to solve and radically changed (worsened) the Ossetian public attitude towards Georgia. As a result, it is extremely difficult today to get South Ossetia back to the negotiating table and persuade Tskhinvali to consider any form of autonomy in the framework of a common state. That is why I think that the given work is not only significant but it also came too late.

The work uses media materials of the time and laws and decrees of the U.S.S.R., Georgia and South Ossetian autonomous region (later republic) to explain the underlying reasons of the 1989-92 Georgian-Ossetian conflict, which inflicted heavy casualties, enormous material and moral damage on both sides, caused great suffering and, most importantly, created alienation and distrust. The dynamic processes, which were often not covered by the mass media, of both Georgia and Ossetia, are not fully reflected in the work.

Public rallies and demonstrations did not first erupt in the South Ossetian autonomous region on a large-scale in October 1989. The first rally took place in Tskhinvali in the summer 1989, following an attempt to put up an April 9 memorial near a churchyard. The Ossetian public was not against the memorial itself. However, this event was spoiled by a provocation, which was seen at the time as a humiliation of the Georgian nation and drew a very negative response from the Georgian society and the leaders and activists of the National Movement. The already stained Georgian-Ossetian relations worsened even more after the *Literaturuli Sakartvelo* published Taniel Kvanchilashvili’s suggestion in 1989 that birth control mechanisms should be imposed for all non-Georgians (not allowing more than two children in a family).

The murder of an infant in Phrisi in 1990 fuelled hostile attitudes towards the Ossetians in the Georgian society.

Due to these events and other numerous problems, which can be blamed on both sides, the parties were nowhere near willing to settle their problems through negotiations. Radical groups took the reins on both sides. Their nationalistic rhetoric only added fuel to the flames.

According to the article: “on June 24, 1992, Yeltsin and Shevardnadze signed an agreement (Dagomys) between Georgia and Russia in Sochi which resulted in the following:

- A ceasefire was enforced in the conflict zone;
- The conflict zone was divided into two parts controlled by Georgia and South Ossetia;
- The Joint Control Commission (JCC), a four-party body featuring the participation of Georgia, South Ossetia, Russia and North Ossetia and under OSCE patronage, was created.”

It was impossible for the Joint Control Commission be under OSCE patronage in 1992 because the OSCE mission was established in Georgia only in December, 1993. The OSCE welcomed the 1992 Sochi Agreement on March 29, 1994 and has been involved in the activities of the JCC since then.

Close attention should be given to the criminal activities on the territory of the Tskhinvali region/South Ossetia. Long-standing tensions in the region have led to a considerably high crime rate. Over the years criminal activity has grown to unprecedented levels and has brought the peace process itself into question. This high crime rate has often led to political tensions.

I do not subscribe to the view that the Georgian government reconsidered its policy and tactics after the summer, 2004 crisis and realised that a peaceful settlement of the conflict required a long-term and coherent approach. Despite the bitter experience of that summer, which saw a dramatic escalation of the tensions in the region, dozens of Georgian and Ossetian casualties, and significant deterioration in Georgian-Ossetian relations and mutual confidence - which the two parties painstakingly built for years - the pro-war forces have again become active. In my opinion, the Georgian-Ossetian conflict can only really be settled if the Georgian government develops a complex approach and ensures the sustained implementation of this approach.

### **Paata Gurgenidze Consultation and Training Centre**

1) The rejection of the war strategy is right. On the other hand, it is methodologically wrong to assume at the same time that force can be used as an extreme measure. Readers can properly understand the position of the advocates of peaceful solutions only if scientific/objective principles are separated from subjective choices/strategies.

There is enough scientific evidence to prove that a country can regain (annex or reintegrate) its territory through both the use of force and the creation of a new (coalition) state.

We must explain to the readers what context can make each strategy succeed and what their likely results will be.

Forceful reintegration (i.e. occupation) ignores the will of those who must be reintegrated and rules out their return to the bosom of the country. Thus this solution is anti-democratic and can lead to an undemocratic (authoritarian) state. In the framework of such a state the nation building and democratization processes will take centuries, at best.

The strategy of a forceful settlement can succeed in a certain context, i.e. when influential international players approve such a way. However anxious the government is to provide proof to the contrary no such context for a forceful settlement exists and Russia is not the sole reason behind this problem – both the USA and Europe are flatly against the use of force.

Peaceful settlement, or the creation of a coalition state, is a step towards creating a democratic country. The process can be implemented only by a democratic country and the process itself bolsters the quality of democratization. Such coalition states are characterised by democratic

regimes which open the door to a modern nation-building process. To build such a state we need to identify common foreign policy goals. Undoubtedly, moving towards Europe and away from Russia (the former implies the latter in many respects) can be one of these goals.

The strategy of peaceful settlement can succeed because the USA and Europe, which are determined to support the processes of democratization and consolidation in Georgia, provide a respective international context. Consolidation means, among other things, the ruling out of internationalisation of internal conflicts, the first sign and the main reason of the country's weakness. The USA has promised to help regulate Georgian-Russian relations, indicating that we need mediators in foreign, not domestic, relations. This factor can transform Georgia into a genuine international player. For years we have been misled into thinking that the American proposal to regulate Georgian-Russian relations implied concessions to Russia rather than an invitation for the USA to mediate. The Georgian government may want the USA to become a supporter, not a mediator - hoping to pit Washington against Moscow - but the USA would hardly agree to such a role.

There is also a respective domestic context for the successful implementation of the peace strategy, for instance the first signs of democratization in Abkhazia and potential tensions there with Russia. Common Georgian-Ossetian business interests are part of this potential. Instead of exploiting this potential, however, the Georgian government took, or tried to take, steps in the opposite direction. This can be illustrated, for instance, by Mikheil Saakashvili's comments about the situation in Abkhazia, which seemed to support Bagapsh at first glance but in reality criticized him, or the Georgian government's measures to restore the commercial border with the Tskhinvali region under the pretext of a crackdown on smuggling.

2) Demands to withdraw the Russian peacekeeping forces are justified, but it would be a methodological mistake to replace them with other forces. I must reiterate that it will weaken the state. We must be able to guarantee that Georgia will never start a war. Obviously, South Ossetia will not begin a war either. So there is no need for additional guarantees.

At a seminar at the Ebert Foundation about the European Neighbourhood Initiative, Mr. Lynch said that Europe was not happy with the participation of the OSCE in the settlement of the Georgian-Ossetian conflict. Europe is anxious about helping Georgia tighten control at the Russian-Georgian border and does not want to participate in any actions that could weaken the Georgian state.

**Tamuna Kovziridze**  
**Deputy Minister**  
**The Ministry of Economic Development**

### **General comments**

The first part of the document gives a detailed description of the processes in and around South Ossetia. This is undeniably a very valuable review. The second part of the document is also important, as it deals with ideas and recommendations for the status of South Ossetia. If these materials are to be compiled in a single document, it would be easier to define the objectives and functions of the document more clearly and perfect its structure.

The document does not specify whether Georgia is a federal state or not. This issue must be clarified. As to the status of South Ossetia, it is defined as an "autonomy." This term is usually associated with the Soviet period and, therefore, it may make the Ossetian nation distrustful. South Ossetia will also be less inclined to begin talks about the status if the "name" is already

defined and, moreover, resembles the status of Ajara. Ajara and South Ossetia must have a different status in a common state.

### **Comments on the division of responsibilities**

The part of the document that deals with the status of South Ossetia does not clarify what a legal document on the constitutional law on South Ossetia would be part of. Paragraph 7 on page 58 says that the law is an inseparable part of the constitution of Georgia, while paragraph 10 on page 59 describes the law as part of the South Ossetian constitution. This point is vague.

The chapter on the duties of South Ossetia (pp. 52-54) should make it clear that the legislative, as well as administrative, functions in these spheres must be implemented by the South Ossetian government. In some countries – for instance, Germany and Austria – the legislative and administrative functions in a particular sphere of competence are divided between federal and sub-federal levels, creating certain legal relations between various levels.

According to paragraph 14 on page 60, foreign policy and international relations are subordinated to the central Georgian government. At the same time, however, paragraph 18 on page 62 specifies that foreign policy is a joint responsibility. This point needs to be clarified. In many countries federal units are entitled to make certain decisions in the field of foreign policy. For instance, in Germany, Austria and Belgium, it is possible to sign international agreements with federal units of other countries with similar rights or with sovereign states, within the limits of their competence and in coordination with the federal government. In the case of Abkhazia and South Ossetia this aspect can provide an interesting opportunity for the Abkhaz and Ossetian nations to demonstrate their right to self-determination at the international level, without granting them national sovereignty. Of course, in federal countries national sovereignty cannot be divided at the level of foreign policy; it can be split in domestic politics, giving each level exclusive, i.e. sovereign, rights.

Paragraph 19 on page 62 defines the customs regime as a joint responsibility. This provision is fraught with problems since every country must have a single customs regime and customs duties should be homogeneous at all customs terminals.

According to paragraph 17 on page 61, standards fall under the responsibilities of South Ossetia. This may be a problem. It seems more reasonable to have a common national system of technical regulations, standards and accreditation, which should be recognized in other countries. Such a system can boost exports from South Ossetia and pave the way for exporting products to international markets. This point must also be clarified.

### **George Khutsishvili**

#### **International Research Centre of Conflict Studies and Negotiations**

In regards to terminology, the term “Georgian-Ossetian conflict” classifies the problem incorrectly (if not inadequately). However, this term appeared to be acceptable to the participants of the negotiations and most of the experts as a working formula (justification: it is short, specific, and identifies the geographic location and the conflicting parties). Other alternatives are less correct (as they do not specify the territory or the conflicting parties or they specify them incorrectly) and/or much longer.

The review of the history of the conflict (including the timeline) is correct and valuable and will not impede efforts to ease the conflict. (Such a historical review was omitted in the concept on the special status of Abkhazia).

The document could have been more outspoken about the blunders made by the leaders of the National Movement of Georgia, which contributed to the tensions.

The document brings to light the Georgian political leadership's inefficiency and inability to settle the Georgian-Ossetian conflict. Favourable opportunities were missed (for instance, the following events created good conditions for more determined actions: January 19, 2001 – the resolution of the European parliament; April 8, 2001 – the adoption of the constitution of South Ossetia; the development of the Baden Document).

Post-revolution developments in the Georgian-Ossetian conflict zone –from the summer, 2004 crisis to President Saakashvili's peace initiatives – are basically assessed correctly in the document.

The given document has a certain advantage over the conception of the special status of Abkhazia within the Georgian state, as it deals extensively with the confidence-building process - considering it a vital precondition for the peaceful settlement of the conflict. At the same time, however, I do not agree with the approach to the problem of confidence building, the timetable or the area of implementation of the proposed measures.

The timeline of the development of the conflict is a positive feature of the document, though the criteria for selecting the events must be made clear and convincing for the readers (why these specific events and not others were singled out).

When looking into activities of “Adamon Nikhas,” it would be more useful to specify the names of the main players rather than speak about the problem in general. It would make the document more specific and informative.

On the whole, it would be useful to include more statistical data and informational background of the events in the document.

Many current conditions and provisions will become obsolete over time. That is why we must analyze all the ongoing processes and current documents. It would also be a good idea to attach an analysis of the document prepared for the talks between Zurab Nogaideli and Eduard Kokoity in the framework of the government's plans (if you don't have the text I can send you a copy). In my opinion, this document is in line with the principles of the President's initiative, but it gives a completely unrealistic timetable for the implementation process.

## Appendix 3

### The discussion on the document “On the Reasons, Dynamics, Ways and Possible Directions of a Solution to the Georgian-Ossetian Conflict”

#### The conference hall of the Open Society – Georgia Foundation December 9, 2005

*Some 25 representatives from governmental and non-governmental organizations participated in this discussion. An incomplete account of the discussion is given below as a rough illustration of the debates.*

**George Khutsishvili:** I did not have much time to look at the document. But it seems very interesting to me. It shows certain tendencies – the former Georgian government’s inefficiency - which might have had subjective reasons. I would like to compare the document with the conception of the status of Abkhazia. This document is much more elaborate. This concept provides an insight into the underlying reasons behind the conflict. There are two approaches: 1) there must be no attempts to rewrite history; 2) a correct historical analysis can help settle, not fuel, the conflict. The part of the document that deals with the post-revolution processes must be assessed positively. However, the chapters about the status of the region are one-sided, to some extent. The confidence-building measures should be distinguished from the administrative-territorial arrangement. These two aspects overlap in the document. The document should have been more outspoken about the blunders of the leaders of the National Movement. “The Georgian-Ossetian conflict” is the most acceptable term, as the rest either complicate the problem or inadequately reflect the current situation.

**Soso Mtsqeradze:** The Georgian-Ossetian conflict is not only ethnic. That is why this term is not acceptable.

**Ghia Nodia:** Can there be a universally acceptable term at all?

**Paata Gurgenidze:** It is fundamentally wrong to say that if a conflict cannot be resolved peacefully, it must be settled by force. The idea of the use of force in conflict resolution is inherently flawed.

**Mikheil Mirziashvili:** This document is designed to rule out a war completely. The use of force is mentioned only in the attachments, reflecting the opinions of members of the focus groups. So we must concentrate only on the prospects of a peaceful settlement.

**Maia Tsaboshvili:** The working group relied mainly on the materials of the Georgian press. The Georgian government is said to have reconsidered its strategy since the last summer. It must be mentioned, however, that from January, when Saakashvili announced his peace initiatives, until the summer these initiatives were not formally delivered to the Ossetian side.

Proposals are not the same thing as real actions in the region. The problem is that the Georgian government’s policies are poorly coordinated. The document incorrectly describes the role of the OSCE in the sense that the four-party Joint Control Commission, featuring the participation of Georgia, South Ossetia, Russia and North Ossetia, could not be under OSCE patronage in 1992, since the OSCE mission was established in Georgia only in December, 1993.

**Irakli Antadze:** There are no words about South Ossetia in the Dagomys Agreement at all.

**George Gogia:** True, the tactic has really changed. There was an illusion last year that the conflict was practically resolved and the closure of the Ergneti Market would solve all the problems. This change implies the realisation that the conflict cannot be settled in a year.

**Soso Mtsqeradze:** The peace initiatives were officially submitted but not discussed by the JCC. I agree that the government's tactics have changed. I think that the document provides a compelling description of the underlying reasons of the conflict.

**Keti Tsikhelashvili:** If this document will be the same as the one discussed at the Abkhaz-Georgian meetings, it must offer more concrete proposals and initiatives. Emphasis should be placed on economic leverage. What do you think should be done to develop economic relations?

**Tamar Kovziridze:** The program of small business development, small grants and loans, etc. is inconsistent with the current government's liberal policy. However, an exception should be made for the region. The problem for the Ossetians was that it was another country's legal framework.

The OSCE has worked out a project to prepare an analysis of South Ossetia's needs. It must be very interesting for you.

Your project proposed the idea that an aid program should target the poor. Work has already begun in this direction. To become eligible, a family must identify itself as a poor family. Afterwards, it will be visited by a social worker. It would be interesting to see if the program will succeed in the controlled territories. As it is being carried out anyways, there is no need for respective recommendations.

**Paata Gurgenidze:** As to the assistance, a final vision is important. Bargaining is possible even between different and conflicting countries.

**George Gogia:** While working on the document we openly stated that conflict settlement must not be the only objective for restitution. Restitution is the Georgian government's obligation to restore the rights of its citizens.

**Levan Tsutskiridze:** The OSCE project is interesting indeed, since mixed Georgian-Ossetian groups would identify the needs jointly. The marketing of not merely economic projects, i.e. how these projects are "draped," is also significant.

**Natela Sakhokia:** If our programs fail in the conflict region we should turn out attention to neighbouring districts, especially Akhalkalaki. The document must pay more attention to neighbouring territories.

**Thea Tarielashvili:** The economic projects are OK. But people must feel safe and secure. Nobody will do anything until they feel secure.

**Alexander Rusetsky:** The boundaries of an ethnic conflict are not the same as those of an armed one – they are wider than many donor organizations might think. This aspect directly affects economic issues, because investments must cover a larger territory than the conflict zone.

**George Khutsishvili:** It is a very interesting document. I think that the historical review must be more outspoken. It should also contain a list of particular activities - economic measures, first of all.

**George Gogia:** It is up to the government to plan and implement specific measures. Civil society cannot be responsible for such activities.

**Keti Tsikhelashvili:** Can we think about the establishment of special economic zones within conflict zones?

**Zurab Bendianishvili:** Without legalisation, serious business projects will be out of the question.

**Soso Mtsqeradze:** We have proposed a lot of initiatives, but there has been no response from the Ossetian side so far. They say that they have not received any documents. This is not true, of course. One proposal was made by the Social Investment Foundation of Georgia.

**Mikheil Mirziashvili:** Unfortunately, we were unable to look into all themes of the given document during the three-hour discussion. I think that we should end our meeting now.

The list of the participants of the discussion:

Irakli Antadze – Georgian Ministry of Foreign Affairs  
George Bakhturidze – International Association of Young Diplomats  
George Kakulia – Academy of Peace and Development  
Yulia Kharashvili – The “Accord” Association of Women IDPs  
Tamar Kovziridze – Ministry of Economic Development  
Soso Mtsqeradze – Ministry of Conflict Resolution  
Keti Tsikhelashvili – Friedrich Neumann Foundation  
Rafael Gelantia – “Democracy and Welfare” Union  
Liana Beria – The “Accord” Association of Women IDPs  
George Khutsishvili – International Research Centre of Conflicts and Negotiations  
Tengiz Shergelashvili – Georgian Young Economists Association  
Ia Tikanadze – Friedrich Ebert Foundation  
Zurab Bendianishvili – Info-Peace  
Levan Tsutskiridze – CIPA-International Politics  
Maia Tsaboshvili – “Iber-Ironi” Union  
Ghia Nodia – Open Society – Georgia Foundation  
George Gogia – International Crisis Group (ICG)  
Natela Sakhokia – Centre of Strategic Studies  
Levan Tarkhnishvili – CRRC-Georgia  
Paata Zakareishvili – Republican Party  
Paata Gurgenedze – Centre of Training and Consultations  
Thea Tarielashvili – European Integration Committee of the Parliament of Georgia  
Lali Pukhayeveva – Union of the Georgian-Ossetian Relations and Cooperation “Peace for This Land”  
Alexander Rusetsky – South Caucasus Institute of Regional Security  
Giga Zedania – Open Society – Georgia Foundation  
Mikheil Mirziashvili – Open Society – Georgia Foundation