

Paata Zakareishvili

VISION

CONFLICTS
IN GEORGIA

2012
2016



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Certain issues have not moved from a standstill. For example, such is the problem of the occupied territories.¹

(Excerpt from Bidzina Ivanishvili's letter of January 11, 2021.)

¹ <https://gd.ge/show-news/1283/%E1%83%91%E1%83%98%E1%83%AB%E1%83%98%E1%83%9C%E1%83%90-%E1%83%98%E1%83%95%E1%83%90%E1%83%9C%E1%83%98%E1%83%A8%E1%83%95%E1%83%98%E1%83%9A%E1%83%98%E1%83%A1-%E1%83%AC%E1%83%94%E1%83%A0%E1%83%98%E1%83%9A%E1%83%98?lang=en>

THE BEGINNING OF THE STORY

The event which led me to write this book took place in March 2017. An NGO was holding a private meeting in Kvareli between Georgian experts and government officials. This was just like any other meeting as often held by NGOs. I also organized several meetings like this and was invited to attend such occasions while serving as a state official. By that time, I was no longer holding the position when I was invited to meet with the authorities as an expert. One advantage of these types of meetings is that specialists who are interested in a specific topic can receive more targeted information from officials about what activities are carried out by government, how and why.

It was the second day; such meetings usually last for two days. About 10-15 participants were present; there were MPs and representatives of other government structures as well. It was approaching time to return to Tbilisi when a government authority – one of the leading figures in conflict resolution arrived from the capital city. His name is K.Q. He joined the discussion and, without even understanding what was going on (this is the usual, standard behavior of officials), gave us a lecture on the essence of conflicts. If I use the folklore of the Georgian feast, I would say that every expert attending could “pour in one ear” the information of K.Q. Being in the mood to leave, the group listened to him with a forced smile and wished for the useless lecture to end soon.

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Suddenly, he addressed me: “Mr. Zakareishvili, you made a big mistake when you released Marek Dudayev, as it caused a lot of damage to the state.” However, K.Q. did not specify what exactly my mistake was, neither did he explain what he meant by “the damage.” When he had finished the “lecture”, I responded in front of everyone: “I am really disappointed to see that a person of such high rank does not even know how Marek Dudayev was actually released.” I added that in my opinion, he definitely knew what had really happened and he was deliberately spreading misinformation about me to the officials, experts and civil society gathered there. Thus, behind this outburst, there was a pre-defined task.

It was disappointing that this man did not dare to tell me his opinion when I was Minister of State, and only attacked me when I was no longer in state service.

THE TRUE STORY OF MAREK DUDAYEV'S RELEASE

Marek Dudayev was a sad symbol of the Georgian-Ossetian conflict. It seems that his family brought him up according to Georgian traditions. His official name was Nodar, he later renamed himself as Marek. The conflict invaded this man's life with all its cruelty. His story resembles a movie, depicting the change of events on a person, family and generation.

In 1991-1992, when the Georgian-Ossetian conflict was raging, Marek Dudayev was only a 13-year-old teenager. Like his family members, he did not take part in the hostilities. The story of Dudayev was publicized in the press and in a Human Rights Watch report: neighbors killed Marek Dudayev's father and raped his sister in front of him. They also killed his mother. Thirteen-year-old Dudayev was overwhelmed and a person who had nothing to do with war and hostilities, was now concentrated on seeking revenge. He said he only killed one man in retaliation, but the court charged him with three counts of murder. Marek confessed that he took revenge on the man who had killed his whole family in front of him.

Meanwhile, the United National Movement came to power in Georgia and in March 2004, an emergency operation was launched to neutralize Dudayev as a well-established criminal. During the operation, Marek Dudayev was hit by seven bullets, but he miraculously survived. This occasion did not go unnoticed. The Georgian press paid great attention

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to the story of this person. Georgian human rights defenders demanded to visit him in prison. At that time, Human rights activists and representatives of NGOs could easily travel between Tskhinvali and Tbilisi, but no one was allowed to visit Dudayev.

Marek Dudayev was tried in court in 2005. He confessed to the murder of only one person – B.T, the killer of his parents. Dudayev explicitly stated that he took revenge with this murder in 1997. He had 16 charges against him, of which the court dropped three. He was sentenced to 23 years of imprisonment. Ossetian society considered him a hero for not forgiving the perpetrator for killing his family. The day after Marek Dudayev's arrest, the whole Tskhinvali region demanded his release both officially and unofficially. TV programs were produced about him with positive, as well as negative content.

Demanding his release, Ossetians staged protests and blocked the Tskhinvali-Vladikavkaz road. Russian General Marat Kulakhmetov, who was in charge of the joint peace-keeping forces located in the region by that time, was also involved in the case. Currently, he is the so-called "Russian Ambassador" on the territory of South Ossetia. His initiative was to exchange Marek Dudayev for Georgian hostages and prisoners, as kidnappings and arrests also took place at that time. Overall, Dudayev's case developed into a rather serious political issue.

In 2007, it was reported that Marek Dudayev was to be exchanged for the Khachapuridze brothers, whose story was also popular back then. His extradition was repeatedly demanded by the de facto president of South Ossetia, Eduard

Kokoity. However, Dudayev remained in prison and the Georgian government was adamant on this matter.

In 2011, the Georgian side released seven ethnic Ossetian prisoners. There were constant debates that Marek Dudayev might have been among them, although the then Minister of Internal Affairs, Vano Merabishvili strictly opposed it. Dudayev spent 9 years in prison.

In addition to Dudayev, the Ossetian side also demanded the extradition of three convicts involved in the Gori terrorist attack. The Ossetian side repeatedly made this demand during the International Geneva Discussions on Security and Stability in the South Caucasus. Meanwhile, the Georgian Dream came to power in Georgia. I was appointed Minister of State. During that period, I stated my position that keeping politically engaged prisoners in prison had more negative than positive consequences.

Since the new government, I thought it would be a good activity and a novelty to release the prisoners in Tbilisi, Tskhinvali and Sukhumi, thus confirming the start of the peace process. I never particularly counted on Marek Dudayev, I was referring to all prisoners in general. For example, in the interview² published in February 2013, I spoke about the necessity of such exchanges and gave an example of the release of prisoners by Israel. In the mentioned interview, I recalled how the government of the National Movement discharged General Dumbadze and handed him over to Russia and the Russian side released five Georgian officers in exchange. In other words, I emphasized that the constant strive for release of

² Accessible at: <https://for.ge/view/70973/paata-zakareishvili-patimre-bis-gacvlis-Sesaxeb-ombudsmenis-iniciativas-miesalmeba.html>.

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prisoners and hostages is not only a humanitarian act but also a political issue, and promoting such affairs helps to maintain peace on a daily basis.

At the same time, the coalition Georgian Dream tried to fulfill its promise given to Georgian voters with regard to justice reform. In April 2013, at one stage of the reform, the Parliament adopted the law on “Abolition of Unconditional Agregation of Sentences”. According to the amendments, in case of a combination of offences, a judge had to be guided not by the principle of aggregation of sentences, but the less severe punishment would be incorporated into a more severe one. All verdicts rendered on the principle of unconditional aggregation became subject to review.³

These changes also affected the case of Marek Dudayev. He had been sentenced to 23 years and had already served 9 years by that time. The new principle affected Dudayev’s case and, in fact, he was exempted from further serving the sentence. The information that Dudayev would be released came to me. I immediately contacted the Prime Minister and the Minister of Internal Affairs. I explained to them that this man, whose release had been called for by the whole Tskhinvali region for years and who could have been exchanged, would be set free without a prisoner exchange. Therefore, I asked the Prime Minister and the Minister of Internal Affairs to allow me to announce that Dudayev’s release was a show of good will of the government, and with this action we could start working towards the transformation of the conflict. This would be the first step towards a sustainable peace process.

³ Accessible at: <https://civil.ge/ru/archives/180470>.

After having received permission, I put Marek Dudayev, who had just exited prison, directly in the car and we travelled to Ergneti. It is true he had heard that some reforms and changes were taking place, but he had no idea what really happened in his case.

On the way, I told him a legend created by myself that his release was one of good will of the new government of Georgia and asked him to help me get the oldest or sickest Georgian prisoner out of Tskhinvali prison in return. During the journey he told me his sad story and added that Georgians treated him well in prison. He also stated that he did not hate Georgians, but only sought revenge for the destruction of his family. On the way, I also connected Dudayev with his wife, who had no idea what was going on and she learnt only at that moment that her husband was free.

After his release, Dudayev failed to act as we had wanted him to. However, releasing him had significant positive consequences.

After returning to Tskhinvali, Marek Dudayev continued his criminal activities. On January 16, 2018 he was killed in his own village, Artsevi.

WHAT DID THE HIGH-RANKING SECURITY OFFICIAL POINT US ON IN KVARELI?

The words of K.Q. were eloquent. With the hope to discredit me, K.Q. – the representative of the upper echelon of law enforcement agencies, who should have known everything about my activities, accused me in front of the people knowledgeable about conflicts. Why did he need to make such a false assessment? I think of two possible scenarios. First: a figure of this level did not know what had actually happened and sincerely believed what he verbally conveyed, thus promoting the doubts expressed by him. Currently, as of October 2020, K.Q. holds an even higher position than he held back in 2017.

However, the second scenario is more credible in my opinion. K.Q. was well aware of how Dudayev was released. His words carried a message for me: the policy I had initiated was being re-evaluated. As soon as I left the post of Minister of State, the policy changed and conflict resolution on the territory of Georgia returned to the narrative presented by United National Movement. Consequently, it became necessary to discredit the policy I had developed.

Thus, it was the Kvareli events that prompted me to write this book in which I would describe: what was my motivation and hopes when agreeing to the proposed position, what I intended to do, what I did or could not do and the reasons for failure. I want this book to act like a report to portray to the

public what could have been done to transform and resolve the conflicts on the territory of Georgia between 2012-2016.

As for the events which followed the release of Marek Dudayev, I will describe them in the last chapter of this book so that the public can ascertain the importance of a steady, consistent and detailed process with a clear purpose and relative strategy.

HOW AND WHY I BECAME THE MINISTER OF STATE

As a result of the 2012 Parliamentary Elections, I became a Member of the Parliament of Georgia under the quota system of the Republican Party and from the list of the coalition Georgian Dream. Before that, I had never thought I could take a position in the executive branch, so it had never been in my plans. I perceived myself as a Member of Parliament and it was exactly what I had been preparing for. However, before the Parliament could begin to function, as soon as the election results were announced, I was unexpectedly offered the position of State Minister. At that time, this body was called the “Office of State Minister of Georgia for Reintegration”.

I can not say that I met this proposal with excitement. Though, I had no moral or political right to reject this offer, as throughout my whole life I regularly criticized the previous governments of the United National Movement and the Union of Citizens for the policy they implemented in the directions of conflict resolution and ethnic and religious minorities. Consequently, to refuse this position would be an attempt to avoid responsibility and that, for me personally, was completely unacceptable. Therefore, from October 2012, I worked in this position for four years. While working on this post it became clearer to me why certain political decisions on conflict resolution can not be implemented in Georgia.

When I agreed to take the position of State Minister, I already had some ideas of what I needed to do. I knew what my first steps and initiatives would be to transform the Georgian-Abkhazian and Georgian-Ossetian conflicts, and then to resolve them. Of course, I also understood that, in any case, it is impossible to achieve the set goals with one hundred percent, so even a 60% performance could be considered a good result. A person with insight knows that, if such a result is achieved, his/her mission and activities can be evaluated as successful. If I had managed to achieve at least 60% of those goals I set or could imagine fulfilling during the four years of office, I would have considered this result worthwhile and hold onto this position. Then, I would have been satisfied with my activities. But, looking back on my tenure now, I can say that I did not achieve even 20-25% of the set goals.

The failure of my plans, the reasons behind it and my intentions encouraged me to present a report to the public. We see a dial of a watch, but we can not see a mechanism behind the dial. Thus, this is my attempt to show the public how the mechanism of modern Georgian politics works. However, the following factors are more important than showing this mechanism: what I wanted to do, what was necessary to do for the transformation and resolution of the conflicts in Georgia, and what caused the failure of my tasks.

WHAT I ACHIEVED

The main task which we set and mainly implemented inside the coalition Georgian Dream, was that we principally excluded the possibility of allowing and considering forceful methods in the process of conflict resolution. I believe we have achieved this goal. When the government of the United National Movement withdrew from active politics and could no longer lead the peace processes, we managed to create a strong and well-founded feeling amongst the international community as well as in the Georgian, Abkhazian and Ossetian societies: the government of the coalition Georgian Dream would never allow the use of force in the resolution of the conflicts and we would achieve our goal only through a peaceful policy. This position was supported by all branches of government. One of the first important political decisions in the dimension of peace was made on March 7, 2013, when, on my initiative, the following position was added to the Parliamentary resolution: Georgia would not use force to achieve its goals by any means. Stipulating this position in a Parliamentary resolution was fundamental for me.

After the 2008 Russia-Georgia war, the government of the National Movement substantially changed its attitude towards the conflicts. They realized that even having a discussion about hostilities was impossible. Thus, in political discourse and rhetoric they often verbally affirmed that the Georgian government excluded the possibility of resolving the conflicts

by force. But these were only oral statements that were not recorded in any normative act. Therefore, we stipulated this position as a legal norm in the resolution of March 2013.

The next priority, which I considered necessary, was to neutralize the toxic environment in which public statements were exchanged between the opposing parties. As a rule, this was radical, often hate-based rhetoric where the parties to the conflict referred to each other in an offensive and degrading manner. I think the coalition Georgian Dream quickly dealt with the task of eliminating this toxicity. As a result, the rhetoric of the Georgian side became more constructive and civil, considering the parties' interests. This also made an impact on the parties to the conflict. It was obvious that the Georgian side would not allow the opponents or the opposing side to use aggressive and hate speech against it. The intention of the Georgian side in this direction was fully understood in the public and this had its consequences.

One of the initiatives implemented was that the agency I was in charge of was renamed. It had been called the Office of State Minister of Georgia for Reintegration. Now the new name of the agency became: Office of the State Minister for Reconciliation and Civic Equality. However, this amendment turned out to be not so easy to implement. In 2012-2014, Mikheil Saakashvili, a member of the United National Movement, was the president of Georgia, while the parliamentary authority was in the hands of the coalition Georgian Dream. This cohabitation hampered the process of changing the name. This was only managed after the presidential election was held and cohabitation ended. All branches of government were now led by the coalition Georgian Dream and there were no circumstances to hamper this decision.

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The need to rename the Office was due to the fact that it was unacceptable for the Abkhazian and Ossetian societies to cooperate with a state agency called “Reintegration”. They considered “reintegration” to be a completely different dimension. The resolution of the existing conflicts was more important for them. The Office of the State Minister was named “Reintegration” in February 2008, a few months before the August war. Before that it had been called the “Office of the State Minister for Conflict Resolution”. These conflicts were not resolved, but the name was changed and the word “reintegration” appeared in it. It seemed some people considered that the task of conflict resolution had already been accomplished and the main goal now was reintegration. This is what the Abkhaz and Ossetian sides were protesting. Therefore, after February 2008, they entirely stopped all communication with the agency. Thus, changing the name of the Office was not in my intentions at all. My task was to show the Abkhaz and Ossetian sides that we understood them and took a step to solve this problem.

I decided that one of the most important tasks in my work – in the formats of the Georgian-Abkhazian and Georgian-Ossetian bilateral dialogues would be to restore the involvement of the Georgian government. The fact is that after 2004, the government of the National Movement practically excluded the possibility of its participation in the formats of Georgian-Abkhazian and Georgian-Ossetian dialogues. As a rule, only the representatives of the civil sector and opposition parties participated in such meetings.

We brought the leading Georgian politicians back into such type of dialogue, which aimed to create an environment in where representatives of the parties to the conflict had the opportunity to discuss the factors for and against conflict res-

olution. In most cases, the meetings are informal and unofficial. As a rule, the parties are not represented as delegations. Thus, no decisions are made at such meetings. Participants represent only themselves and not their own institutions or services, and act in the meetings as experts. The work is based on the “Chatham House Rule”, i.e. it is not allowed to publicly quote any participant or party through revealing their identity. This confidentiality ensures honest, direct and principled nature of activities. An essential feature of such formats is that only Georgian, Abkhazian or Ossetian officials, politicians and experts can take part in the meetings.

Third parties, e.g. international organizations and especially representatives of Russia, do not attend the meetings. Georgian, Abkhaz or Ossetian politicians are regularly and consistently given the opportunity to engage in informal dialogues in a confidential environment and without third parties. Participants have the possibilities to: determine their own strategy and tactical steps by studying and considering the positions and interests of the opposing party; clarify each other’s views on various issues through a dialogue and, therefore, be ready for future formal or informal meetings; test or introduce with one another new suggestions or ideas.

An important achievement of the coalition Georgian Dream was the unilateral initiatives presented towards the Ossetian and Abkhaz sides. For example, on August 8, 2013, the Prime Minister of Georgia called on the Abkhaz and Ossetian sides to establish direct communication with official Tbilisi.⁴ The statement that Georgia was ready to establish direct

⁴ Accessible at: <https://civil.ge/ka/archives/187283>

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contact with the parties to the conflict was a serious recognition of the importance of bilateral relations.

In October 2013, the State Interagency Commission was established under the supervision of our Office and the Ministry of Infrastructure and Regional Development. The aim of the Commission was to deliver the necessary living conditions along the boundary lines so that the war-affected population would not have to leave their homes. The State Commission is still working. I hope it will continue to function in the future as well and help the population remain in their own environment.

After 2013, the tension in the Gali district eased significantly and I believe this was also a consequence of our new policy.

Medical services provided to the population living in the territories of Abkhazia and South Ossetia remarkably increased. Until now, the free medical assistance provided to these citizens by the Georgian State has been one of the most successful projects, which started before the coalition Georgian Dream came to power. However, before us, this process was politicized and forced inhabitants of Abkhazia and South Ossetia to obtain a Georgian passport. We managed to entirely remove the political component from this topic, which substantially increased the number of patients from the territories of Abkhazia and South Ossetia, as well as trust towards the rest of Georgia, Georgian politics and this project in particular.

Before becoming a Minister, I always held the position that it was necessary not to recognize the ID cards of people living in the territories of Abkhazia and South Ossetia, but to consider them as a form of documentation. They are our potential citizens and to some extent we could use their ID cards as proof

of identity. My idea was that a person who could prove that he or she lived in Abkhazia or South Ossetia would be automatically included in the health care program. They could prove the fact of living in these territories in different ways: by bringing witnesses or addressing the court. The easiest and fastest way would be to present a relevant document of identity. Thus, we ordered that a document proving an identity would be sufficient grounds for inclusion into the healthcare program.

We did not make any presentation of this novelty in Brussels, Washington or Vienna. We started working without any advertisement or propaganda. If we had announced in advance that we would treat Abkhazians and Ossetians on the basis of documents issued by the de facto authorities, it would have raised questions in Georgia as well. The opposition would have become more active. We implemented this project on an individual level – we made Abkhazians and Ossetians feel that the new requirements could be considered as an exception and not as new rules. After several months, everyone realized that this was not an exception and that a new program had been launched. The path we had chosen turned out to be quite successful: it was shown that we had not recognized Abkhazian and Ossetian documents. Everybody appreciated that the process started informally. The mentioned program is still working today. Patients from Abkhazia and South Ossetia receive medical treatment on the basis of their ID cards. There is valid information that these documents are issued under strict procedures in the territories of Abkhazia and South Ossetia. Thus, these documents are credible and the possibility of buying or falsifying them is minimized.

WHAT I COULD NOT ACHIEVE

Another priority for me was to help more people living in Abkhazia and South Ossetia to move freely throughout the rest of Georgia. The change of the ministry's name and rhetoric were steps taken to soften the overall situation and towards more flexibility. We aimed to raise confidence of the people (with regard to pursuing their own interests as well) living in Abkhazia and South Ossetia towards the remaining part of Georgia. One of the main and principled issues for me on this path was the restoration of the term "parties to the conflict", which was lost after the "National Movement" came to power. They clearly and unequivocally started to ignore the parties to the conflict, firmly establishing the approach that the conflict had only one side – Russia. So, Georgia had to speak only to Russia and the interests of the Abkhaz and Ossetian sides did not matter.

For a variety of reasons, such an approach eventually led us to the 2008 war. After the change of government, one of the main tasks for me was to restore the institution of the parties to the conflict, both in terms of rhetoric and actions, and to cooperate with these parties. But, unfortunately, this was among those issues that could not be developed beyond my position. I was the only one who used the term "conflicts" in the plural, referring to the Georgian-Abkhazian, Georgian-Ossetian and Russian-Georgian conflicts. Also, only I used the term "parties to the conflict", meaning the Abkhaz and South Ossetian societies in the internal context, and Rus-

sia – in the external. One of the main reasons why these decisions and intentions were not accomplished was something that the Georgian side found difficult to comprehend: we had to account for the interests and visions of the groups on the other side of the conflict. In fact, it was necessary to implement projects and steps by studying and considering these interests, as well as those of all parties.

Through this format of bilateral dialogue, we had to move towards the transformation of the conflict, because it was difficult to talk about its resolution at that time. Unfortunately, even today there is no such perception among the Georgian political elite: if you want to resolve the conflict, you should study and know the interests of the opposing party as much as possible; without harming the interests of Georgia, you should take into account what the other side wants, in order to involve the interests of the Georgian side in this process. I faced it when I started working in this position and this problem has not been solved yet today.

The Georgian government should have a sense that it is accountable to: Georgian citizens who recognize their citizenship and pursue their interests through it; persons who do not consider themselves Georgian citizens, but live within the borders of Georgia, as recognized by the international law. Although individuals living in Abkhazia and South Ossetia do not perceive themselves as citizens of Georgia, the Georgian State treats them as its own citizens. In addition to this formal recognition, a clearly defined strategy and appropriately implemented policy are needed in this regard.

OBSTACLES AND IMPEDIMENTS

Unfortunately, in just a few months after being appointed the Minister of State, I understood that most of my tasks would remain unrealized, because there was not unity inside the coalition Georgian Dream itself not only in terms of conflicts, but other issues as well. However, the topic of conflicts was one of the most complicated and painful issues. It should be noted that the main obstacle was not, for example, the opposition's activity against the Georgian Dream. In a good case, an impediment was related to the ambiguity inside the coalition on specific issues and, consequently, the avoidance of responsibility; in the worst case, it was connected to internal hidden obstacles, "underwater streams" and glass walls. Overcoming these obstacles required a lot of energy and time, which hindered the work on the main tasks. Eventually, instead of focusing on conflict resolution, significant energy was spent exploring where internal disagreements originated. Up to now, many episodes have remained vague to me and I still do not know why certain issues stayed unresolved, despite the fact that everyone seemed to agree on their resolution.

Thus, one of the main problems I faced was the non-transparent and implicit policy: in most cases, everyone agreed with me verbally, but at the crucial stage I felt hidden resistance from some persons or groups. However, they never felt the need to express their disagreement in direct political cooperation.

In fact, my opponent was not a person, service or concrete institution which may be natural in a democratic society in terms of competition among institutions. My opponent was incompetence and, as its consequence, irresponsibility. As I understand, this remains the main problem in the Georgian Dream, which is left without a coalition today. In other words, in many cases, people who represent institutions do not correspond to the positions held with their education, competence, qualifications, connections and knowledge. Often, their resistance to me was precisely due to their ignorance and not because my viewpoints were unacceptable to them.

There was another factor that hindered my activities: a significant number of public officials who previously represented or were affiliated with the National Movement, now were holding posts in the government structures. This layer of officials mainly lay in the so-called “middle circle”. The incompetence (which I mentioned above) of the leading political figures was often aided by the competence of the middle-level staff experts raised inside the National Movement. For example, if I sent a letter to the head of an agency and addressed a specific issue, he/she would naturally assign his/her staff to respond. Therefore, I often received answers that did not correspond in any way to either the program of the coalition Georgian Dream or that of the government. One could easily understand that the inadmissibility of this or that institution towards my positions was conditioned by the views embedded inside the National Movement and not by any other reason.

It was obvious that behind a document, which I received in response to my specific proposals, was the concept and

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narrative of the National Movement. The political leadership of this party followed this course quite consciously, comprehending that the representatives of the Georgian Dream were incompetent and often even feared their own shadows. Under such conditions, they carried out their policy from the middle circles of state agencies in a bold and principled way. Due to the skills and professionalism developed over the years, they were able to easily convince the leadership of the Georgian Dream that my position was unacceptable to the country. Long-standing employees made things easier for decision-makers who avoided taking risky and unpopular decisions. Due to their incompetence, most of the ministers and heads of agencies did not allow themselves to follow my position, fearing that they would be criticized by the opposition or the press.

As a rule, employees from the middle circle are distinguished by diligence, hard work and sharp professional skills. They are the “working bees” who stayed after the National Movement and worked mostly in state institutions. Such staff were in two major offices with which I mainly cooperated with, though the most explicit policy against my positions came from them. These agencies were the State Security Service and the Ministry of Foreign Affairs. These establishments work very hard: they process correspondence, respond to incoming documents and, consequently, are quite informed in their daily activities.

EXAMPLE OF A GLASS WALL

From the very first days of working as a Minister, I faced serious obstacles and, despite many attempts, I was often unable to overcome them. For example, I “crashed” into a glass wall when I made an effort to change a certain position in the “Law on the Occupied Territories”. The draft law developed by us stipulated that there would be no criminal prosecution of foreign citizens who crossed the state border of Georgia from Abkhazia (through the river Psou) and South Ossetia (through Roki tunnel) for the first time.

The rationale was that the vast majority of these people did not have information about the law of Georgia and violated it without even realizing. As a rule, these were native people with their state passports in hand, who travelled through the whole territories of Abkhazia or South Ossetia, and when they arrived at the Georgian police checkpoint at the Enguri river, for example, they openly and sincerely stated that they had crossed the border from the river Psou. As a result, a criminal case was opened against them, which, in my opinion, did not correspond with their actions, because violators of a state border behave in a different way.

My task, therefore, was to somehow shift this action from the realm of criminal law to the realm of administrative responsibility. This issue could not be resolved internally – inside the Georgian Dream in the Parliament. It seemed that everyone was in favor of changing this particular article, but

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at the crucial stage, the discussion of this issue was repeatedly postponed.

The draft law was discussed at the first hearing and then stopped. When I communicated with the opposition, the representatives of the National Movement, they stated they were against the amendment, but the termination of the process at the second hearing was not their fault. It resulted from the problems within the Georgian Dream itself. In the then Parliament, the Georgian Dream had a significant number of votes and had a power not only to make such changes in the laws, but even to amend the constitution quite easily. However, there was controversy in the coalition and no one had enough courage to openly declare the resistance. It seemed as if everyone agreed, but the issue was finally blocked. This is an example of how this or that particular initiative was blocked in a way which did not reveal the person behind the resistance or the political power which rejected discussing the issue. Back then I quite naively believed that this amendment would be the most harmless and light change in this law and would be followed by more serious, strategic and principled changes.

As it turned out, I was deeply mistaken. I could not succeed even in this matter which seemed to be simple. However, it was still managed to move the problem from standstill. Even though this change was not made, almost no one has been arrested for this violation since then and the officers are limited to fines. Although this violation is considered a criminal offense, a violator no longer has to serve a sentence in prison. I believe, even this can be perceived as a success.

WORKING PRINCIPLE OF THE MINISTERS

As a rule, the ministers in the government of the coalition Georgian Dream were more technocrats than politicians. Most of them were not interested in the topics of other agencies, did not get involved in discussions and were limited to the activities of their own ministries. Of course, this did not facilitate political discussions, identification and elimination of the risks at government sessions or other meetings. Consequently, work on decision-making was done in the lower echelons, and ministers easily agreed on positions prepared in advance for them.

The technocratic ministers saw that the discussions on the conflict issues were led in a complicated and scandalous manner leading to frequent backlash from the Georgian society. So, everyone tried not to be involved in these debates, not liking the fact that discussions existed on these issues in the first place. We often received remarks from the Chancellery of the Government that I personally, as Minister of State, often made statements which caused an excitement in society.

When I gained some experience and noticed that members of the government distanced themselves from discussions on conflict transformation and resolution, I shifted my activity to a more formal relationship. As a rule, the governing system in Georgia is always personified. In other words, people personally connect with each other or make decisions, and in fact, no space is left for institutional and formal re-

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lations. I gradually realized that I would not go far with personal and telephone conversations of this kind and moved on to institutional relationships. I submitted letters to the Prime Minister and the relevant services. I could feel from their answers to what extent they were ready to assist me in a certain direction or, on the contrary, not support my work at all. From this kind of correspondence, a clear picture was formed in my mind: there was some kind of unknown force that was not interested in publicizing the visions I had developed or have them come out of government.

The only consequence of my active work was what I received in response: the inadmissibility of my policy in written and substantiated form. This fact itself was significant, as it made clear how many illusions I had when I agreed to take this post, thinking it would be possible to do something important. Of course, when a person agrees to work in a high political position, he/she must have the desire, temperament and skills to overcome the obstacles the system creates. Naturally, the system always works with a defense mechanism and tries its best not to face difficult positions. This is understandable and should even be welcomed. But you need to convince the system with competent and qualified arguments that, without certain steps and reforms, it is impossible to succeed in this or that field.

In the beginning, my policy was “knitted” with compromises. I tried my best to find a common language with everyone in order to achieve the minimum success. Thus, I was ready to give as much as possible and be flexible so that my opponents would feel their interests were being heard and realized. My main objective was to avoid confrontation with

any agency. If something did not work out and I could not take a step forward, I attempted to create such conditions (at least), that would enable me to return to this step from another situation later on. If a confrontation took place due to a concrete step, I might count that the issue would eventually be closed. Therefore, as soon as I faced resistance, I stopped and waited for the situation to change. The main thing was not to terminate the permanent cooperation with the relevant services involved in conflict resolution. However, it often happened that I faced complicated situations and had to address the Prime Ministers, who really tried to understand my positions and show support for my policy.

Unfortunately, the opponents treacherously used my welcoming attitude in finding compromises, as they considered a person who made compromises a weak figure. This is a very harmful feature of Georgian politics and it is not only a characteristic of the Georgian Dream. When either side compromises, the opponent perceives it as a weakness, appropriates the result of the concession and starts waiting for another compromise. Though, such side is never ready to take a step of concession itself. That is why Georgia, in general, has failed in many areas, including conflict resolution. In fact, it is obvious in any sphere of Georgian politics that they are not ready to see the actions of others or take a step which is acceptable and understandable for the opponent. I felt this myself when I made concessions to certain ministries or agencies. They also considered it was their own achievement and expected another compromise from me. Therefore, after a certain point, I had to become uncompromising, which is not the best feature of a politician.

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In general, making a concession creates a better chance for success than being uncompromising. It was my principled manner and perseverance that irritated people the most in the various agencies. Although I did not succeed in certain directions, I still continued to pursue a specific topic at various levels – with the Prime Minister, the President or international organizations. This stubbornness of mine was certainly one of the irritating factors for my opponents. The major ministries and the Security Service were accustomed that their positions were always considered without an alternative, so the resistance from my side was unacceptable and unbelievable to them. In my case, this applied to large agencies such as the Ministry of Foreign Affairs and the security services. They were faced with the fact that the final decision did not remain in their competence, their views were not convincing, competent or qualified, and I managed to shake their position with coherent and clear arguments. Being in such an awkward situation was not at all favorable and it irritated them. If I thought my position was right, based on justification and common sense, I would reject it only if there were proven arguments from the opposing side. However, as a rule, what I saw was not such arguments, but positions presented like a toast at dinners and juggling terms such as “state interests”. When I asked the speakers what they meant by “state interests”, they got angry because they had no answer. In their naive and surprised expression, one could only read this: “Do you not know what the state interests are?”

One of the last points of surprise for the opponents was when I managed to achieve my goal and released 14 prisoners from Tskhinvali and Sukhumi in exchange for three

ethnic Ossetian prisoners in Tbilisi. It was inconceivable for them that my perseverance had its outcomes. They felt calm as they were convinced the release of the prisoners serving long-term sentences in Sukhumi and Tskhinvali would not be achieved. This situation reminds me of the script of the Georgian movie – “the Eccentrics”, where no one believes that the main characters will manage to fly. If they had known that I would achieve this exchange and “fly”, they would have tried to hinder me more intensely. Consequently, after this exchange, they started fighting against me, because they realized I would not be satisfied with this result. On the contrary, it would be a reinforcing factor, and if I succeeded in this particular case, I would definitely continue moving forward.

I had the support of the Prime Minister. However, it is a generally accepted rule that ministers themselves should find common ground with each other. As for the political opposition, I did not have a direct problem with them. Their criticism made me even stronger. My problem was that there was no agreement on the common position in our own team. Moreover, there were no discussions on forming this position.

STATE INTERESTS MISUNDERSTOOD

I view the extent and quality of the involvement of the security services in the Georgian management system in a critical, but not dissident way. A vast part of the public know me as a representative of an NGO. Although, throughout my life, in one way or another, I was periodically in power and had a unique experience of working with the security services.

As soon as Georgia became independent, hostilities broke out on the territory of Abkhazia. Back then I was a civil servant, working for the Human Rights Committee. I became one of the members – in fact, the head of the Prisoners of War Exchange Commission. During the war, I was occupied with human rights and issues of war victims, so it was impossible to avoid communication with the security services. The Soviet Union had just collapsed. Thus, without cooperation with these agencies, I would not have been able to release and exchange prisoners or evacuate hundreds of people from Sukhumi and Gudauta.

It was the first time, when I changed my attitude to the Soviet State Security Committee, the so-called KGB. In the state service, I met employees of this body, most of whom had moved to the Georgian side with all their hearts and souls. I saw their actions and work in Abkhazia. Many of them had served in Afghanistan and were high-ranking officers or leading figures. Most of them are currently retired. I can name only one of these people, who, unfortunately, is already dead

– Avtandil Ioseliani, with whom I had a close relationship. He was the head of the Abkhazian Security Service. In collaboration with these people, I gained an unique experience and saw what the State Security Service should look like and how it should work in the public interest.

Afterwards, I had some pause in working with these bodies. Years later, when Mikheil Saakashvili was Minister of Justice in Eduard Shevardnadze's government, he invited me to work in the penitentiary system. This department was under the Ministry of Justice at that time. I was appointed Deputy Head of Department. "Perfect" corruption reigned in this system then. However, there were representatives of the former Soviet agencies still working in the security service. These people were free from corruption and served the interests of the state. Once again, I saw what professionalism was. For these reasons, I do not generally have a negative attitude towards the security services. I believe that any democratic state should have a professional, competent and qualified security service.

I started cooperating with the security structures for a third time whilst working as a Minister of State. By that time, I dealt with a completely different category of people there. They were Georgian patriots bearing a distinctive characteristic – the Soviet Union and Russia were unacceptable for them, although their competence and qualifications were significantly inferior to those of the security officers I had met in Abkhazian and Georgian prisons. You can easily distinguish an incompetent security officer from a competent one. The incompetent believe the state revolves around them and that they lead policy.

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When we were invited to work in the government, I thought it was time for democracy to develop in the country. Thus, I started to act just as a member of government should act in a democratic state. I was a member of a party with centrist liberal values – the Republican Party – and I had a vision of what a democratic state should be like. Consequently, I perceived the State Security Service as a tool to inform me and to analyze threats and risks. I was told at one of the first meetings: “We have learned that you are negotiating with the Ossetian side on the release of the prisoners. This is our function.” In other words, they tried to demonstrate “where my place was”. I asked why such a negotiation was their function and firmly stated that this was exactly within my competence. I indicated that human rights were my field, I also had experience in exchanging prisoners between the parties, the Ossetian side knew me well, besides, I had the skills and opportunity to do this.

Thus, from the very first days, there were attempts to show “where my real place was”. The staff of this agency thought the Minister had to be their agent: I had to inform them with whom I met, the topic of conversation, etc. In a principled way, I did not pay any attention to this and, naturally, I did not report to them on my activities either.

During the same period, the topic of Islam became pertinent and issues concerning the construction and opening of mosques emerged. For example, the population in the village of Samtatskaro requested to open a mosque. As a Minister, I got engaged with these issues very sincerely as I believed they fell within my competence. In addition, I deliberately included the term “civic equality” in the name of our Office. Un-

fortunately, this equality has not yet been achieved in Georgia. There were other problems in relation to Islam as well. I sincerely wanted the construction of the Batumi Mosque to start during the governance of the coalition Georgian Dream. Besides, I had an idea of establishing a higher Islamic theological school in Tbilisi, so that young Muslims would not go abroad to study and would get an education in Georgia. Generally, such issues should be resolved solely by political authorities, who have to take a responsibility on their decisions. Though, many issues like these were eventually “vetoed” by the security services. In other words, while working on religious topics, they also pointed that I should not have worked in this direction. The question emerged: if these issues were not within the competence of the State Minister’s Office, then which state structure was responsible for it? It turned out that the security services had monopolized the following directions connected to my Office: conflicts, as well as problems concerning ethnic and religious minorities.

I think such comprehensiveness of the security system has three main explanations:

1. The employees of these bodies are convinced that politicians take and leave positions, while they are the main and permanent staff. During the governance of the Union of Citizens, this service was completely disbanded. Low-paid officers earned their living through being “businessmen”. During the rule of the United National Movement, they fired all the employees who were unconditionally “pro-Russian” or had previously been Soviet. From this period, the

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Security Service began to work in the interests of the party. This institution, like the state flag, became synonymous with the party. Therefore, its employees are required (or not required at all) to have completely different competencies and qualifications. Even today, I do not know where the staff are trained in security services. There is an academy – Training Centre of the State Security Service of Georgia, where (if we judge by the example of conflicts) the myths and legends of Abkhazia and Samachablo, like those of ancient Greece, are taught to the trainees. I felt nothing but sadness when speaking to a young security officer about Abkhazia, South Ossetia or ethnic and religious minorities.

2. As paradoxical as it may seem, this vicious form of governance is not a consequence of the security services. The problem lies with the politicians who find it comfortable under the leadership of the security service. Politicians in this category believe that the State Security Service is a mystical and magical phenomenon, something like a “sacred cow” that can not be touched. For such a politician, even a simple opinion (not to mention an instruction) coming out of this agency acquires a sacred character and its fulfillment is predominantly obligatory. Many politicians are very happy and satisfied to follow their instructions.
3. The third major problem I had with this institution was the low competence of their staff. Of course, I am far from the idea that I am omniscient, but when

you come to me and start to teach conflicts, you need to know more than me. For example, in directing me to only use the term “Tskhinvali region” instead of “South Ossetia”, you need to know that “South Ossetia” is written in practically every international document Georgia has signed. These include the six-point plan for a ceasefire⁵ on August 12, 2008 and the document signed by Zurab Zhvania and Eduard Kokoity⁶ in 2004, just to mention two key documents; I can give such examples endlessly. In other words, when you direct me, you should be more competent than me. In such a case, I may follow your discussion and feel more responsibility and respect for the security services. For some reason, criticism is taken as hostility, which is totally unacceptable in common activities. I am not an enemy of the security service. On the contrary, I want to be their friend. That is why I believe they need to be involved in discussions and debates with civil society. This agency should serve democratic institutions and not any political force. Against this background, I am sincerely in favor of cooperation with this body. I wish the security system were strong, because Georgia has many challenges, notably coming from Russia. The incompetence of this agency will push the country backwards and slow down its development. Therefore, in my opinion, the fact that the security services are non-transparent,

⁵ Accessible at: <https://civil.ge/ka/archives/144430>.

⁶ Accessible at: https://www.mid.ru/foreign_policy/rso/osce/-/asset_publisher/bzhxR3zkq2H5/content/id/456342

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closed and do not tolerate those who want to do good – is a problem not only of this organization, but of the entire state. If our security services continue to play an exclusive role, it is impossible to talk about democracy in Georgia. Security should be at the service of politics, its tool and not the other way around. In other words, our problem is not the fact that the process is managed by the security services, but that we do not have politicians with appropriate competences and this institution works in place of them.

Since there are no real leading political figures in the country today, the agenda cannot be set by politicians. The agenda is developed by the security services. When I resigned as a Minister, a friend informed me: “They say inside the State Security Service that they are filling the pits left by you”. That is, before I arrived, they were “walking on the highway”, then I “left the pits” on which they have to walk now.

PRESS AND CIVIL SOCIETY

When I was appointed Minister, I hoped for more cooperation and solidarity with the press and civil society. Unfortunately, the leading and influential part of the press mainly looked for scandalous stories in my activities and usually found them. Afterwards, by making noise around these statements, important topics were discredited and discussed in a populist format. I was expected to be critical of Abkhazian and Ossetian societies. Also, they searched for my statements which would be in favor or against Russia, but not for important and relevant content: on how we planned to resolve the conflicts, which kind of risks and threats existed, and to what extent did we have to consider the interests of Abkhazian or Ossetian societies. Basically, they were not interested in what I was saying and focused on what I was not saying. The coalition Georgian Dream also paid attention to such media. The team of the ruling party was influenced by the information campaigns led against me in the press, especially since a significant portion of the media was in the hands of the opposition and they set the agenda which was taken into consideration by the coalition. Unfortunately, what was written in the press was more important for them than the things we could do despite this criticism.

The position of non-governmental organizations was also unclear. They acted more like information recipients than partners. They were only interested in what we were doing and were not ready for cooperation. They mostly expected support from us in the implementation of their projects and

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did not suggest ideas which we could fulfill together. The constant, well-orchestrated criticism of the opposition also frightened the representatives of the civil sector.

The opposition worked quite effectively to weaken possible options for my support from the government. As a result, instead of acting in a principled way, the non-governmental sector took into account the sentiments of the media, which was very effectively managed by the opposition. This concerned, for example, an issue such as the federal arrangement of the Georgian state. This topic could have facilitated the conflict resolution. For example, Prime Minister Gharibashvili once mentioned the “self-determination of nations”⁷ and this caused a negative reaction in the press against him. Within the political team itself, Gharibashvili received quite serious criticism from some ministers because of the use of this term. I thought this reaction was wrong and I got involved in the debates. However, once again the complex and authority of the major ministries worked even though their arguments were completely weak and unqualified. I think that the press and civil society could have grasped this topic and made it the subject of wide discussion.

There was also no support from the press and NGOs for reassessing the past in order to re-evaluate the events of the 1990s. I looked for and expected the most support from the civil sector, though, it mostly played a role of an observer and truth-holder. This sector acted as if the truth was kept with it and I had to be relevant to that truth.

⁷ Accessible at: <https://grass.org.ge/ka/inmedia/sergi-kapanadze-rode-sats-thvithgamorkvevaze-vlaparakobth-stsori-gzidan-khdeba-gada-khveva>.

I always welcome criticism and I believe that the government should be constantly criticized. The government really should not be praised. But, in addition to criticism, I also expected cooperation, for example, in the field of legislation. When we encountered opposition in the Parliament while working on an amendment to the Law on the Occupied Territories, the civil sector was usually passive and silent. It never offered me collaboration, on the contrary, it perceived me not as a partner, but as the person who is accountable. It was limited to rare recommendations and statements of a general nature that were not relevant to us at all. However, I was ready to help the representatives of this sector implement certain projects, but usually they did not formulate initiatives or generate ideas. With rare exceptions, they were only interested in the implementation of their small projects, which did not comply with the interests of our agency with their scale. Their focus was on a recommendation issued by our Office in order to be presented to donors – something that could facilitate the funding of their projects. Meetings with the civil sector were irregular, spontaneous and had a format of briefings. I talked about my activities, answered the questions and then the meetings ended.

The work was most productive with international organizations, where I have been well known for years. They understood the challenges that our Office faced better than our own government. Therefore, it was clearer to international organizations and diplomats what I wanted to do and what obstacles I faced. This understanding was due to the fact that this category of people, unlike Georgian politicians, had a long experience of working on the conflicts in the Caucasus. Our politicians get involved in politics through various unclear

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means and have nothing to do with the recent past of Georgia. They are usually busy with other activities before coming to the parliament and have no idea about the conflicts. After entering politics, they are afraid to make serious mistakes and to hurt their own future prospects. On the other hand, international experts, as a rule, have many years of experience in working on our conflicts and are well aware of what is needed for their resolution.

The support of international organizations was expressed in the constant consultations and recommendations I shared. I thought that was exactly what I needed. They constantly shared their own experiences. This kind of problem is common in Georgian politics: foreign partners are afraid to give us recommendations in public, because if these recommendations do not work (again due to our incompetence), we put the blame on them. Thus, to avoid embarrassment, they have been reluctant to give us advice for many years. Since I had many years of experience working with my international partners, they were not afraid to give me recommendations. They knew – if these recommendations did not work, they would not be reprimanded by me. Thus, their approach and advice were appreciated.

They saw I was ready to take advice from them, even if a powerful resource – domestic political consensus – was needed for its implementation. At the same time, international organizations facilitated me to have constant communication with the Abkhaz and Ossetian sides. Of course, I had my channels. But additional contributing factor was the support of international organizations, which was often stronger than my own channels.

ATTITUDES OF GEORGIAN, ABKHAZIAN AND OSSETIAN SOCIETIES

Unfortunately, the obstacles and negative factors mentioned above prevented the Abkhazian and Ossetian societies from believing that the processes and the policy of the Georgian state were changing. Consequently, it took them quite a long time to take bold steps in response. Between 2012-2016, the Abkhaz and Ossetian sides, in many cases, failed to seize the unique opportunity to advance the peace process through dialogue in such a firm manner that would have made it impossible to reverse the course in the future. They did not take the opportunity to collaborate more with the person who focused on them and pursued their interests. Thus, the relations with Abkhazian and Ossetian societies were quite complicated. Despite the fact there was some contact, we had no results.

As soon as I took the post of Minister, I immediately tried to inform the Abkhazian and Ossetian communities that I could advance (with my own resources) the process of realizing our mutual interests – Georgian-Abkhazian and Georgian-Ossetian interests. I think the willingness from them was not adequate to my diligence and it could have been more powerful. The cooperation on their part was not as clear as my attempts to put our relationship on a new track. Before I became Minister of State, only a few Abkhaz and Ossetian officials dared to have direct contact with me abroad. However, I was prepared for more frequent communication. All these contacts had a final, clearly defined consequence and it is unfortunate that they avoided such a relationship.

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I had some discomfort due to the absence of relevant contacts, as the government and the prime ministers expected certain results from me. However, they realized that the lack of outcomes was due to the inflexibility and incompetence of the Georgian side. I will note once again: if we had been a team with more cohesive and clearly expressed positions, there would have been more trust and desire for communication from the Abkhaz and Ossetian sides. However, when they saw that only I was interested in taking steps, they realized that supporting me alone might not be profitable for them. Therefore, I can easily understand why they were unable to see the advantage of establishing sustainable contacts just with me. They saw that it was very difficult for me to defend my positions within the team. Thus, I was more like a friend to my Abkhaz and Ossetian partners than a Minister. I did not feel I was unacceptable to them or untrustworthy because of working as a Minister. By the way, I was afraid that after I was appointed to the position, they would alienate me and think I would move to the narrative of the National Movement. Although, when they saw I was not going to change positions, but to pursue my principles and values, they maintained their confidence in me. They also realized that I was alone in taking these positions and it was impossible to implement them. Therefore, our relationship did not develop into an institutional framework and remained more personal – sincere, honest and human. In terms of these relationships, being a Minister did not influence me either. I did not point out to my Abkhaz and Ossetian partners that I was going to speak to them in a different way because of being a Minister. On the contrary, I always stated that I agreed to this post in order to pursue a policy based on my values.

Working as a Minister helped me to become even firmer in my positions, visions and values. The starting point was made up of the following factors: the peace process and bilateral relations had no alternative; it was necessary to study and take into account the interests of Abkhazian and Ossetian societies while establishing and implementing the interests of the Georgian state. Also, I was convinced that, first and foremost, the transformation and final settlement of the conflicts was clearly and unequivocally in the hands of the Georgian, Abkhazian and Ossetian communities. The international society can only assist us in this policy, though it cannot develop and implement our policy instead of us. Russia will try its best, but will not be able to prevent us unequivocally, if we manage to find a common language and a way out of the crisis. Thus, I am grateful that I had been in this position as I became even more convinced of the correctness and necessity of my values.

Another important thing I saw during the years of working as a Minister is that Georgian society is not ready to take bold steps. This society fails to realize its responsibility for conflict management, which depends on its proactiveness and not on when Russia will end its occupation and aggression. We are always looking for the source and cause of our problems outside. One of the most common and popular positions is “de-occupation”, which is important but not crucial, because de-occupation requires Russia to end its occupation. The latter factor is significant in itself, but not decisive. The position of Georgian society and the state of Georgia is crucial. Therefore, there is a problem that Georgian society does not think about its responsibility and there is no internal discussion about what Georgia should do in this direction.

Instead, the society thinks about when Abkhazians and Ossetians will change. As soon as some social changes take place

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in Abkhazia and South Ossetia or their governments change, the illusion and expectation immediately emerge: maybe they will start to look in our direction now. In other words, we are orderly people on the right path, they were mistaken and maybe they will look at us now. We have no sense that we need to change as well. While in government, I became firmly aware that this problem of irresponsibility exists in us. We talk about peace more than the process related to it. However, without process there is no peace. Unfortunately, we only talk about peace, though how it should be implemented is not discussed in Georgian society. This also applies to Abkhazian and Ossetian communities – neither they are ready to revise their positions. But we need a policy of reconciliation, therefore, more initiative must come from our side.

I believe that by agreeing to the ministry I did not waste time. It was an important milestone in my life which helped me to become more confident in my positions. If I were planning to leave the sphere of conflict resolution, I might have considered it lost time. But I remain in this field and continue to work. Thus, it can be said that I am an exception as a Minister – after leaving office, no Minister stayed in the field of conflict resolution. Therefore, I believe that through these four years of experience I acquired a lot for my future activities. Also, I realized what a person needs to do in this position to succeed. More patience and principled action are needed to overcome the conservative attitude in government and among the political elite. It is achievable, but only if you have a serious team of like-minded people and receive the support of the authorities – the Prime Minister or a leading political party. Unfortunately, without these conditions it is impossible to carry out fundamental reforms in the direction of conflict resolution.

DEVELOPING THE VISION OF THE STATE MINISTER

By July 2014, with the help of my friends, I had completed working on a vision of the State Minister on how Georgian-Abkhazian and Georgian-Ossetian relations should be normalized. My goal was to prove to the Georgian government that bilateral relations were one of the main solutions to move the transformation and further resolution of the conflicts on the territory of Georgia from the deadlock. With this document, I attempted to prepare the ground for us to change the “state strategy towards the occupied territories”, which had been developed during the rule of the National Movement and approved on July 3, 2010. It is disappointing that, up to now the Georgian state has been guided by this strategy to resolve conflicts. In 2014, I was unable to change the strategy adopted four years earlier. My task was to abolish the old and create a new, vital concept. Unfortunately, though, my vision remained only my vision. The vision of the Minister of State written by me failed to become a document of the government. This is also one example of how contradictory the policies were within the coalition.

Naturally, the issues discussed and the positions formulated in the mentioned document will be the main topics of this book. Thus, I want to show the reader in what direction Georgia should have gone in 2014. These issues are still relevant today. I believe in the future the conflicts in Georgia

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should be resolved in this direction. I am deeply convinced that the society needs to constantly discuss and debate the forms and means by which the conflicts in Georgia should be transformed and further resolved.

The following chapters and text of the book will follow that vision which should have become the basis of the government's strategic document.

INTRODUCTION TO THE VISION

It has been 28 years since the beginning of the armed conflict on the territory of Georgia. This is more than enough time for Georgian society and political elite to understand and evaluate what happened and why, how far we have come and whether it is necessary to re-evaluate the achievements and review the policy. They should also assess the merits of the outcomes and whether it is necessary to change anything. Neither side involved in the conflicts (and not in the conflict) on the territory of Georgia has achieved its goal.

Russia had a clear goal: to return Georgia to its orbit. However, the opposite happened – Russia’s actions, fact of emerging as a party to the conflicts, occupation and recognition of independence of Abkhazia and South Ossetia further diverted Georgia from Russia’s orbit, more clearly expressing the aspirations of our country towards Euro-Atlantic and European institutions. Georgia does not want to look in the direction of Russia. There are talks neither about the restoration of diplomatic relations nor about a return to the regional unions in which Russia is a leading state. In other words, Russia has not been able to achieve its task of gaining control over the South Caucasus, especially since Georgia is a territorially dominant state in the region: all the energy projects from the Caspian Sea go through it; the Baku-Tbilisi-Kars railway section will be put into operation soon; the ports of the

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Eastern Black Sea are located here. Thus, Georgia is the gateway to the Caucasus and Russia cannot control it.

Abkhazian and Ossetian societies also failed to achieve their goals. The international community did not recognize their independence. Most importantly, after the annexation of Crimea in 2014, Abkhaz and Ossetian societies understand that they may be the next annexation by Russia if they do not start thinking of another solution. It is obvious that at this stage, Russia's priorities do not include the annexation of South Ossetia, though this intention is clear in relation to Abkhazia.

During a quarter of a century, Georgia also has not achieved its goal of restoring its territorial integrity. At the same time, I think equally important is another goal: to rethink and re-evaluate what kind of a state we are going to live in with the Abkhaz and Ossetian peoples. This is very important, because territorial integrity is enshrined in the Constitution and international law which explicitly protects Georgia's sovereignty. The forms of future-orientated coexistence depend only on the state of Georgia and Georgian society.

Against this background, when neither side achieved its goal, we have come to the present day. During this time, the Russian Empire underwent the collapse of the Soviet period, as well as neo-imperial modernization since 2007. The Georgian state could not cope with the destructive force of the agony of the dying Soviet empire, nor could it avoid the turbulence of the revival of neo-imperial Russia. In the first case, we had an armed confrontation in the territories of Abkhazia and South Ossetia, while, in the second case, we received the Georgian-Russian war of August 2008. The war was followed by occupation, then a small parade of recognitions of inde-

pendence and a fundamentally different reality. This new reality, as well as unattainable goals, has become a factor which is equally taken into account not only by Georgia, but by all other parties to the conflicts.

It should be noted, that the government of the Georgian Dream, while generally criticizing the policy of the United National Movement of transforming and resolving conflicts, has practically followed the narrative created by this party. This is one of the main problems.

What is the basis of the current policy of Georgia, which is in fact a continuation of the well-forgotten old one? Many people may not know that the Georgian government is still guided by the document “State Strategy for the Occupied Territories: Engagement through Cooperation” adopted by the government of the United National Movement.⁸ This strategic document was adopted on January 27, 2010. From the very first day I was appointed Minister of State, one of my main tasks was to modernize or amend this document in accordance with the pre-election program of the coalition Georgian Dream and the Action Plan of the government. Unfortunately though, this attempt of mine was in vain.

The state strategy towards the occupied territories has the goal to resolve the conflicts on the territory of Georgia only through peaceful means. Unlike the militaristic propaganda that existed before August 2008, this was undoubtedly a significant step forward. A military solution to the conflict was excluded from the Strategy, which aimed at reconciling the population “separated by dividing lines” and restoring

⁸ Accessible at: <http://www.civil.ge/files/files/SMR-Strategy-ge.pdf>.

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trust between them. It should be noted, that the Strategy was developed with the involvement of civil society and experts in the field and their views were taken into account. Issues of security and political status were distinctively separated in the document from the outset. Security issues were to be secured mainly with the support of international monitoring institutions, while the political status of South Ossetia and Abkhazia was to be discussed in parallel with the withdrawal of the Russian occupation forces from Georgia and return of refugees.

The Action Plan of the Strategy identified six main areas. These were: 1. economics, trade and business; 2. transport and communication; 3. public diplomacy and information issues; 4. human rights and education; 5. health, social topics and culture; and 6. involvement of international organizations and legal advice issues.

The activities defined by the Strategy should have been financed by creating appropriate sectoral funds. Afterwards, the important areas identified in the Strategy should have been supported by these finances. However, it should be noted – from the very beginning the idea was formed that the document turned out to be highly formalized, propagandistic and, consequently, unviable.

I agreed to the nomination for the Minister of State primarily due to the following reasons: to revive the existing strategy, a discussion of which I had participated in, or to develop a fundamentally new vision for conflict transformation and resolution (on the basis of the mentioned document), which should be acceptable both to the government and the public.

By that time, I had already accumulated twenty years of experience studying the conflicts in Georgia and finding ways

to resolve them. It is my deep conviction that unresolved conflicts hindered the peaceful coexistence, cooperation and sustainable development of the Georgian, Abkhaz and Ossetian peoples in the past and it is continued today. I believed and still believe that, over the years, each party to the conflict has made its share of mistakes. However, first and foremost, the current and future interests of Georgia suffer due to the fact that mistakes made have not been realized.

The public debate on unresolved conflicts is of fundamental importance, but the purpose of this book is quite different: it is focused on the future seen from today's perspective. Also, its task is to identify existing challenges and offer appropriate response mechanisms. The presented text gives my vision of what state policy and approaches in the field of conflict transformation and resolution should have been in 2012 and should be today.

In my view, the guiding principle on the path to conflict transformation and resolution should be the concept of reconciliation. Evidence of this is the following fact: it was due to my constant attempts, that in January 2014, the “State Minister for Reintegration” was renamed as the “State Minister for Reconciliation and Civic Equality”. On the way to the institutionalization of the above concept, Georgia should see the *democratization* of the country as a basis for reconciliation with the Abkhaz and Ossetian sides, and *European integration* – as an institutional basis. In essence, this should mean transforming Georgia into a state of liberal democracy based on the rule of law, political pluralism and civic equality, and focused on ensuring the freedom and security of its citizens, as well as their social, economic and cultural development.

MAIN DIRECTIONS

The Georgian-Russian war of August 2008 and its aftermath created additional difficulties in resolving the conflicts in Georgia. The conflict between Russia and Georgia politically and emotionally overshadowed those in Abkhazia and South Ossetia. However, the high dimension of the Russian-Georgian conflict does not mean that the Georgian-Abkhazian and Georgian-Ossetian conflicts must wait until Georgian-Russian relations are normalized, after which they will be resolved easily and quickly. Each of these conflicts has different roots, genesis, dynamics, and peculiarities. Sometimes each needs to be resolved by taking into account co-occurring or different factors, although the strong interrelationship between them is also evident.

The search for the ways and means to resolve the Georgian-Abkhazian and Georgian-Ossetian conflicts should be carried out in the context of three processes, which are simultaneous and complementary:

1. Direct and regular dialogue between Georgian, Abkhazian and Ossetian societies;
2. Intensification of European and Euro-Atlantic integration of Georgia;
3. Management of relations between Georgia and the Russian Federation.

The third process has a more dramatic dimension than the first two processes, and it is written in the agenda of relations between the West and Russia. Brussels and Washington will find it difficult to support Georgia if it is not fully integrated into the Western value system, which includes moving towards conflict resolution through dialogue, transformation, democratic institutions, regular reassessment of achievements and restoration of mutual trust. In this process, the policy of keeping the situation unchanged is meaningless.

It is also unacceptable to have Georgian, Abkhazian and Ossetian societies captive to stereotypes, legends and illusions.

The conflict cannot be considered resolved until the parties to it find a legal-political formula (with international legitimacy) within which the conflict is perceived as exhausted. The international community will adopt a formula which is agreed upon by the parties and which ensures sustainable stability.

In order to ensure the internal legitimacy of the formula, neither society should perceive it as its own defeat. Therefore, the final formula should be based on the following: protection of the civil, political, social and cultural rights of all ethnic groups; recognition of the differences and the need to work together; exclusion of any kind of discrimination; and principles of subsidiarity, asymmetric regionalism and federalism.

Hereby, I would like to clarify the term “parties” used throughout. Georgian society should openly and boldly discuss topics which have been taboo for years. One such issue is whether we should separate the Russian-Georgian, Geor-

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gian-Abkhazian and Georgian-Ossetian conflicts. One of the existential mistakes made by the government of the United National Movement was that they could not differentiate and, consequently, could not distinguish between the Georgian-Russian, Georgian-Abkhazian and Georgian-Ossetian conflicts. Of course, there is a genetic link between these conflicts, although the differences between them are more substantial than superficial. Therefore, we should try to distance these three directions from each other as much as possible. For this purpose, it is necessary to refer to the ethno-political forces in Sukhumi and Tskhinvali as “parties”. Due to different situations, in this term we can mean parties to conflict, as well as to negotiation. By adopting the notion of “party”, we will ensure more involvement of Abkhazians and Ossetians in the process, giving them an opportunity to distance themselves from Russia.

At the first stage, distancing of the de facto situation in Abkhazia and South Ossetia from Russia may not be obvious. However, daily work is needed in this regard. On the other hand, the more we ignore the perception of Abkhazia and South Ossetia as parties, the more subordinated to Russia they will be. Thus, I consider the introduction of “parties” and political cooperation with them as one of the main institutions on the way to the institutionalization of reconciliation. Further, with regular use of the term in rhetoric, its “gravity” will be reduced.

THE CONFLICTS IN ABKHAZIA AND SOUTH OSSETIA

As I have already mentioned, there are similarities between these conflicts, but there are also significant differences, which must be taken into account when pursuing appropriate policy.

Similarities: Both conflicts developed within the autonomous units of Soviet Georgia (the Autonomous Republic of Abkhazia and the Autonomous District of South Ossetia) and acquired a sharp nature in the early 1990s.

Apart from the political dimension, both conflicts have a dimension of ethnic confrontation which has resulted in the expulsion of the vast majority of ethnic Georgians from Abkhazia and South Ossetia, as well as some ethnic Ossetians living in the rest of Georgia. The open or covert actions of the Russian Federation have significantly contributed to the development of both conflicts. In either cases, military operations were stopped with the participation of Russia, whose military units as peacekeepers (in various configurations) were deployed along the dividing lines. After the Georgian-Russian war of August 2008, Russia (and several other states later) recognized the independence of both territories and deployed military bases there. The annual budgets of Abkhazia and South Ossetia are largely filled by Russia. With these and other parameters, Abkhazia and South Ossetia are typologically among the North Caucasus subjects of the Rus-

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sian Federation. Both have a part of the territory predominantly settled by the ethnic Georgian population. There are a lot of mixed families – Georgian-Ossetian and Georgian-Abkhazian, which is a result of the close cultural ties between these nations. The remaining population after the conflicts is unable to fully utilize the relevant territories and resources, which negatively affects its well-being.

Differences: The vast majority of the current population of South Ossetia is ethnic Ossetian, which is added by about 2,000 ethnic Georgians living in Akhalkgori and minorities of other nationalities. The ethnic structure of the Abkhazian population is more diverse: ethnic Abkhazians slightly outnumber ethnic Armenians and ethnic Georgians. The Russian community lags far behind the rest in number. The location of Abkhazia beside the Black Sea creates opportunities for contacts with the outside world, while the climate gives prime conditions for the development of tourism and subtropical agriculture. Abkhazia has relatively large shares of the urban population and workforce with a higher education. Consequently, it has economic potential, although today the economy of Abkhazia is heavily dependent on the financial and technological assistance from Russia.

About 75% of the perimeter of South Ossetia is connected to the rest of Georgia along the dividing lines, while the region is connected to Russia (to the Republic of North Ossetia) only by the Roki automobile tunnel leading through the Caucasus ridge. Economically, South Ossetia is completely dependent on Russia's financial support. There are very few sources of internal income – less efficient agriculture, fragmented and non-industrial mining and service of the Russian

military base. The development of other sectors of the economy is linked to the need for large investments and educated workforce which will not be profitable unless South Ossetia restores communications with the rest of Georgia.

The factors of the North Caucasus are revealed in different ways in Abkhazia and South Ossetia. Ethnically, the population of the latter is almost the same as the title ethnos of the subject of the Russian Federation, the Republic of North Ossetia – Alanya. Despite some distance between them, they enjoy the full support of each other in crisis situations. Meanwhile, migration is directed predominantly from South Ossetia to North Ossetia. Unlike the population of other ethnic autonomies of North Caucasus within the Russian Federation, which is mainly Muslim, the majority of Ossetians are Orthodox Christians. This contributes to the alienation between Ossetians and neighboring North Caucasus peoples.

Abkhazians (most of whom identify themselves as Orthodox Christians and a small proportion – as Muslims) are culturally and linguistically related to the Adyghe (Circassian) ethnic group in the North Caucasus. Moreover, in the common Adyghe (Circassian) discourse, Abkhazia is considered an integral part of their living space. In addition, Abkhazians predominantly enjoy the support of the Circassian/Abkhaz (Muslim) diaspora living in Turkey. This diaspora has certain political influence in Turkey and several Arab countries. At the same time, the hope that the ethnic balance in Abkhazia would be shifted in favor of Abkhazians through the repatriation of ethnic Abkhazians from Turkey and the Middle East was not realized due to cultural and religious differences, as well as the difficult social and political situation in Abkhazia.

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Political Realities: The scope of civil society and independent media activities in South Ossetia is limited and they are under strong government pressure, while both are relatively developed and autonomous in Abkhazia. In South Ossetia, Soviet and post-Soviet political leaders were marginalized and expelled. In Abkhazia, despite the ethnocratic nature of governance (as evidenced by the dominance of ethnic Abkhazians in political and public life), there are elements of political competition. It should be noted, that Western NGOs are allowed to work in Abkhazia and Western diplomats are given opportunities to visit Sukhumi from time to time, which is practically impossible in the case of Tskhinvali. Part of Abkhazian society is interested in relations with the West and its model of civilization, while South Ossetia is more closed and its population is entirely under Russian influence.

The national projects of Abkhazians and Ossetians are fundamentally different from each other. The national project of Abkhazians aims to build an independent Abkhaz state where politics is determined by the interests of ethnic Abkhazians. Apart from the position of Georgia and the international community, the following circumstances hamper the full implementation of the Abkhaz project: a) Russia's geopolitical interests in the Black Sea, which imply a comprehensive control of Abkhazia and exclude its true sovereignty; b) the heterogeneous attitude towards the Abkhaz project by different ethnic groups in Abkhazia.

The foreign policy orientation of the main ethnic groups living in Abkhazia is different: the majority of ethnic Abkhazians are committed to achieving their highest goal – interna-

tionally recognized independence. Georgians left in Abkhazia do not see their future without Georgia, while ethnic Russians and Armenians living in this territory cannot imagine their security and prosperity without co-existence with Russia.

Likelihood of a collision of the interests which do not coincide with each other is increased as Russia tries to neutralize the “Georgian threat” and the degree of public consolidation is diminished in the absence of an “external” threat. Instead, importance of the following internal problems increases: the issuance or non-issuance of Abkhazian passports to ethnic Georgians, the right to buy land and, in general, real estate for non-citizens of Abkhazia, an unfavorable environment for foreign business, migration, etc.

Prolonged ethnocratic rule in Abkhazia only exacerbates these problems and gives them the nature of an inter-ethnic confrontation. The task of building a modern, democratic state is in insurmountable contradiction with the practice of an ethnocratic state.

The South Ossetian national project is irredentist in its essence. The remaining, small amount of population is dominated by aspirations to merge with North Ossetia within the Russian Federation. The fact that South Ossetia is not a self-sufficient administrative-political unit in terms of politics and economy is well understood, including in the general Ossetian discourse. The declaration of state independence by some part of ethnic Ossetians, when the self-determination of most of this nation is limited to autonomy within another state, lacks a political and legal basis.

To this day, the Kremlin is holding back the South Ossetian leadership from formalizing irredentist aspirations. How-

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ever, after the annexation of Crimea by Russia, the likelihood of using the “Crimean scenario” in South Ossetia increased.

Thus, in terms of conflicts, there is a clear asymmetry in Abkhazia, on the one hand, and in South Ossetia, on the other. Therefore, attempts to solve them with the use of identical tools and models will not be successful. Common strategic principles need to be materialized in individual approaches, where concrete specificity will be taken into account. Both the process and formats of solution may be different.

THE MOSCOW-TBILISI-SUKHUMI-TSKHINVALI KNOT

Russia was guided by its own interests at all stages of the development and escalation of the conflicts in Abkhazia and South Ossetia. The illusions about Russia's impartial "mediation" were finally dispelled in August 2008, when the actions of Russia proved it was itself *a party to the conflict*. It should be noted, that in August 2008 there were no military clashes in the direction of Abkhazia. The Russian-Abkhazian military operation was carried out only in the Kodori Gorge and it was assessed as "illegal" in the report of the Independent International Fact-Finding Mission on the Conflict in Georgia (the Tagliavini Commission). This was soon followed by the recognition of the independence of Abkhazia (and South Ossetia) by the Russian Federation. A precedent was established when Abkhazia was withdrawn by Russia from the neighboring state without a formal excuse. Later, in the case of Crimea, Russia carried out the direct annexation.

The territories of Abkhazia and South Ossetia are Russia's military springboards in Georgia (and the South Caucasus), where it has deployed offensive weapons at its military bases. The Russian military contingent stationed in South Ossetia poses an immediate and direct threat not only to international transit routes and pipelines going through Georgia, but also to the capital of the country. Russia is systematically strengthening its military positions in the South Caucasus,

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which makes the situation especially explosive in the context of the unresolved conflicts. In the format of the Geneva consultations, the Russian Federation categorically refuses to commit to non-use of force against Georgia.

The relations of Tbilisi-Sukhumi and Tbilisi-Tskhinvali become further complicated by the factor of the third party. At the same time, if the Abkhazian-Russian position towards Georgia is significantly consolidated, there is no complete merging between the Abkhazian and Russian approaches to other – mainly internal Abkhazian processes. The existing contradictions are objective and long-term. To this day, this factor has not been significant or revealed in the realities of South Ossetia. The frustration of the Abkhazians oriented on independence is added to the growing irritation of Moscow, which has resulted into a consistent accumulation of distrust towards each other's true intentions. Among the reasons for the permanent change of government before the expiration of the term in Sukhumi, these circumstances should be taken into account. Nowadays, there is no reason to say that the frustration of Sukhumi may be transformed into progression towards Georgia as a possible alternative to Russia.

The Russian military has created a sense of security for Abkhazians and Ossetians, and although political realities have changed, such sentiments are still prevalent. Sukhumi and Tskhinvali continue to distance themselves from Tbilisi and practically do not respond to our initiatives.

However, when the loyalty of dependent regimes is ensured, including through subsidies, the degree of their loyalty is, to some extent, also determined by the volume of these subsidies.

THE RUSSIA-GEORGIA CONFLICT

This conflict is valuable for both sides, but Russia also adds a geopolitical component to it. If Russia achieves its goal and prevents Georgia from its Euro-Atlantic aspirations, it will not be satisfied and will try to undermine the foundations of democratization in the country. After the restoration of independence, Georgia underwent a phase of post-totalitarian (post-Soviet) transformation full of losses and gravity. The country has finally defined its place in time and space, outlining the strategic vector of development and entering the stage of modernization and Europeanization. In Georgian society, “Europeanness” is gradually replacing “Sovietism”. We are witnessing the process of identifying oneself as part of a new great unity which is fundamentally different from the old one. A significant part of Georgian citizens understand that Europeanization is in the interests of Georgian society and not a project forced by anyone. All this means that the reorganization according to the model of a European state is the basis of the Georgian national project.

The search for a post-imperial development trajectory have been observed in Russia in the 1990s, but since the events of the 2000s, it has again been held captive by neo-imperial, expansionist ideas. The official ideology of Russia is shaped by an anti-European, anti-Western and anti-liberal paradigm. The country opposes the Eurasian Union project to the united Europe. In this project, Russia is again to be given a

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dominant role. Thus, Georgia and Russia are at the crossroads of civilizations. Their diametrically opposed attitude towards the conflicts in Abkhazia and South Ossetia is one of the main unresolved issues in Georgian-Russian relations today, which precludes a fully-fledged cooperation between the two countries.

The European Union supports the aspirations of Georgian society to reduce tensions with Russia while maintaining a European course. It seeks to consolidate the political course in line with the new realities so that Russia will not be able to harm those countries of the Eastern Partnership which have chosen the Euro-Atlantic vector of development.

THE CONFLICTS AND THE EUROPEAN UNION

As the European Union is currently one of the leading actors in the peace process, integration with it is becoming one of the most important factors in conflict resolution for Georgia. Since the August 2008 war, the policy of the EU towards Abkhazia and South Ossetia has manifested itself in the approach of “non-recognition and engagement” (non-recognition and engagement policy). Part of the “non-recognition”, which shows unequivocal attitude towards the legal-political aspect of the problem of Abkhazia and South Ossetia, can be extended to Russia’s actions carried out towards Georgia in 2008. The report of the Independent International Fact-Finding Mission on the Conflict in Georgia (the Tagliavini Commission) states that *“South Ossetia and Abkhazia had no right to secede from Georgia, while the recognition of Abkhazia and South Ossetia by a third country contradicts international law”*. Even raising an issue of the possibility to recognize Abkhazia and/or South Ossetia by any EU member state would amount to political indulgence for Russia’s illegal actions, and after the annexation of Crimea by Russia, it would be a direct incitement to further Russian arbitrariness and expansionism in the international arena.

The European Union seeks to implement the idea of *engagement* and at the same time is firmly guided by the principle of *non-recognition*, as it is inadmissible to change borders through violence. Beyond that is a perfectly reason-

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able calculation: the engagement of Abkhazia and South Ossetia should not jeopardize the confidence of the Georgian community in the EU, otherwise the losses of West would be immeasurably greater than its gains. Because of all this, the policy of non-recognition has a strategic nature. It has been stated many times, that engagement means neither engaging the EU only with the occupied territories nor the locally implemented projects. Engagement involves many components, including: the non-recognition policy; political participation in dialogue between the parties; support for the European integration process of Georgia; facilitation in building confidence and involvement in realization of the interests of the population remaining in the occupied territories. In this last component, my clear view is that the European Union should have the right to conduct more or less neutral activities acceptable to the Abkhaz and Ossetian communities, not only in the humanitarian field but also in the spheres of infrastructure and development, if, in case of the latter, strengthening de facto institutions is excluded.

The implementation of the “engagement” part, in general, faces serious problems. By its policy, the Kremlin has confirmed that its plans do not include opening Abkhazia and South Ossetia to the outside world and, above all, to the West. On the contrary, by concluding agreements with the Abkhazian and Ossetian sides in violation of the Georgian Constitution and legislation, the irreversible process of Russia’s annexation policy becomes apparent. The European Union Monitoring Mission (EUMM), which aims to establish stability and mutual trust in conflict zones, is not allowed in Abkhazia and South Ossetia. Also, the activities of the UN Mission (UN-

OMIG in Abkhazia) and the OSCE observers in South Ossetia (and in Georgia as a whole) were suspended after the events of 2008.

Attempts by Sukhumi and Tskhinvali to dictate their own terms of relations with the EU and other European institutions are completely hopeless.

APPROACHES

Georgia's policy towards conflicts must be based on fundamental values such as human rights, recognition and respect for different interests and aspirations, and consensus through dialogue. Sustainable conflict resolution must mean that the dignity of each party is protected, while diversity is a self-sufficient value in the country. Naturally, Georgia sees the formulas for resolving the Georgian-Abkhazian and Georgian-Ossetian conflicts within the framework of a united state, where territorial integrity is guaranteed. However, it should also be borne in mind that other parties and stakeholders may have (and really have) different visions. Georgia's stated position must be that – until mutually acceptable formats of conflict resolution are found, people, regardless of their place of residence, must live in *security, equality* with other groups of citizens should be ensured, and they should be provided with conditions to improve their *welfare*.

Georgia must realize its responsibility to all citizens living on its territory, including Abkhazia and South Ossetia. Through the bilateral (Georgian-Abkhazian and Georgian-Ossetian) formats, the Georgian government should try to offer services to the people living beyond the dividing lines, which will be same as those provided to the population on the other side. In the presence of bilateral formats, there is an expectation that local administrations will not refuse to cooperate in this direction. Improving the living conditions of all groups of

the population affected by the conflicts on the either side of the dividing lines should be a clear goal. In order to achieve this goal, it will be necessary for all parties to the conflict to share this approach. *The policy of reconciliation* with the Abkhaz and Ossetian sides, in the short and medium term, should be aimed at achieving this target.

Even in the face of unresolved political conflict, some positive practice has been accumulated in post-war Georgian-Russian relations. Despite the hostile actions carried out by Russia, Georgia has not banned travel to this country. Moreover, it has unilaterally introduced a visa-free regime for Russian citizens, and Russian businesses in Georgia have not been affected. After the change of government as a result of the October 1, 2012 Parliamentary Elections, Georgia took steps to defuse tensions. For example, Georgia sent a team to the Sochi Olympics and contributed to the security of the Olympics. This was followed by steps taken in response by Russia: the embargo on Georgian exports was lifted and the regime of issuing visas for Georgian citizens was eased. In spite of the fact that fundamental political problems remain unresolved, ordinary citizens or businessmen have found it easier to communicate and carry out mutually beneficial activities. The parties do not deny the interdependence of their own cultures and the need to maintain and develop humanitarian contacts. The flow of tourists from Russia to Georgia has increased, while the harshness of the rhetoric at the official level has significantly decreased. Based on the above, the government and the society of Georgia should become even more open and flexible in terms of cooperation with Abkhaz and Ossetian communities.

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Tbilisi should take unilateral steps of goodwill in the direction of Sukhumi and Tskhinvali and understand that reciprocal steps may not be taken immediately. The Georgian government should work on a daily basis to harmonize *the Law on the Occupied Territories* with the recommendations of the Venice Commission. Georgia should be guided by the principle that this law must be directed against the occupation and not against the population living in the occupied territories. At the same time, Georgian society should have a fair expectation that these steps will be understood by the parties to the conflict, and will, in the best case, be followed by the certain moves in response. These moves would serve human freedom, security, equality, prosperity and facilitate confidence-building between the parties.

AGREEMENT ON NON-USE OF FORCE

The agreement on the non-use of force is one of the topics consistently and predominantly voiced by the Abkhaz and Ossetian sides. They clearly state that, as long as the Georgian side avoids discussing this issue, it makes no sense to put any other topics on the agenda. This critical issue, of course, is reinforced by the position of Russia. Time is being extended. The Abkhaz and Ossetian sides are not willing to cooperate with Tbilisi until the issue of non-use of force is resolved. Russia, on the other hand, is increasing its influence on these territories. The reins of managing the conflict transformation must be taken by the Georgian side. It should have the competence that will enable us to discuss challenging, unpopular ideas and adapt them to Georgian interests. The position of the Georgian government on the non-use of force should be clear and firm, but at the same time we should not remain hostages of Russian policy. Georgia has long been unilaterally fulfilling its commitment not to use force. This is envisaged in the six-point peace plan brokered by the European Union. The plan clearly defines where the Georgian and Russian armed forces should be stationed.

Unlike Russia, Georgia fulfills precisely the terms set by the mentioned plan. The European Union Monitoring Mission (EUMM) was created on the basis of the six-point plan. The mission signed memoranda with the Ministry of Defense and the Ministry of Internal Affairs of Georgia, which define the

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deployment location of the armed forces along the dividing line. Georgia unconditionally adheres to its obligations under the memoranda. While making a speech at the European Parliament in Strasbourg in 2010, President Mikheil Saakashvili made a unilateral verbal commitment that Georgia would never use force. This statement was welcomed by the Western partners of Georgia, although, the Abkhaz and Ossetian sides often appealed to the fact that President Saakashvili's oral statement was not credible. In response to this, the coalition Georgian Dream added a resolution to the President's verbal statement. The Resolution "On Major Directions of the Foreign Policy of Georgia" was adopted by the Georgian Parliament on March 7, 2013. The preamble to the Resolution states that the Georgian Parliament "reaffirms Georgia's commitment to the non-use of force made by the President of Georgia in his address to the international community at the European Parliament in Strasbourg on November 23, 2010". The resolution was unanimously voted by the Parliament. This list is crowned by the Association Agreement signed between the EU Member States and Georgia. This document reaffirms Georgia's clear will to rule out the use of force in conflict resolution.

By the actions described above, Georgia strongly adheres to the necessary terms for non-use of force, despite the fact that the Russian occupation armed forces are deployed on the territory of Georgia against its will. Against this background, no steps have been taken by Russia to guarantee non-use of force. The Russian Federation has not fulfilled the terms of the EU's six-point plan. Russia signed to withdraw its armed forces and return to concrete positions, though this promise

has not been fulfilled. Taking all the above into consideration, the Georgian government has a fair request and expectation that Russia should take the next step in response to the position of the Georgian state. This is needed for creating a solid basis for an irreversible process of non-use of force. Georgia must continue to firmly adhere to its principles and explicitly demand that a non-use of force agreement be signed with Russia.

Once an agreement on the non-use of force is signed between the Russian Federation and Georgia, a format will be found which will make it possible to conclude a relevant bilateral text between the parties to the Georgian-Abkhazian and Georgian-Ossetian conflicts.

Nevertheless, Georgia should not become a hostage of Russia's policy and, depending on the situation, should simultaneously hold bilateral negotiations with the Abkhaz and Ossetian sides on the following matters: in what cases and under which conditions can the bilateral texts on the non-use of force be discussed and signed with them. Georgian society and the government of Georgia must clearly understand that time is not working in their favor. The current standstill only contributes to the realization of Russia's geopolitical interests. The only side who is beaten by prolonging the current stagnation is Georgia. It is now obvious that Russia is very stubborn when it does not take the necessary steps towards an agreement on the non-use of force. Also, the Abkhaz and Ossetian sides are not entering into a dialogue on the pretext that we are not conducting negotiations with them on the non-use of force. A vicious circle has formed. It is time for the Georgian side to ask itself some questions: What may be the

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possible outcome of our principled actions? Should not we become more flexible in order to evade the gravity of Russian policy and start direct discussions with the Abkhaz and Ossetian sides on the issues that are vital and important for them? Russia is the occupier. This is recognized under Georgian law, as well as by our foreign partners and international organizations. Backed by such guarantees, we must become bolder with the Abkhaz and Ossetian sides and express our readiness to start discussing important issues in a bilateral format. However, only international organizations – the European Union, the OSCE and the UN should be involved in the negotiations. Until Russia fulfills its obligations under the six-point peace plan, Russia's participation in Georgian-Abkhazian and Georgian-Ossetian relations must be clearly excluded.

Despite the imposition of such conditions, if it came to the development of bilateral texts on the non-use of force, which may be signed with the Abkhaz and Ossetian sides, the texts should also exclude the involvement of Russia as a peace-party. In addition, these documents should stipulate that the mentioned agreement will enter into force only after the troops of the foreign country leave the territories of Abkhazia and South Ossetia.

Neither the de facto governments of Sukhumi nor Tskhinvali can provide any credible guarantees that the Russian armed forces will not act directly against Georgia or threaten the use of force. Therefore, the issue of a mutually acceptable document on the non-use of force should be discussed in the context of the real threats described above.

FREEDOM OF MOVEMENT AND TRAVEL DOCUMENTS

Freedom of movement is another important issue raised by the Abkhaz and Ossetian sides to the Georgian side and international community. Obstacles here are the restrictions faced by: the population of Abkhazia and South Ossetia when moving in the direction of Georgia or abroad and foreigners entering and operating in the occupied territories. The current situation concerns not only the population living in Abkhazia and South Ossetia, but also the Georgian government and the international community. For the resolution of this problem, it is needed to use existing tools, or, if necessary, to find new ones. Georgia should make every effort not to initiate restrictions on movement resulting in isolation and limiting medical treatment, education, etc. for the people living in Abkhazia and South Ossetia.

The interests of Georgia should not involve its own democratization and the abandonment of the people of Abkhazia and South Ossetia under Russian domination. Such an approach would contradict the European values pursued by Georgia and pose an existential challenge to the remaining population in the occupied territories. The government should facilitate the return of international missions to these territories in order to make their participation in the reconciliation process as effective as possible. Georgia should be interested in allowing people to move legally and without any

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restrictions throughout its territory, so that the existing dividing lines do not impede freedom of movement.

A clear example of this is the ease of access to health care, which has brought thousands of people living in Abkhazia and South Ossetia into the healthcare system of Georgia. This successful program became possible after the coalition Georgian Dream made a political decision to consider the ID documents issued in Abkhazia and South Ossetia valid for the healthcare system, so that the access to Georgian health care would not be impeded.

Pre-existing rules significantly complicated the process of allowing holders of the ID cards issued by the de-facto governments of Abkhazia and South Ossetia to enjoy the social, economic or humanitarian benefits established by the Georgian state. In connection with our initiative, there was a misinterpretation of this fact by political opponents. There was a deliberate campaign to mislead the public, as if we had legally recognized the so-called Abkhazian and Ossetian “passports”. We did not make any legal changes regarding the validity of the ID cards issued by the de facto governments of Abkhazia and South Ossetia.

We were bound by the Georgian legislation adopted during the rule of the National Movement in 2010 and 2011 which states: “The identity documents issued by the illegal governments or officials in Abkhazia and the Tskhinvali region *should be taken into account* to prove the fact that a person willing to receive neutral documents and health care referral services lives in the occupied region.” The coalition Georgian Dream simply awakened a “dormant” legislative norm in Georgian law and set a precedent of legally connecting the thousands of people living in South Ossetia and Abkhazia

to Georgia. Also, the rules that regulated the movement in the rest of Georgia with the mentioned documents were not changed. Hereby, it should be clearly stated that, although the unrecognized de facto governments are not legitimate structures, all their actions are not unconditionally annulled under the norms of international law.

International law recognizes the authenticity of some documents (such as the registration of births, deaths or marriages) issued in such territories.

The occupied territories are an integral part of Georgia and thus the current Georgian legislation shall be applied, according to which the persons who lived in these territories in the early 1990s (before the government of Georgia lost the control) and their descendants are considered Georgian citizens. Thus, they have a full right to obtain an identity card and passport of Georgia. Accordingly, it should be determined how an ID card and Georgian passport should be issued to persons residing in the occupied territories. Although these individuals are considered Georgian citizens, in practice, they face certain difficulties in obtaining an ID card and passport, as they may not be able to submit the necessary certificates and required documents. The most important thing in this regard is a birth certificate.

In many cases, a lot of the people residing in South Ossetia and Abkhazia own a document issued by an authority. The problem is the first paragraph, Article 8 of the Law of Georgia on the Occupied Territories, according to which: "A body (official) shall be illegal if it is not established (appointed/elected) under the procedures determined by the legislation of Georgia, and/or if in any form it actually performs legislative, executive, or judicial functions or other activity in the occupied territories that fall within functions of the State or local

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self-government bodies of Georgia.” Pursuant to paragraph 2 of the same article, “Any act issued by the bodies defined in the first paragraph of this article shall be deemed void and shall have no legal implications, except when the act is used to issue a neutral identity card and/or neutral travel document as determined by the legislation of Georgia.”

On the one hand, the mentioned norms declare that the authenticity of the acts issued by the de facto authorities is illegal. However, as an exception, the norms allow the possibility to use such documents for the issuance of a neutral identity card and/or a neutral travel document. As mentioned above, under international law, in some cases the authenticity of some documents received or issued by an unrecognized regime may not be denied. Although, such an approach does not imply any form of legitimacy for the unrecognized regime.

In this regard, our legislation also provides for certain exceptions, which allow the possibility of obtaining a neutral identity card and/or a neutral travel document. Thus, a precedent is set: in some cases, the authenticity of some documents issued by the unrecognized regime may not be denied. There is a collision between the laws. On the one hand, the law recognizes that, in some cases, a birth certificate issued by an unrecognized regime may be considered valid. However, on the other hand, it does not allow this document to be used for obtaining an identity card or passport of a Georgian citizen. Although, the first paragraph, Article 7 of the Law on Occupied Territories stipulates, that “the occupied territories are an integral part of Georgia, to which the legislation of Georgia shall apply.”

Accordingly, such an approach is illogical. It is necessary to make a relevant amendment to this law and add an ID card

and a passport of a citizen of Georgia to the list of a neutral identity card and/or a neutral travel document. If such an amendment is made to the Law of Georgia on the Occupied Territories, then persons residing in these territories will have the right to obtain an ID card and a Georgian passport on the basis of an identity card issued by the de facto bodies.

The easiest, most effective and efficient way for persons legally residing in the occupied territories to obtain an ID card and a passport is the amendment to the paragraph 2, Article 8 of the Law on the Occupied Territories. The amendment will enable the relevant agencies to issue a Georgian ID card and a passport (like neutral documents) on the basis of documents issued by the de facto authorities.

In conclusion, Georgia does not actually impose conditions for or prohibit any group of its citizens from going abroad with legal, universally recognized documents, after passing the visa procedures established by a particular country. Unfortunately, though, we mainly encounter the situation where people living in the territory of Abkhazia and South Ossetia have several alternative opportunities to go abroad, but they use none. Obviously, in such cases we must distinguish between humanitarian and political motivations. It can be stated, that this issue is firmly on the agenda and requires serious reasoning and a fair solution, which must protect the sovereignty of Georgia, as well as the freedom of movement of the population remaining in the territories of Abkhazia and South Ossetia. This situation significantly complicates the implementation of the EU's engagement policy. Moreover, it facilitates Russia in pursuing an exclusive policy towards Abkhazia and South Ossetia.

INTERNALLY DISPLACED PERSONS

One of the most important aspects of conflict resolution is the fate of internally displaced persons (IDPs) and refugees from Abkhazia and South Ossetia. The realization of their right to voluntary, safe and dignified return is an integral part in the agenda of the Georgian side, but it is largely a future task. Today, the Government of Georgia faces other important challenges related to these individuals. The most important of them is the fundamental improvement of the current unfavorable socio-economic situation of internally displaced persons and their full integration into Georgian society. Creating decent living conditions for IDPs and caring for their well-being today will provide for the basis that, in the future, their individual capabilities shall be fully realized in the environment in which they are living now.

The final settlement of the conflict will not be complete if the IDPs wishing to return to their homes, are not provided – along with the possibility of return – with conditions for safe, full-fledged life and employment opportunities. An integral part of this should be the right to restore property lost as a result of conflict or the receipt of adequate compensation. The latter problem will be exacerbated by the fact that the property of many IDPs were destroyed (for example, many Georgian villages were razed to the ground in South Ossetia), or that it has had another owner in recent years.

The opportunity to exercise the right to voluntary, safe and dignified return must be extended to those persons (mainly ethnic Ossetians) who had to leave their homes and property in other parts of Georgia due to the conflict. For them, this right must be exercised in full compliance with the requirements of equality and security, by resolving issues of restitution or appropriate compensation. Georgia must fulfill its commitments taken under the Law of Georgia “on Property Restitution and Compensation for the Victims of Conflict in the Former South Ossetian Autonomous District in the Territory of Georgia”, adopted on January 1, 2007, and adapt this law to a broader legal and geographical context.

In the Geneva Discussions, the return of refugees is one of the top three issues (along with the non-use of force and international security mechanisms). This is a key issue for the Georgian side, although, there are no substantive discussions on it. This topic is used by Russian, Abkhaz and Ossetian participants in almost all rounds to blackmail the Geneva format and speculate with matters of political status.

The topic is so manipulative that it is devalued and marginalized one round to another, when there are frequent attempts to hold and not cancel rounds, against the background of tactical moves or compromises (such as reducing time to discuss the issue, etc.). From a strategic point of view, this is not efficient and acceptable for the Georgian side. With regard to this important topic, it is not a sustainable way in the long run.

Today, the Geneva Discussions are the only format where the issue of refugees’ return still remains formally on the agenda. Geneva is exactly the forum where the topic should be discussed in the practical context (the United Nations

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General Assembly Resolution addresses Geneva with a recommendation to take care of the practical aspects of the refugees' return and implementation of the process).

As an excuse for not discussing the issue of refugees' return in Geneva format, the Russians, Abkhazians and Ossetians use the argument that the United Nations General Assembly annually passes a resolution. However, they express this position through the press or official statements, as they have not attended the sessions on the issues of internally displaced persons in the Geneva format for a long time. Within the framework of the Geneva Discussions, participants from Abkhazia and South Ossetia state that, as long as they are not represented at the UN, it is "illegitimate" to discuss the issue in this format (at the General Assembly). In their opinion, the topic should be removed from the agenda of the General Assembly, or the representatives of Tskhinvali and Sukhumi should be invited to the session of the General Assembly, or the issue should not be discussed in Geneva. However, to my mind, due to the inadmissibility of the topic for them, this is a declared excuse for not discussing this issue and regularly disrupting the Geneva rounds.

A deadlock has formed and it is only in the interests of the Georgian side to strive to exit from this situation. However, there is a general feeling that it is important how many votes our resolution will get at the regular session of the UN General Assembly and not whether the internally displaced persons can return to their places of residence. Such an attitude is extremely harmful, as 14 years have passed⁹ in adopt-

⁹ Accessible at: <https://civil.ge/ka/archives/139025> [201128].

ing resolutions in this format (“Protracted conflicts in the GUAM area and their implications for international peace, security and development”) and nothing has changed essentially. Internally displaced persons cannot return to their homes with the help of these resolutions. The only significant success is that, each year, we get one or two additional votes from states when a resolution passes at the General Assembly. However, Russia also gains one or two votes in favor of its position.

How long can such a policy be successful? Bearing in mind, that about 60 states refrain from taking a stand on the resolution and another 50 states do not participate in voting at all, it is not difficult to calculate how many years Georgia and Russia will be happy to count the votes received. If both states are satisfied with additionally gaining at least one vote each year, we are guaranteed to be on this wave of “success” for at least 50 years. I believe, it is necessary for the Georgian side to review the existing harmful strategy and act with new approaches. Otherwise, we, against our own interests, will participate in a play well staged by someone else. The Georgian side is obliged to take the reins and manage the process.

There are *several options*, in separate implementation which can unblock the issue of the return of refugees from deadlock.

Option 1: We continue the existing policy in a principled manner – formally keeping the issue on the Geneva agenda: We give introductory speeches at all rounds and carefully read the prepared written text, regardless of what Ossetians and Abkhazians do (some low-ranking Russian official still remains in the hall). In the case of this option, we maintain a

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principled position without strategic concessions, although we have to make unjustified *tactical compromises* at each round. The topic is firmly on the agenda of the main negotiation format, albeit without real progress and perspective. Meanwhile, we fail to realize that, at worst, the issue continues to be completely marginalized, and, at best, it takes its place among technical matters.

We can lead the topic, but we can not manage the situation. Due to permanent inefficiency, facilitators get exhausted and international support is declining. We may face the reality when the Russians, Ossetians and Abkhazians gradually develop the scenario (which is desirable for them) in their own interests, increasingly reinforce “established practices”, raise pressure, thus not only killing the prospect of discussing the issue, but also diminishing the importance of the format. It is not excluded that the reputation of the Geneva International Discussions may be jeopardized, and the procedure of its gradual “downfall” may be carried out by reducing its level and/or frequency. It should be noted that this framework is derived from the 2008 Ceasefire Agreement and is in line with its principles.

In order to save our positions and demands, the Georgian side will have to become more principled:

- We should no longer make tactical compromises, even at the expense of disrupting the round. This will be a clear and sharp message. If this principled issue is not on the agenda, it is not efficient for us to remain in the Geneva format.
- We strengthen the work with our partners to introduce this message to them in advance and to mo-

bilize their support. If they do not have any expectations of tactical compromises on our part, they may change their own tactics and try to show a more principled position themselves.

- We request (demand) that the co-chairs at least record in the press release and the final communiqué the demarche of Abkhazian, Ossetian and/or Russian participants qualifying appropriately. As a rule, they do not act in this way with the purpose of “saving” the next round.
- We are prepared for the risk that we will not gain substantial support. The Georgian side may be accused of rigidity and unconstructiveness (although, formally, the co-chairs are less likely to do so). Consequently, the whole format may be jeopardized if the Russians show more uprightness in response and try to “twist hands”.
- As a result, we maintain the Geneva format until it continues to work in this way. In other cases, we do not. We communicate to the public in advance that the Geneva framework is important, but it is not worth maintaining at any cost or in the face of critical concessions.

Option 2: We look for alternative format(s) to discuss the issue, and, in exchange, agree to formally keep (and not discuss) it in the Geneva Discussions or remove it altogether. There are some (although quite few) chances of creating an alternative format (if supported by the Russians), especially in the Georgian-Abkhazian dimension. The Georgian-Osset-

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ian direction is less achievable at this stage. However, even in case of creating these formats, there is a high probability that they will be less effective or will not work at all.

Under such conditions, Geneva has a chance to work *on other issues* (in exchange for a compromise on the main topic of the agenda; however, at this stage there is also no progress on the remaining two central issues – non-use of force and international security mechanisms). The advantage of this option is that further rounds will be held and pressure on the co-chairs will be relieved. The Georgian side will show additional flexibility. However, there will be strong and uncompromising criticism from the Georgian society and the opposition, even though the issue will formally remain on the agenda of the Geneva Discussions. Even in the case of this option, *the substantive discussion will not take place* in relation to the return of IDPs. The removal or non-discussion of the issue in Geneva does not eliminate the motivation of the Russian, Abkhazian or South Ossetian sides – based on principled positions, not to allow the discussion of the topic. The factor of Russian influence or responsibility is diminished or eliminated altogether if the issue leaves the Geneva format and gets lost in less formal diplomatic relations. The topic will move to a formally “lower” level. Consequently, with the weakening of the Russian factor, the US involvement will entirely disappear. In case of necessity, it will be virtually impossible to return the issue to the Geneva framework.

Option 3: We remove the resolution from the United Nations General Assembly with preconditions, which will be written in the next resolution: (e.g.) the United Nations Gene-

ral Assembly may return (or will return) to discussion of this issue in view of the (effective/practical) progress of the Geneva Discussions. In other words, an open precondition is made, which is not limited in time (although we mean two years in reality), and gets directly involved in the Geneva format in relation to progress or lack of progress of the issue.

With this action, we: dispel the counter-arguments or excuses of the representatives of Russia, Abkhazia and Ossetia in Geneva and open the space for a substantive discussion of this issue; increase the responsibility and involvement of co-chairs; take the topic out of the General Assembly's agenda for a specific time (2 years) and during this period (eight rounds of Geneva format) expect substantial progress. The resolution is usually adopted in June, while the Geneva meetings are held in July. Thus, we can tell the Abkhaz and Ossetian sides at the July session that we are not planning to pass a resolution at the UN Assembly in June of the next year.

Consequently, if we miss one round of discussion at the General Assembly, we will have two years to negotiate. During this period, we will meet at least eight times in Geneva and see what the parties can do within the framework of joint activities. Eight meetings will be sufficient to see progress on the issue of refugees' return. We may also use the Russian factor to cooperate with the Abkhaz and Ossetian sides so that they will take certain steps. We will use this argument with the Abkhazians and Ossetians: we are doing what they asked to do, now this basis is removed and it is their turn – to show progress in the Geneva format with concrete steps.

If there is no progress in Geneva, then it will not be difficult to 'return' the resolution to the United Nations Gener-

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al Assembly in two years. Since this document is discussed at the assembly through the GUAM agenda, we will not lose anything if we do not pass the resolution once – our turn on conflict issues can be used by Azerbaijan, Ukraine or Moldova. There is an opinion that the removal of the resolution may contain certain *risks for the policy of non-recognition*, because the resolution now directly states the territorial integrity of Georgia and illegitimate basis of the so-called “recognition”, in addition to the rights of IDPs. We should also consider the current situation that the UN Assembly does not pass another resolution on Georgia.

I think the elimination of this risk will not be difficult. The point is that it is unacceptable for the Ossetian and Abkhaz sides to discuss *the issue of IDPs* at the General Assembly session. If real progress is achieved with regard to the return of internally displaced persons within the Geneva framework, we can change the concept of the resolution. We must remember that the interests of us and the rest of the GUAM member states are protected by the title of our agenda – “Protracted conflicts in the GUAM area and their implications for international peace, security and development”. In other words, this title allows us to put other unresolved issues on the agenda, even if the issue of IDPs is resolved. It should be noted, that the GUAM countries started their activities through this agenda within the framework of the United Nations General Assembly in 2006. In December 2007, Georgia participated in the preparation of the text of the resolution, where the territorial integrity of the post-Soviet countries was brought to the forefront. In other words, it is quite possible to submit a resolution of other content to the UN General Assembly, in

which the territorial integrity and sovereignty of Georgia, as well as the recognition of the inalienable right of return of refugees will be supported.

Different versions of such resolutions can be considered:

- Resolution on Georgia;
- Joint resolution on Ukraine and Georgia;
- Joint resolution on Ukraine, Azerbaijan and Georgia;
- Joint resolution to support the territorial integrity of those states of the Eastern Partnership which have unresolved conflicts (Moldova would be added here).

In such cases, the number of supporters, as well as the diplomatic resources needed for them, would further increase. Of course, it should be borne in mind that a resolution of different content (not directly on IDPs) could be used for new political manipulations, although the excuse for not addressing the issue of internally displaced persons would be removed unequivocally.

The Georgian side will always have the opportunity to frequently appeal to those resolutions adopted by the UN Security Council and the General Assembly, the legitimacy and validity of which cannot be questioned, even in the event of a temporary suspension. There is a whole series of resolutions of the Security Council, where the territorial integrity of Georgia is clearly stated and recognized by states, including Russia.

There is another opinion that the discussion may be revived in Geneva, but the tactical political exchange will *con-*

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tinue endlessly and this may not acquire practical sense. In such a case, in relation to the record of the resolution precondition, the Georgian side must state in advance informally (including in written correspondence), that the issue of returning the resolution will definitely be on the agenda after two years. There is another option: the Georgian side may not rule out the possibility of raising the issue next year if no progress is achieved on the Geneva rounds (at least three rounds).

The difference between the current state and the situation in the event of a new entry would be that there is now a kind of “guaranteed” expectation – a resolution will be passed again in June next year. This is “successfully” used by the Russian, Abkhaz and South Ossetian sides as an argument for non-discussion of the issue. In fact, the Georgian side has repeatedly stated verbally to the Ossetian and Abkhaz sides: our task is not to adopt a resolution for formal reasons, but to ensure that the right to return is exercised for the people. However, this verbal “precondition” remained “between us” and our opponents did not entirely believe in our sincerity. If a “precondition” appears in the text of the resolution, then it will be given a much higher level of legitimacy. Correspondingly, those who have an interest or discomfort and do not want the resolution to be returned, will have more motivation to make a progress in Geneva.

A version of the entry in the resolution can be developed. It will link the real progress of the Geneva format with a practical indicator – the presence or absence of the implementation of the return process, and, consequently, with the possibility of re-adopting the resolution.

Option 4: We offer the Abkhaz side to negotiate on the Gali issues (within a humanitarian working group in Geneva, although outside the Geneva format) in order to reach some agreement with them, which may be signed between the parties to the conflict. The task will be:

- To protect the rights (to education, property, retention of citizenship, free movement, etc.) of the population living in Gali;
- Pursuant to the Quadripartite Agreement of 4 April 1994 and United Nations Security Council resolutions (namely 1866/2008), to recognise the return of part of the refugees *at the first stage* under two conditions: First, the inalienable right for internally displaced persons to return home will be reaffirmed in general and it will be stated that there is the readiness to continue working on this issue (or, better yet, the readiness to gradually develop specific mechanisms for return); second, dignified and safe living conditions (including the introduction of an international component) will be provided for the returnees in future;
- At the next stage, to develop an action plan for the voluntary, dignified and safe return of IDPs to the Gulrifshi and Ochamchire districts;
- To establish an international engagement and international security mechanism to facilitate the return process at the sites of return. To launch a financial instrument (including from international donors) to help returnees.

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In the case of this option:

- The Georgian side will become proactive and the initiative will pass to our hands, which is beneficial for us, even if this initiative does not work for some reasons.
- A real space will be created for the return of IDPs, at least in some regions. We will get confirmation that the work on the return of internally displaced persons will be continued in the future (however, without specifying a timeframe).
- Not only the return of IDPs, but also the protection of the rights of the current population of Gali is considered, which is critically important for the Georgian side.

It is in the interests of the Abkhaz side to sign a bilateral text with the Georgian side. We have already talked about the guarantees of the non-use of force. In this case, we can talk about the development of a second bilateral text, regarding the return of refugees. *The Georgian side must recognize the return of part of the IDPs* – the fact that has been appealed to by Abkhazians for years, and use this recognition as an opportunity to link it to the guarantees for the safe and dignified living conditions for the population of Gali. This would be a crucial stage in the peace process and, of course, an important achievement for the Georgian side.

The fourth option also has its risks. If we sign a bilateral text with the Abkhaz side on the issue of the return of refugees, this may lead to sharp criticism from the opposition.

They will try to “declare” it as an act against the sovereignty of Georgia because of the fact that the document is signed with the Abkhazians, or because of the recognition of the refugees’ return to Gali.

The Abkhaz side may use this option for political purposes: to “promote” the fact that the other party has signed the document as an entity equal to Georgia, which will not be a correct understanding. For decades, such texts have been signed by the authorized persons of the parties to the conflict, and such documents have been accumulated at the Georgian-Abkhazian and Georgian-Ossetian levels. None of these signed texts have caused any legal-political complications.

OPPONENTS AND THE LIKE

My vision written with the help of my friends about the normalization of Georgian-Abkhazian and Georgian-Ossetian bilateral relations led to a categorical rejection of its positions in the government and other establishments. As far as I have managed, I have found and reconstructed the main views against my vision and I will present them as an illustration of how Georgian policy is implemented on the example of a specific issue. The reference of Abkhazians and Ossetians as “parties” in my vision caused objections among most of the opponents. In their view, the term “party” cannot be used without a proper definition (a party to negotiation or a party to conflict).

My position was that the Georgian-Abkhazian and Georgian-Ossetian conflicts are independent of the Russian-Georgian conflict. My opponents argued that this opinion contradicted the interests of Georgia as it harmed the attempt of conflict internationalization, which was implemented more or less successfully. Evidencing this successful policy, they brought the report of the Independent International Fact-Finding Mission on the Conflict in Georgia (the Heidi Tagliavini Commission) or the resolutions of the parliaments of Estonia, Lithuania and Latvia on the Occupied Territories of Georgia, as well as the US Congress Resolutions on Georgia.

In my opinion, the dynamics of the conflict on the territory of Georgia (as far as I know the history of the conflicts in

our country) show that the armed actions were initially carried out between the Georgian government and pro-separatist groups and clearly had a non-international character.

In the same context, it should be boldly said that the Russian Federation provided various types of assistance not only to the separatist forces, but also to the Georgian government, although, at the same time, it also served as a facilitator of the conflicts. Until 2008, the Russian Federation did not explicitly participate in large-scale hostilities. Moreover, during this period, it was established that Russia had effective control over the regions. Also, the Georgian government recognized it as a mediator, on the one hand, and granted the status of peacekeepers to the Russian armed forces, on the other. Russia carried out a direct armed attack on Georgia in August 2008, and only after that an international conflict took place in the territory of Georgia.

In relation to the Abkhazian and Ossetian societies, the term “parties” (again, I do not emphasize whether is related to conflict or negotiation) used by me, does not harm Georgia’s interests from a legal point of view if we take into account the following circumstances:

- The common Article 3 of the Geneva Conventions of 12 August 1949 (hereinafter, the Geneva Conventions) *refers* to the participants of a non-international armed conflict *directly as “parties”*.¹⁰ Although it also states that the provisions (including the terms) in this article *will not affect a legal status of the parties to*

¹⁰ Accessible at: <https://www.icrc.org/applic/ihl/ihl.nsf/vwTreaties1949.XSP>.

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*the conflict.*¹¹ Thus, the common Article 3 of the 1949 Geneva Conventions and Protocol II explicitly affirm that certain basic humanitarian provisions apply to armed conflicts not of an “international” character. However, such an action does not imply recognition of an authority as a possible “state” or “government”. In other words, *direct or indirect contacts with a de facto government for humanitarian (or other) purposes must not be construed as recognizing any status of a state or a legitimate government.*¹² Consequently, using the term “parties” in relation to the Abkhazian and Ossetian societies *does not imply the indirect recognition of Abkhazia and South Ossetia and fully complies with the principles and norms of international law.* On the other hand, it does not pose a threat to the fact of qualifying the events on the territory of Georgia in August 2008 as an international conflict and occupation, based on the Geneva Conventions and their First Additional Protocol. In addition, a large part of the international community clearly recognizes the occupation of part of the territory of Georgia by the Russian Federation. The internationalization of the conflict has already taken place with the creation of the Geneva International Discussions (co-chaired by the OSCE,

¹¹ See the last paragraph of the common Article 3 of the Geneva Conventions of 12 August 1949.

¹² Legal Opinion on Recognition of State, Specifically in Relation to De Facto Government, by John Packer (UN) and Zdenka Makhniukova (EU), 15 February, 2014.

the UN and the European Union), in which Russia and Georgia participate as parties to the conflict.

- In international humanitarian law, there is a concept of armed conflicts of an international and non-international character, which is given in the Geneva Conventions and their additional protocols. Pursuant to common Articles 2 and 3 of the Geneva Conventions, Article 8 of the Rome Statute of the International Criminal Court (on the Protocols of these Conventions) and customary international humanitarian law,¹³ conflicts of a non-international (e.g. Georgian-Ossetian, Georgian-Abkhazian) and international character (e.g. between Georgia and the Russian Federation) may *co-exist* on the territory of a State (e.g. Georgia).¹⁴
- It should be separately emphasized that my *reference to Abkhazians and Ossetians as “sides” in general (“side” and not – “party”) is related to the political goal of the Georgian government in conflict resolution,*

¹³ Information on customary international humanitarian law. For details, see: <https://www.icrc.org/customary-ihl/eng/docs/home>; Case No 43, Customary International Humanitarian Law, Sassoli M., Bouvier A., Quintin A., How Does Law Protect In War ?, (ICRC 2011) Vol II, pp. 707-742.

¹⁴ The reality of Georgia is qualitatively different from the situation in Yugoslavia, where the International Criminal Tribunal for the former Yugoslavia (ICTY) introduced the concept of international conflict in Tadic’s case, in order to give him jurisdiction over crimes committed in Yugoslavia. For comparison, see: Case No. 211, ICTY, The Prosecutor v. Tadic, Sassoli M., Bouvier A., Quintin A., How Does Law Protect in War? (ICRC 2011) Vol III, pp. 1758-1821.

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to find a means of direct dialogue/communication with Abkhaz and Ossetian societies. The use of this term does not imply an intention of giving legal consequences to it. Therefore, this initiative should be evaluated in terms of whether it will contribute to the settlement of the conflict. Thus, not only in terms of international law, but also in terms of conflict resolution, it is advisable to discuss the Georgian-Ossetian, Georgian-Abkhazian and Russian-Georgian conflicts individually, which will help to develop and implement a flexible and effective state policy for their resolution.

In view of the above, my opponents have no grounds to oppose to the individual discussion of the conflicts and the reference to Abkhazians and Ossetians as “parties”. According to the narrative established by the government of the United National Movement, which is also followed by the government of the Georgian Dream – there is only the Russian-Georgian conflict, which has Russia and Georgia as parties. It should be noted, that the resolution of the conflict with the Russian Federation does not automatically lead to the settlement of the Georgian-Ossetian and Georgian-Abkhazian conflicts. Therefore, the main essence of my policy is *the reconciliation* of the Georgian-Ossetian and Georgian-Abkhazian societies.

Opponents do not agree with my idea that there is the need to recognize the return of IDPs and refugees living in the Gali district on the basis of a document developed through

bilateral consultations. They fail to appreciate the political character of such a document. First of all, it should be noted that my position with regard to recognizing the return of IDPs and refugees living in the Gali district is based on the United Nations Guiding Principles on Internal Displacement,¹⁵ the 1951 Convention Relating to the Status of Refugees, its Additional Protocol¹⁶ and customary international law. My position clearly refers to the fact that the bilateral document on the recognition of the return of internally displaced persons and refugees living in the Gali district must provide for the protection of provisions on: human rights and fundamental freedoms, security, their equality with other groups in the society, the inadmissibility of all forms of discrimination and the international community monitoring on the protection of the rights of such persons.

As an argument against my positions, one of my opponents cited *the Kampala Convention*.¹⁷ However, this argument is also unconvincing and incomprehensible. *The Kampala Convention is a regional agreement*¹⁸ within the African Union (the Convention is not a universal international act) which applies to the states on the African continent. It does not have anything to do with the United Nations and the order of the Council of Europe (including Georgia). Interested persons should be aware that there is currently no systematic

¹⁵ Accessible at: <http://www.brookings.edu/~media/Projects/idp/GPEnglish.pdf>.

¹⁶ Accessible at: <http://www.unhcr.org/3b66c2aa10.html>.

¹⁷ Accessible at: https://en.wikipedia.org/wiki/Kampala_Convention.

¹⁸ Accessible at: <http://www.unhcr.org/4ae9bede9.html>.

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binding document on the rights of internally displaced persons¹⁹ within the UN and the Council of Europe.

The views of my opponents on international refugee law are vague. While arguing with me, opponents confuse laws on internally displaced persons and refugees, which is incorrect. It should be noted, that laws on internally displaced persons and refugees are different branches of international law. They regulate different legal issues and are not at the same stage of development. It is not ruled out that the return of IDPs and refugees living in the Gali district will be recognized before a possible signing of a bilateral document with the Abkhaz side on the non-use of force. In addition, the recognition of such a fact may be carried out before the conclusion of a non-use of force agreement with Russia. In order to negotiate with the Abkhaz side on the above-mentioned issue, a mechanism should be set up in which any international organization (the UN, the EU or the OSCE) will take an active part and monitor the implementation of the document recognizing such a fact. The issue of refugees' return to South Ossetia should be resolved on the basis of the similar principles.

One group of opponents opposes the initiative voiced in my vision: to conclude a bilateral document on the non-use of

¹⁹ The monitoring mechanisms provided by the UN Human Rights Council, the International Covenant on Civil and Political Rights, the Human Rights Committee, the Convention on the Rights of the Child and other treaties urge States to respect and follow the United Nations Guiding Principles on Internal Displacement. In addition, the Parliamentary Assembly of the Council of Europe and the Committee of Ministers call on States to transpose these guiding principles into national law.

force with the Abkhaz and Ossetian sides after the conclusion of an international agreement of a similar character with the Russian Federation. In their view, this “will automatically lead to the *legitimation* and *indirect recognition* of these regimes” and is therefore inadmissible in accordance with the principles of international treaty law and “contrary to the interests of Georgia”. They point out that the President of Georgia made a statement on the country’s unilateral commitment not to use force. I do not understand the fact that my opponents attach special importance to the speech made by the President in Strasbourg on November 23, 2010, although they do not remember or properly appreciate the resolution of the Parliament of Georgia “On Major Directions of the Foreign Policy of Georgia”²⁰ adopted by the coalition Georgian Dream on March 7, 2013. This document acknowledges in writing the commitment not to use force.²¹

The opponents consider the term “*bilateral document*” only in the narrow context of an international agreement. The legal character of the term “*bilateral document*” used in the vision of the State Minister *does not imply a bilateral international treaty or agreement*. The provisions of the 1969 Vienna Convention on the Law of Treaties (hereinafter, the Convention) do not apply to this type of documents. For the

²⁰ Accessible at: <http://www.parliament.ge/ge/kanonmdebloba/gancxadebebi-mimartvebi-da-dadgenilebebi/parlamentis-gancxadebebi-mimartvebi-rezoluciebi.page>.

²¹ See: the preamble to the Resolution of the Parliament of Georgia “On Major Directions of the Foreign Policy of Georgia”, adopted on March 7, 2013. <http://www.parliament.ge/uploads/other/19/19442.pdf>.

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purposes of the Convention,²² a “treaty” shall mean *an international agreement* (in the broad sense) concluded in writing *between States and governed by international law*.²³ As Abkhazia and South Ossetia are not states, they do not have the authority of ratification/accession to international acts.²⁴

In addition, if the matters *governed* by a document are not based on international law, it cannot be considered as an international agreement.²⁵ It is also important to note that the *contracting* state of the convention is not limited to give the terms (including “agreement”, “treaty”) defined by the convention different meanings in national law.²⁶

To the attention of my dear opponents, I would like to note that I do not talk in any part of my vision about *concluding a “pact” or “agreement”* with the Abkhaz and Ossetian sides on the non-use of force. In this context, I use the term *“bilateral document”*, which may have, for example, the legal character of a *“statement” (or protocol, minutes, memorandum, etc.)* under which the parties agree on certain issues. Opponents are expected to know the *statement signed* by Zurab Zhvania and Eduard Kokoity after a meeting in Sochi on November 5, 2004. In this document the parties *agreed* to: implement the ceasefire agreement, partially demilitarize

²² See, the subparagraph “a”, paragraph 1, Article 2 of the Convention.

²³ For additional information, see: Dörr, O., Schmalenbach, K., (2011), Vienna Convention on the Law of Treaties: A Commentary, p. 26-48; Aust, A., (2005), Handbook of International Law, p. 52-57. Compare: Gardiner, R., (2008), Treaty Interpretation, p. 141-202.

²⁴ See Articles 1 and 6 of the Convention; compare: Aust, A., (2005), Handbook of International Law, p. 57-59.

²⁵ Compare: Aust, A., (2005), Handbook of International Law, p. 53.

²⁶ See paragraph 2, Article 2 of the Convention.

the conflict zone by November 20, 2004, discuss economic projects with mutual benefits at the next meeting of the Joint Control Commission, etc. After taking the mutual commitment by the parties to the statement, the indirect recognition of the Ossetian side did not take place. Moreover, such an issue did not even become a subject of discussion.

I can remind all uninformed opponents that dozens of such documents have been signed by the Georgian side in the last 28 years. These bilateral documents are of the following character: in order to develop them, it is advisable to define the mechanisms in which any international organization (e.g. the UN, the OSCE or the European Union) will take an active part. The semantics of the terms used in the documents should be *binding*. They should identify the entity (e.g. the UN, the OSCE or the European Union) which oversees the process of their implementation. Enforcement of the documents shall be binding due to the political will declared by the parties, which they confirm by signing. The definition of mechanisms is relevant as the possibility of further relations with the parties will be created, on the one hand, and the adopted documents will be considered as part of these formats (e.g. like the protocols signed within the Joint Control Commission), on the other. This eliminates any suspicion that Georgia will enter into contractual relations with the Abkhaz and Ossetian sides.²⁷ In view of the above, the opponents' re-

²⁷ It is noteworthy, that there are heterogeneous practices of states and different views of scholars regarding the conclusion of international treaties or agreements with unrecognized entities. Some states believe that entering into contractual relations with such entities does not imply their indirect recognition. Compare: Dörr, O., Schmalenbach, K., (2011), Vienna Convention on the Law of Treaties: A Commentary, p. 66-68.

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mark that concluding a bilateral document on the non-use of force with the Abkhaz and Ossetian sides would lead to indirect recognition of these regimes is completely ungrounded.

Unfortunately, the terms “legitimacy” and “indirect recognition” (as well as “de facto/recognition”²⁸) are *unjustifiably used by many people in a broad sense*. The superficial and perfunctory appeal of such terms gives the impression that the ideas I have initiated may lead to the de facto recognition²⁹ of the occupied regions as independent states or of their controlling authorities – as legitimate governments. This opinion is completely out of touch with reality. It is necessary to discuss international law and practice related to this issue with qualified lawyers more specifically and comprehensively.

As we know, there are two types of recognition – de facto and de jure – the only difference between them is that the recognizing state expects for all criteria of statehood/government (e.g. duration of effective control on the territory or stability of government) to be met.³⁰ Consequently, a de facto recognition is conditional and partial, while a de jure recognition is complete and legal. De facto recognition is really a step towards de jure one. But the main thing here (ignored by most people) is that *any action taken in relation to an unrec-*

²⁸ See paragraph 6 of the remarks and recommendations of the State Security and Crisis Management Council on the Vision of the State Minister for Reconciliation and Civic Equality.

²⁹ In the present document, “acknowledgment” and “recognition” are used as synonyms, except for the other meanings acquired in a particular context, e.g. “acknowledgement of a situation”.

³⁰ Shaw M., *International Law*, 5th ed. (Cambridge: Cambridge University Press, 2003), p. 382.

ognized entity cannot be considered as de facto recognition if no such intention is revealed. The practice of states shows: there is no recognition without an intention and *simply acknowledging the situation or engaging in various transactions or activities* with a de facto government shall not mean recognition (de facto, de jure or “indirect”, as many people think) of a territorial unit or government.

However, as you may know, there are two forms of recognition – “explicit” (“expressed”) or “implied” (perhaps the latter can be considered “indirect recognition”). In the first case, the recognition is expressed by a notice or declaration in which the intention to recognize is declared. In the second case, recognition may be “implied” in the actions of the recognizing state or its government, but *these actions themselves should not leave any doubt that there is an intention to grant a recognition.*³¹

Implied recognition often includes actions such as: a formal invitation to establish diplomatic relations, establishment of a new consular relationship, conclusion of a bilateral agreement to *comprehensively regulate* relations between two countries in various fields, or a vote to allow this entity to become a member of an intergovernmental organization (e.g. the UN or the Council of Europe).

For example, in 1947, Canada perceived its support for Israel’s accession to the United Nations as its recognition as the state of Israel. Thus, the conclusion of an agreement on the non-use of force with the Abkhaz and Ossetian sides,

³¹ Legal Opinion on Recognition of State, Specifically in Relation to De Facto Government, by John Packer (UN) and Zdenka Makhniukova (EU), 15 February, 2014.

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which I initiated in my vision, is not equal to the implied (“indirect”) recognition. We can clearly see in international law and practice, that the so-called “implied recognition” may be given significance only by the authority which uses it in the factual and legal context of a particular case, expressing an unequivocal intention.

In this regard, the intention of a state or government is often revealed in its documents, public statements, opinions of responsible officials/institutions (e.g. parliament) or in foreign communication (during which the intention is expressed).

The examples of the implied recognition are also seldom found in the practice of states, as they usually prefer the intention (or lack thereof) of the recognition to be clear. Even in the rare cases when this practice is used, “all the relevant surrounding circumstances will have to be carefully evaluated before one can deduce from conduct the intention to extend recognition”.³²

Therefore, “according to international law, a recognition has an element of intention. So long as the Georgian government continues to declare that it does not recognize the uncontrolled territories and does not intend to do so in the future, it will always have considerable flexibility to take political action in relation with the de facto authorities of Abkhazia and South Ossetia.”³³

³² Shaw M., *International Law*, 5th ed. (Cambridge: Cambridge University Press, 2003), p. 387.

³³ Consultants’ Report: Conflict Transformation in Georgia – Legal and Political Lessons at the Example of Cyprus, James Ker-Lindsay and Neophytos Loizides, February 14, 2013.

It should be noted that when it comes to the practice of states in dealing with unrecognized entities and their representatives, only the relations or communication with such entities (e.g. sending a diplomatic note, participating in international conferences or negotiations which involves unrecognized authorities) shall not be considered as an expression of recognition by a state. The same can be said about informal and unofficial contacts. For example, in the 1960s and 1970s, the US maintained such contacts with Communist China without recognizing it, while Taiwan is recognized by several states. Even the states that recognize the legitimacy of the People's Republic of China throughout continental China maintain their de facto unofficial offices in Taiwan. One example is the American Institute of Taiwan (a private organization whose staff consists of American diplomats on official leave).

There are cases when certain legal or contractual subjectivism is expressed towards an entity or its representatives, for example: the conclusion of a multilateral agreement in which an entity or its representative attends (or participates in other form), establishment of a service with limited liability or reciprocal visits of high-ranking officials. Even such cases do not mean implied (indirect) recognition in the state practice.³⁴

A bilateral agreement concluded for a specific limited purpose belongs to the same category. For instance, the ceasefire agreements between Israel and several Arab states did not prevent these states from pursuing a policy of non-

³⁴ Legal Opinion on Recognition of State, Specifically in Relation to De Facto Government, by John Packer (UN) and Zdenka Makhniukova (EU), 15 February, 2014.

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recognition of Israel.³⁵ Even in cases of non-recognition policies, individual states and intergovernmental organizations *use pragmatism to build relations for various humanitarian and economic reasons, as well as with the purposes of practical security and human rights*. For example, while the United Kingdom did not recognize the Afghan government after 1979 and withdrew its ambassador, it still maintained its embassy in Kabul, which continued business relations with officials on consular and other matters. Also, the UN and the EU agencies have maintained offices in Somaliland to manage their humanitarian activities. *In such cases, some states explicitly declare that a specific action does not mean a particular government is recognized as a result of the statements or actions made in relation with it*. Some states do not even consider it necessary to make such explicit statements of non-recognition, because they have already refrained from open recognition (i.e. they have already made it clear that there will be no recognition until they openly grant this right, which would be expressed by a statement made through a typical official instrument).

It is also noteworthy, that *the passages³⁶ of international law sources cited by some opponents refer only to de facto*

³⁵ See also, Republic of China v. Merchants' Fire Assurance Corporation of New York 30 F.2d 278 (1929); 5 AD, p. 42 and Clerget v. Bailzle Cornrnnercialepocl 1'Europe du Nord 52 ILR, p. 310. For the cases of the Federal Republic of Germany and the German Democratic Republic, see Treaty on the Basis of Relations Between the Federal Republic of Germany and the German Democratic Republic 78 ILR, p. 150. See also, Whiteman, Digest, vol. 11, p. 567.

³⁶ Shaw M., International Law, p. 382-383; Malanczuk, M.B. Akehurst Introduction to Modern International Law (Routledge, 1997), p. 88.

and de jure recognition and the nuances of the difference between them. However, the full version of these sources confirms that the above practice exists with regard to recognizing an unrecognized entity/government and separating other relations with it. Consequently, the *de jure* recognition of the USSR by the United Kingdom in 1924 after the *de facto* recognition in 1921 (cited by the opponents), is an insignificant fact for us in exploring the issue we are interested in.

Many people do not agree with an opinion expressed in my vision, that the identity cards issued in Abkhazia and South Ossetia shall be considered valid throughout Georgia. They believe, that this will automatically break the mechanism for issuing neutral travel documents. At the same time, in their opinion, the use of such documents in the territory controlled by Georgia will be considered as “the *de facto* recognition of the regimes of Tskhinvali and Sukhumi by the Georgian Government”. They believe that: “According to the principles of state recognition in international law, *de facto* recognition of a subject is carried out even when the actions taken by it are granted certain legitimacy by the recognizing state, *without the recognition of that state itself*”; “From an international legal point of view, a situation will arise where Georgia recognizes the document issued by the puppet regimes of Tskhinvali and Sukhumi (i.e. legitimizes the “legal” action of the regimes), even though it does not recognize these authorities *de jure*. In international law, *the de facto* recognition of a subject is carried out in the same manner, when a particular state recognizes the actions (including documents) of a certain territorial formation in a way that does not recognize the subjects themselves.”

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In this regard, it should be noted that, even today in the territory controlled by Georgia, the identification of persons living in the occupied territories is carried out with the so-called illegal documents to receive certain (e.g., medical referral) services. With the use of such documents, the state also establishes various legal facts (e.g., acquiring education, occasions of civil importance, etc.) and issues neutral documents. At the international level, such a practice has not been perceived by the partner countries as a step towards the recognition of puppet regimes. On the contrary, the states which are friends and partners of our country welcome the steps Georgia takes to further ensure the integration of the Abkhaz and Ossetian communities into a single Georgian legal space and Georgian society.

In my vision, I stated that in order to de-isolate people living in Abkhazia and South Ossetia, it is necessary to use existing means or, if necessary, to find new ones, because the opponents' assessment as if the practice of neutral documents is "implemented successfully"³⁷ is not right. Therefore, when such individuals refuse to obtain neutral documents for

³⁷ The number of recipients of neutral documents does not exceed two hundred, which is a very small number compared to the total population of Abkhazia and South Ossetia (about 200 thousand). As you may know, in order to obtain a neutral document, a person must appear at the House of Justice, complete an application, submit the necessary documentation, etc. However, the benefits and opportunities that can be obtained with a neutral ID and travel document are much less than in case of a Georgian ID card. Holders of neutral documents also face pressure and threats from the de facto government. Also, the documents themselves are often perceived by Abkhazians and Ossetians as "Georgian documents" created "specifically" for them.

various reasons, it is advisable for the state to consider other alternative instruments and means to facilitate their involvement, especially when the legitimate population of Abkhazia and South Ossetia are automatically considered Georgian citizens to whom the government has positive obligations. One of them is, for example, assigning a personal number to the people legitimately living in Abkhazia and South Ossetia. The work on this opportunity was launched in cooperation with the Ministry of Justice when I was holding office. As far as I am informed from the press, this project was also successfully implemented after I left the position.

It is important that persons legally residing in the occupied territories have an alternative to a neutral document. On the basis of “Abkhazian and Ossetian passports”, the relevant body of the Ministry of Justice of Georgia should be able to assign them a personal number without issuing a neutral document, because, due to various reasons, it is unacceptable for them to obtain this document. *For the persons legally residing in the occupied territories, this step will automatically increase the use of public and private sector services in the rest of Georgia and will simplify (as far as possible) the procedures for their involvement in a single space of the state.* In my vision, I do not specify the individual means to achieve this goal. This issue is the subject of discussion for the Government of Georgia. As a result of the discussion of the topic, it is possible to suggest other mechanisms. However, we can not share the view of some people that this initiative would directly jeopardize efforts carried with partner countries. It has nothing to do with the neutral travel document already recognized by twelve countries. As you know, this document

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can be used for travelling abroad and cannot be substituted by the presented mechanism. We cannot agree with the information that the neutral documents may be related to the freedom of movement of citizens on the territory of Georgia.

In the same context, it should be noted that while a sovereign state retains jurisdictional (albeit not practical) authority over the unrecognized territories, *it also has an obligation to its people living in those territories and should act to ensure the welfare and human rights of this population by all available means.*³⁸ For this reason, according to leading Western experts, “in the particular context of the unusual situations prevailing in Abkhazia and South Ossetia, the initiative and determination of the Government of Georgia to make available a status neutral travel document for the benefit of the affected populations is to be welcomed as a responsible, flexible, sensitive and pragmatic exercise of Georgian sovereignty that seeks to facilitate the enjoyment of human rights and contribute to social cohesion, peace and stability”.³⁹ *However, international law does not unconditionally invalidate all actions taken by unrecognized entities, as well as recognizes the precedents of bilateral agreements with non-recognized authorities aimed at restoring trust and exercising human rights.* The purpose of such provisions is to protect the rights and humanitarian needs of the citizens living in the mentioned

³⁸ Legal Opinion on Recognition of State, Specifically in Relation to De Facto Government, by John Packer (UN) and Zdenka Makhniukova (EU), 15 February, 2014.

³⁹ Herrberg A., Hofmann R., Packer J., Decaux E., Martin D., Comparative Study on Status Neutral Travel Documents, July 2011, European Forum for International Mediation and Dialogue (mediatEUR).

territories. Thus, all of this did not lead to the international recognition of such regimes. For example, international law recognizes the authenticity of some documents (such as the registration of births, deaths or marriages) obtained or issued by de facto authorities, as denying the authenticity of these acts shall harm the people living in the area.

In this context, the experience of Moldova is noteworthy. In its judgment of July 8, 2004 on the case of *Ilașcu and Others v. Moldova and Russia*,⁴⁰ the European Court of Human Rights shared the argument of the Moldovan Government in relation to the agreements and cooperation (including mutual acknowledgment of the documents issued by the regime, attraction and protection of foreign investments) with the Transdniestrian separatist regime. The above argument implied that *these cooperation measures had been taken out of a concern to improve the everyday lives of the people of Transdnistria*. The European Court of Human Rights took the view that, given their nature and limited character, these acts could not be regarded as support for the Transdniestrian regime. Moreover, the Court considered that these actions represented affirmation by Moldova of its desire to re-establish control over the region of Transdnistria.⁴¹ It should be noted,

⁴⁰ *Ilașcu and Others v. Moldova and Russia*, Judgment of the Grand Chamber of the European Court of Human Rights of July 8, 2004.

⁴¹ "In parallel with that change of strategy, relations were established between the Moldovan authorities and the Transdnistrian separatists. Economic cooperation agreements were concluded, relations were established between the Moldovan parliament and the "parliament of the MRT", for several years there has been cooperation in police and security matters and there are forms of cooperation in other fields such as air traffic control, telephone links and sport (see

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that the Moldovan Government not only concluded economic agreements with the Transdniestrian separatist regime, but also established relations between the Moldovan parliament and the so-called parliament of the unrecognized Transdniestrian regime. Over the years, there was cooperation on the issues of police and security, as well as in the areas such as: air navigation control, telephone connections and sports.

Loss of an effective control over the territory during a long period of time (one of the criteria of the Montevideo Convention) carries certain risks, and a complete inaction of a legitimate government may raise questions about the relevance of recognizing the de facto government which exercises an effective control. Therefore, in order to maintain non-recognition in the long run, *it is important for the Georgian Government to demonstrate its ability – to provide services to the people of Abkhazia and South Ossetia (i.e. its own citizens) and ensure that their rights are protected and humanitarian needs are met.* The mechanism presented in my vision on the wider use of the identity documents of the people living in Abkhazia and South Ossetia would facilitate Georgia in fulfilling its international obligations, as well as pragmatic interests in this regard.

paragraphs 114, 178 and 185 above). The Moldovan Government explained that these cooperation measures had been taken by the Moldovan authorities out of a concern to improve the everyday lives of the people of Transdniestria and allow them to lead as nearly normal lives as possible. The Court, like the Moldovan Government, takes the view that, given their nature and limited character, these acts cannot be regarded as support for the Transdniestrian regime. On the contrary, they represent affirmation by Moldova of its desire to re-establish control over the region of Transdniestria.”

However, we have already mentioned above that the term “de facto recognition/acknowledgement” has been widely used by opponents. I will repeat, that *not only any action or statement made in relation to an unrecognized entity, but also any act carried out in response to its action cannot be considered as de facto recognition if no such intention is revealed*. Acknowledgement of an action of an unrecognized entity, especially the use of its illegal document to provide services to citizens, may not be considered a “de facto recognition” of a state or government, without such intention. Recognition of states and governments is a very important topic. Recognition is an act unequivocally adopted by a government of a recognizing state, as it may have consequences under international law. Recognition or non-recognition expresses an intention of a state to give a legal significance to the existence of an entity as a member of the Commonwealth of States. Contrary to the expectations of some people, there is no concept of “involuntary recognition” in international law. Recognition should therefore be considered separately from: other acts which only express an acknowledgment of the present situation; an action which, although involving any measure of interaction, does not express an intention to recognize. Hereby, I will give an example of the unrecognized Turkish Republic of Northern Cyprus (TRNC), whose passports are allowed to be used for travelling to Australia, France, the United Kingdom, Pakistan and the United States, but none of them has recognized the TRNC as a state.⁴²

⁴² Herrberg A., Hofmann R., Packer J., Decaux E., Martin D., Comparative Study on Status Neutral Travel Documents, July 2011, European Forum for International Mediation and Dialogue (madiatEUr).

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Most opponents categorically oppose the term “dividing line” used in my vision, arguing that the introduction of this term by the legislative act of the Government in 2010 is not in compliance with the interests of national security, because it neglects the role of occupation in creating boundary lines. I must clearly state that, in this case, I use the term established by various legal acts. This is the official term to refer to the artificial barriers created by the occupation of the territories of Georgia. It should also be noted, that this document presents a vision on the peaceful settlement of the conflicts and ensuring the peaceful coexistence of Georgian, Abkhaz and Ossetian peoples.

Thus, the term “dividing lines” is used in the context of peace and restoration of trust. It does not need to be clarified as it has already been defined by the Decree N107 of the Government of Georgia, issued on January 27, 2010 as “occupation lines created by the occupying force, which separate the occupied territories from the rest of Georgia”.

Some opponents point out that the circumstance mentioned in my report regarding the legalization by the state of certificates and diplomas issued in Abkhazia and South Ossetia does not coincide with reality. In this regard, it should be noted that when I talk about the legalization of the mentioned documents, I also note that this is done within the legal framework. It is not mentioned in the report that the education certificates issued by the illegal authorities are directly applicable in the territory controlled by Georgia. In the text, the term “legalization” is used in a broad sense and

indicates that the persons who have received their education in the occupied territories have an opportunity to continue their studies in higher education institutions of Georgia with the documents certifying their knowledge, after passing the procedures established by law. The opponents argue, the education certificates issued by the illegal authorities only establish the fact that the education is received in the occupied territories, which is not true. According to the Article 5 of the Rule approved by the №1067 Order of the Minister of Education and Science of Georgia of December 1, 2009, “On Approval of Rule for Recognition of Higher Education Acquired at Occupied Territories”, on the basis of a diploma issued by the illegal authorities, it is certified that the student has received a higher education, as well as he/she has an opportunity to get a conclusion on recognition of passed subjects, obtained grades and accumulated credits. Thus, on the basis of a diploma issued by the illegitimate bodies, not only it is acknowledged that a person has received education in the occupied territory, but also the subjects and grades in the above illegal document are recognized. Therefore, in this case, the documents certifying education have a wider use than just establishing the fact of acquiring education in the occupied territories. It is in this context that the term “legalization” is mentioned in my vision.

Some opponents do not consider it is appropriate to use the terms “South Ossetia” and “Abkhazia” in my vision. In their view, the use of such terminology in official documents gives an impression that the state treats these subjects as

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independent entities. In this case, I also cannot share the opponents' remark, especially when the term "Abkhazia" is used in a number of official texts⁴³ of the United Nations Security Council. The term "South Ossetia" is also used in: the sixth paragraph (opening of international discussions on the modalities of security and stability of South Ossetia and Abkhazia) of the six-point peace plan of 12 August 2008 of the President of France – Sarkozy, which was signed by President Saakashvili; all protocols (1992-2008) of the Joint Control Commission; the statement signed by Zurab Zhvania and Eduard Kokoity in Sochi on November 5, 2004, and many other documents.

The issue of the use of terms related to the name of the internal conflicts in Georgia is still unresolved. In the official sources and rhetoric, the conflict on the territory of Abkhazia is referred to as "*Georgian-Abkhazian conflict*" or "*conflict in Abkhazia, Georgia*". The resolutions adopted by the UN Security Council (including the one issued on July 29, 2005) use the term "*conflict in Abkhazia, Georgia*". However, the resolutions adopted by this body in 2006-2008 contain the term "*Georgian-Abkhazian conflict*". Therefore, when naming this conflict, I use the current version of the internationally prov-

⁴³ See the following resolutions: UN Security Council Resolution N1808 of 15 April 2008; UN Security Council Resolution N1781 of 15 October 2007; UN Security Council Resolution N1752 of 13 April 2007; UN Security Council Resolution N1716 of 13 October 2006; UN Security Council Resolution N1666 of 31 March 2006; UN Security Council Resolution N1615 of 29 July 2005; UN Security Council Resolution N1582 of 28 January 2005.

en term – “Georgian-Abkhazian conflict”. Also, in the context of South Ossetia, when using the term “*Georgian-Ossetian conflict*” in the vision, I am guided by the practice established over the years in official legal or political sources (e.g. within the Joint Control Commission, etc.) and the terminology used by Georgian authorities.

Last but not least, the vast majority of opponents who read my vision and argued against it, pay insufficient attention to the fact that *the main driving force in terms of recognizing a particular entity is not legal and terminological issues, but the political will of states and international politics* (e.g. recognition of Kosovo). “When granting or withholding recognition, states are influenced more by political than by legal considerations, but their acts do have legal consequences.”⁴⁴ Of course, there is a connection between the recognition of a subject by each individual state and its subsequent international recognition. However, in reality, each individual state has a full discretion and opportunity to determine the appropriateness of this action based on its political goals (it is noteworthy, that the recognition of the “Republics of South Ossetia and Abkhazia” by Russia was not followed by a “chain reaction” from any other notable country).

States usually interpret the criteria set out in the Montevideo Convention on the recognition of a particular entity. According to the given norm, “the state as a person of international law should possess the following qualifications: a. a

⁴⁴ Malanczuk, M.B. *Akehurst Introduction to Modern International Law* (Routledge, 1997), p. 82.

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permanent population; b. a defined territory; c. government; and d. capacity to enter into relations with the other states.”⁴⁵ Of course, this norm does not provide a comprehensive definition of these cumulative essentials. Accordingly, each individual state interprets the above norm at its own discretion and uses it according to own political goals and interests. While *most part of the international community recognizes sovereignty of Georgia over its entire territory* (one of the reasons is the international obligation of non-recognition of the entity arising from an aggressive act incompatible with international law), it is political will and not legal or terminological nuances that determine the chances of international recognition for Abkhazia and South Ossetia.⁴⁶

For instance, when compared to Cyprus, the experts of the Council of Europe note, “Georgia has a more favorable legal and political situation. It is very unlikely that many countries will recognize South Ossetia and/or Abkhazia.”⁴⁷ Therefore, in my opinion, the steps taken to engage with these territories will not be understood as an intention of recognition, neither they will be used by other states to recognize

⁴⁵ The Montevideo Convention on the Rights and Duties of States, 26 December, 1933.

⁴⁶ Therefore, compatibility with the international political conjuncture is of great importance for Georgia, especially in terms of its Western foreign policy orientation, democracy and legitimate, predictable methods for conflict resolution.

⁴⁷ Consultants’ Report: Conflict Transformation in Georgia – Legal and Political Lessons at the Example of Cyprus, James Ker-Lindsay and Neophytos Loizides, February 14, 2013.

these uncontrolled regions. Indeed, *the Republic of Cyprus is a clear example of how cooperation can be developed in a number of fields with an unrecognized (and occupied) territory, without an unintentional international recognition of the latter.* “We can say, that Georgia is in a better position than the Republic of Cyprus, as it enjoys strong support from a number of Western countries, including the United States and all leading EU member states. Since the international community want to see the reconciliation process between Georgia and its uncontrolled regions with the ultimate goal of unification, I do not think it would be an exaggeration to say that they will not take Georgia’s actions as an expression of recognition.”⁴⁸ Thus, international political realities (especially with regard to the recent relations between Russia and West in the context of the current crisis in Ukraine) create political guarantees for Georgia’s territorial integrity in the foreseeable future.

Last but not least, the threats against a rather vague notion – “state interests of Georgia” (mentioned by the different groups of opponents) are only *hypothetical risks in reality. They can be easily managed if the Georgian Government takes steps (which will be based on my vision developed with the help of my friends) towards Abkhazia and South Ossetia, along with explicit statements on the non-recognition of these regions, and continues its international diplomatic efforts against Russian occupation (these three actions do not exclude one another).*

⁴⁸ Ibid.

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The task of international non-recognition of the regions occupied by Russia – which some rightly consider as the most important national interest of Georgia – is less likely to be harmed in reality. According to rational thinking, Georgia should advance another important state interest (which is secondary for some people) – integration of the population of Abkhazia and South Ossetia into Georgian society and the restoration of trust.

WHAT HAS CHANGED SINCE I LEFT THE POSITION

Unfortunately, the situation changed radically when I left office and the policy developed in a completely different direction. The policy of the Georgian Dream on influencing the conflicts was completely covered by the narrative of the National Movement. An example of this is the speech made by the Minister of Foreign Affairs at the UN on February 21, 2017, where, in relation to the population of Abkhazia and South Ossetia, he used and reinstated the term “reintegration” which we did not use at all from 2012 to 2016. In a speech on February 28 of the same year, the President of Georgia emphasized that Georgia is a victim of Russian policy. He focused all his attention only on Georgian-Russian relations. However, he did not say anything about the people who live in the territories of Abkhazia and South Ossetia and consider themselves victims, although from Georgia’s acts. If we have a fair sense of being victims of Russian aggression and seek solidarity in this regard, what can we do about the feeling of Abkhazians and Ossetians, that is sincere as well? Will it vanish by itself?

On January 27, 2017, the eight objectives of the peace policy were published.⁴⁹ The term “conflict” is mentioned six times in this text, though “conflict(s)” – not once. When

⁴⁹ Accessible at: <https://smr.gov.ge/ge/news/read/883/>.

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I was a Minister, I did my best to restore the meaning of the term “conflict(s)”. Also, I tried to give Abkhaz and Ossetian societies a sense that: their positions are respected; Georgian-Abkhazian and Georgian-Ossetian conflicts are separate issues; and the problems between Georgians and Abkhazians or Georgians and Ossetians should not be viewed in the context of Georgian-Russian relations. Unfortunately, the party Georgian Dream rejected the policy of the coalition Georgian Dream and returned to the term “conflict” developed by the National Movement. The eight-point text does not mention “a party to conflict”, which is another confirmation of returning to the policy of the National Movement.

Another example of a return to the narrative of the United National Movement: at the opening of a hospital in the village of Rukhi, attended by the Prime Minister and the Minister of Health, the Hepatitis C elimination program was mentioned. It was noted, that Abkhazians would have an opportunity to benefit from the program. The document – “neutral passport”,^{50 51} which had been well-known previously, although completely removed from my work and communication, was suddenly added to this suggestion; I was very surprised by this. Abkhazians did not obtain these “neutral passports” in a principled way. The new officials should have known that Abkhazians would rather have a Georgian passport instead of this document. Many things really coincided: voicing a “neutral passport” once again, the removal of “a party to the

⁵⁰ Accessible at: <https://www.moh.gov.ge/ka/news/3631/zugdidSi-C-hepatitis-marTvis-uprecedento-masStabis-centri-gaixsna>,

⁵¹ Accessible at: <https://www.moh.gov.ge/ka/news/3678/C-hepatitis-programis-mosargebleTa-areali-farTovdeba.#>

conflict”, the use of “conflict” instead of “conflicts”. From all this, it was clear that at some level the decision was made to return to the painless rhetoric, well-understood by the opposition, and to turn their backs on the policies pursued by the coalition Georgian Dream between 2012-2016. It was a step backwards, towards the narrative of the National Movement. To conclude, with my departure from office, the return to the old policy was facilitated.

CHANCES MISSED BY THE GEORGIAN DREAM

The main topic and task before the 2012 Parliamentary Elections was a change of government, and we talked less about the transformation of the conflicts. However, in addition to achieving the central goal, we also wanted to make it clear that the new Georgian policy would revise the previous course in relation to the conflicts. I was also actively involved in the development of this segment by the coalition.

After 2008, the United National Movement refrained from the aggressive rhetoric and seemed to rule out the possibility of hostilities. Although, until 2012, it was still felt and implied that this force would not miss a chance to resume work on the armed settlement of conflicts. Therefore, the main task of the coalition Georgian Dream was to completely exclude this position from Georgian politics and to firmly state that the Georgian side was not going to allow and discuss the armed settlement of conflicts. This particular task has been accomplished and has brought its consequences.

When government changes and this change is made with the universal support of the people, the new force is given an opportunity to make unpopular, although important decisions. The 2012 elections gave us this chance. This opportunity reappeared during the 2016 elections, in which the Georgian Dream participated not as a coalition but as a party and continued to receive significant support from

the population. We could have taken bold steps even then, but, unfortunately, the Georgian Dream missed these chances, which is quite surprising. Instead of making bolder decisions and winning the hearts of the Abkhaz and Ossetian populations, the new government returned to the narrative of the National Movement. Today, the Georgian Dream is an unpopular, discredited force, and its only task is to stay in power. Being no longer popular, this political force now does not have time to respond adequately to the new challenges in Abkhazia nor uses the opportunity to advance the conflict resolution process, for example. Now it is really easy for the opposition to attack this party and destroy its positions. In other words, today the Georgian Dream has no time for the conflicts, but as I have mentioned, they missed this opportunity twice – in 2012 and 2016. It is noteworthy, that the Georgian Dream, along with the population of Georgia, had a great support of international organizations and neighboring countries (except Russia) back then. All this provided a guarantee that the new Georgian policy in conflict resolution would be successful.

When discussing the transformation and resolution of conflicts, there was a constant fear that, by taking bold steps, we would further lose South Ossetia and Abkhazia. This fear also stemmed from the incompetence of the Georgian Dream. In 2014, after the annexation of Crimea by the Russian Federation, the threats to Abkhazia and South Ossetia increased significantly. Therefore, Georgian politicians lacked the courage and competence to figure out where the success and risks were. Thus, in order to insure themselves, they preferred not to discuss such topics at all.

THE END OF THE STORY

Let us go back to where we started.

We discharged Marek Dudayev. Afterwards, the intense processes began. Dudayev's release was shown as a sign of good will from the Georgian side. We then started regular communication with the Ossetian side to assure them that after releasing Dudayev, we expected them to take certain steps in response. At the same time, there were ongoing debates in Tskhinvali about only three prisoners. They had been sentenced to life in prison by the Georgian judiciary for a terrorist attack which took place in February 2005 in Gori.

In the Ossetian society, in fact, no one noticed that Marek Dudayev was set free. Tskhinvali officials did not mention his release during the negotiations in Geneva. There was no reaction to this fact at the meetings in Ergneti either. The Ossetian side spoke about the release of only three ethnic Ossetian prisoners. I realized that the expectation would end in vain if we only had hopes of good will and did not take concrete steps; proactive action was needed. I sent the following message to the Ossetian side: They had been demanding Dudayev's release for a long time. As soon as the coalition Georgian Dream came to power, Dudayev was set free, but the Georgian side did not receive anything in return. Taking this in mind, how can I talk in government about discharging three prisoners serving life sentences when there was no reaction to Dudayev's release in Tskhinvali? Why should the Georgian

side be in the constant mode of waiting for responses? Therefore, we need a response from Ossetia. Only if we receive a signal that Tskhinvali has adequately understood and appreciated Dudayev's release, will we be able to start a negotiation on discharging three prisoners with life sentences.

At the same time, I started to use the format of civil dialogue, in which I had gained a lot of cooperation experience before becoming the Minister of State. I had established trustworthy, sustainable and consistent relations with the representatives of the South Ossetian civil society, so I started to expand this issue with their assistance. I shared some parts of my plans with the staff of the security services as they had their visions on how I could act in the given situation.

At the request of the Security Service, in the negotiations with the Ossetian side, I demanded the release of J.M. (who was in Tskhinvali detention facility) in exchange for Marek Dudayev. He had worked in the Akhlagori district militia during the governance of the "Round Table." The de facto government of South Ossetia accused him of committing quite serious crimes. For unknown reasons, J.M. voluntarily appeared in Akhlagori, where he was arrested and sentenced to unlawful detention for a lengthy period. At the request of the Security Service, I demanded the official Tskhinvali to discharge the mentioned person in exchange of Dudayev.

In my experience, it is not always justified to demand the release of a particular person categorically and unconditionally. At such times, the other side of the conflict realizes that this person has much importance and it is possible to receive more in return. Therefore, in exchange for J.M., Tskhinvali demanded to discharge at least one of the mentioned three

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prisoners accused of the Gori terrorist attack. They made this claim in a categorical way. They knew J.M. was a former police officer, and before I was appointed Minister, the Security Service had negotiated with them only on his release, while other Georgian prisoners were not the subject of negotiations.

Thus, the Ossetian side clearly comprehended how important this person was for the Georgian side and especially for the law enforcement agencies. I informed them that Dudayev's release was our good will and I demanded to discharge J.M. in return. Though, official Tskhinvali considered that by releasing Dudayev, we were "cunningly" trying to obtain the figure who was very important for the Security Service. Accordingly, the Ossetian side categorically refused to release J.M. I explained to the representatives of the Georgian law enforcement agencies: when the opposing party principally refuses on a certain issue it does not make sense to continue arguing, as this brings the opposite consequences in most cases. When I faced this kind of resistance, I felt it was necessary to overcome it not by stubbornly defending a chosen position, but by replacing it with another issue with equal importance.

Apart from J.M., there were many other prisoners in Tskhinvali whose release was equally meaningful. One of them was Teimuraz Jerapov, who had been sentenced to many years of imprisonment. He also accidentally appeared on the area not controlled by the central government of Georgia, then he was arrested and sentenced to long-term imprisonment. Since the release of J.M. had preconditions which could not be fulfilled, I demanded to discharge Jerapov, who was the oldest of the prisoners there and had the longest sentence. Tskhinvali

easily agreed on his issue, as the Georgian side had not made any demands on him before, and it was clear that he was selected only due to his age and there was no other reason. Correspondingly, there was no principled and categorical inadmissibility with regards to Teimuraz Jerapov. The Ossetian side also understood that I was much more flexible in the negotiations than the law enforcement officials, as I did not demand just one person in a stubborn way. They saw that I was not concerned with the release of a particular person, but with the conduct of a peace process, where: everybody had equal conditions; priority was given to mutually agreed principles and not to promotion of one position by any means. Thus, the dialogue proceeded in accordance with my visions and I unequivocally explained to my partners in law enforcement agencies that I would not allow the ongoing peace process to be terminated because of one or two persons. If the process became viable, then it would be easier to release the prisoners they were interested in as well.

Jerapov was arrested in 2010 and sentenced to 13 years' of imprisonment. He was charged with attempted seizure of power. Seven months after the release of Marek Dudayev, I managed to convince the Ossetian side as a result of complicated and multi-level negotiations: If they really wanted to raise the issue of the three prisoners serving life sentences, they would have to take certain steps in return. This step turned out to be quite painful for them, as they were not fully assured that in this way they would be granted the release of the mentioned prisoners. I needed a solid argument for my government to make everyone see the results of a well-developed and viable peace process.

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Finally, on December 31, 2013, one year after the coalition Georgian Dream came to power, Teimuraz Jerapov was indeed released from prison. I regularly contacted his family and they knew I was conducting negotiations, but we did not have exact information when Mr. Jerapov would be discharged. I remember his words when he was released on December 31: "I hope to arrive in Kutaisi before the New Year's Eve and be Santa Claus for my grandchildren." He is a man with an Ossetian surname and in origin too, though he is a typical cheerful Imeretian man with a special sense of humor. It was evident that he wasn't involved with the charges against him.

The process started to advance. Seven months after the release of Marek Dudayev, as a result of much debate and negotiation, I managed to get the first prisoner released, who would have had to be in illegal detention for another 10 years. Now I could say with confidence to the political leadership and law enforcement agencies, that the mutual process had already started and it was impossible to neglect it. It should be noted that cohabitation was not over at that time and the then President of Georgia was constantly trying to thwart any initiative of mutual relations.

However, my main task as a state official was to sort out the mutual relations and develop them in a smooth way. I believe that the resolution of Georgia's conflicts is a multifaceted and multilevel process. Among the others, the Georgian-Russian conflict is of utmost importance, though the Georgian-Ossetian and Georgian-Abkhazian conflicts are no less important. By raising the issue of discharging prisoners, I was trying to develop the Georgian-Abkhazian and

Georgian-Ossetian bilateral channels. On the one hand, the humanitarian dimension has always been crucial to me – we should try our best to release illegally detained persons from prisons; on the other hand, we get the opportunity to base an irreversible peace policy on this process.

The next stage began.

We had a request from the Ossetian side to discharge the mentioned three prisoners. Their release was discussed in all formats of negotiations and it was a permanent top agenda issue at the Geneva meetings as well; we could not avoid this topic. In addition, as part of the justice reform, the new Georgian government began to review the fairness of judgments or other important principles related to the previous government.

Due to the ongoing situation, I considered that we had to start working on the release of the three prisoners serving life sentences, but it was important to realize how the Georgian side would benefit from this step. I based my viewpoint on the principle of “all for all release”, which was repeatedly and successfully used during the war. As three ethnic Ossetian prisoners were charged with serious offences, only the fact of discharging the prisoners requested by the Georgian side from the Tskhinvali prison would not be sufficient for both Georgian society and the government members. Thus, I included in the agenda the release of the prisoners illegally detained in Abkhazian prisons, who were in the interests of the Georgian side and had been sentenced to long terms of imprisonment. They had been unlawfully detained during the governance of the “National Movement” and charged with unsubstantiated though severe offences. Most of them were

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sentenced to seven to twelve years in prison. These charges included espionage, intelligence and certain activities against Abkhazia. In other words, they were not arrested for everyday banal incidents.

If we managed to arrange a “mega” release, succeeding in the release of prisoners from Tskhinvali and Sukhumi at the same time, then we could easily and convincingly substantiate why it was worthwhile discharging three persons with life sentence in an exchange of this magnitude. At that time, there were 5 prisoners in Tskhinvali prison and 8 prisoners in Abkhazia. We began to act under these conditions.⁵²

When the case of Dudayev-Jerapov was accomplished, on April 23, 2014, I wrote my official position to the head of the State Security and Crisis Management Council. I am confident to say that this day was the official beginning of the process which would be finalized with “all for all release” in two years’ time – on March 10, 2016. It took two years to accomplish this process. Upon completion of the cohabitation, a significant portion of the functions of the Security Council under the President passed into the hands of the State Security and Crisis Management Council set up under the Prime Minister.

In the letter submitted to the Council, I described the complicated situation related to the detention of Georgian citizens along the boundary line and their release. I believed: if we did not move to systematic work and institutional management in this direction, we would constantly face problems and work in the post factum mode. In the letter, I emphasized that Georgian citizens were unlawfully detained in the Tskhin-

⁵² Accessible at: <https://www.amerikiskhma.com/a/georgia-citizens-are-condemned-in-occupied-abkhazia-for-espionage/1750271.html>.

vali and Sukhumi detention facilities and this fact had a political basis, thus, we had to strive for their release and make it our priority. It was in this letter that the suggestion for the tripartite release of prisoners was made for the first time: “De facto government of Tskhinvali demands to discharge 3 three prisoners serving life sentence. We believe that it will not be right to resolve these issues only in the Georgian-Ossetian context. It would be a good decision if we moved this topic to a broader format – to the framework of Geneva Discussions.”

After Jerapov’s release, the political forces on the territory of South Ossetia became significantly more active. After Jerapov was discharged, information was spread from Tskhinvali that he was a violent criminal. Many Ossetian commentators and journalists did not mention Dudayev at all and sharply criticized the government for pardoning Jerapov. By the way, the regular detection of these types of reactions during conflict transformation or resolution should always be considered. Naturally, between the parties to the conflict there are different political or social groups that are independent of each other or in competition with each other. Their activities, in relation to specific issues, have a significant and sometimes decisive influence on political decisions.

Negative attitude and political temperature were rising in Tskhinvali. It was obvious that the relatives of these three prisoners were dissatisfied and spread information as if Jerapov had been released for nothing. In other words, the top-down propaganda thrived in whole Tskhinvali. Instead of talking on the actual fact – Jerapov’s release was an action in response of discharging Dudayev and further steps were planned until achieving the final results, the propaganda went

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in a completely unconstructive direction. Some claimed as if the Ossetian side voluntarily released the serious criminal Jerapov, while the Georgian side was in no hurry to discharge the mentioned three prisoners in return. Naturally, I was involved in the public debates and had to explain to the Ossetian society that the reality was completely different: Jerapov was not liberated at the initiative of the Ossetian side, moreover, he was set free seven months late in response to Dudayev's unilateral release.⁵³

Meanwhile, 2014 ended and in February 2015, the Ossetian side began to raise the political temperature, as during this period, all the prisoners serving life sentence in Georgian prisons started a hunger strike demanding reconsideration of their cases. These convicts and their relatives believed that justice reforms had begun in Georgia and the changes would affect them sooner or later. The judicial reform mainly applied to the cases of fixed-term imprisonment, but did not apply to persons sentenced to life imprisonment. Therefore, the main task of their hunger strike was to attract attention to their cases and achieve the following: determination of term instead of life sentences and, consequently, further revision of fixed-term (even long-term) imprisonment as part of the justice reform.

The mentioned three ethnic Ossetian prisoners also joined this hunger strike. Apparently, they would not have declared a separate strike, but when others went on a hunger protest, they had a moral obligation to express solidarity with the prisoners. This, naturally, caused a serious reaction in

⁵³ Accessible at: <http://news.abkhazia.gov.ge/?p=462>.

South Ossetia. In Tskhinvali, it was believed the main reason for this occasion was that the commitment made by the Georgian side (to release three ethnic Ossetian prisoners) was not fulfilled. Several international organizations were interested and involved in the process because of the coverage of the hunger protest from this angle. The prisoners were visited by the Red Cross. In the wake of declaring the hunger strike, the process of releasing ethnic Ossetian prisoners became permanent and irreversible.⁵⁴

On February 10, 2015, the representative of the Ossetian side in the post-conflict settlement issues clearly stated that it was necessary to release these prisoners and the official Tskhinvali was deeply concerned about their health. However, at the same time, the Ossetian side did not hide its satisfaction that after the coalition Georgian Dream came to power, the attitude significantly changed towards the prisoners they were interested in. Under the new government, relatives of the convicts serving life imprisonment were allowed to visit them in prison on a monthly basis, give personal belongings and food. Relatives could also deposit money into the prisoners' accounts so that they could use it in prison as needed. The Ossetian press also acknowledged that after the change of government in the country, the situation of prisoners in Georgian prisons improved dramatically.⁵⁵

The prisoners started the hunger protest on January 26, 2015. At this time, the relatives of the Ossetian prisoners still could not see any way out. To show solidarity, a mother of

⁵⁴ Accessible at: <https://region15.ru/redirect/?params=/news/2015/02/07/14-22/>.

⁵⁵ Accessible at: <https://regnum.ru/news/polit/1893378.html>.

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one protesting convict also declared a hunger strike demanding the release of her son. By February 11, 2015, representatives of the Ossetian side addressed the European Union Monitoring Mission and the International Committee of the Red Cross, requesting to inquire about the health of ethnic Ossetian prisoners and discuss their release at all available levels.⁵⁶

On February 16, the de facto president of South Ossetia, Leonid Tibilov, joined the process. He held a meeting of de facto law enforcement agencies on the issue of Ossetian prisoners in Tbilisi. It was ordered to make every effort and ensure that the release of prisoners was constantly discussed in the Geneva format, at Ergneti meetings or various forums.⁵⁷ Civil society was also involved in the process. On February 12, 2015, George Mason University in the United States organized a Georgian-Ossetian meeting of civil society representatives to discuss this particular issue in Istanbul. Representatives of the Public Defender, the Pardon Commission and the Office of the State Minister for Reconciliation and Civic Equality participated in the meeting from the Georgian side. The Ossetian side was represented by the civil sector and the prisoners' parents. The involvement of the parents had a great significance, as they were not allowed to voice their positions at the Geneva meetings and they were given this opportunity in Istanbul. The participants from Tbilisi received quite important information directly from them.

This meeting eased the situation to some extent. The prisoners's parents realized that there were people in the

⁵⁶ Accessible at: <http://cominf.org/node/1166504173>.

⁵⁷ Accessible at: <http://cominf.org/node/1166504216>.

Georgian society who sympathized with them and were going to work in this direction. However, it was also mentioned that it would be a difficult task for the Georgian authorities to discharge the convicts serving life sentence. At that time, a rather tense situation was formed between the coalition Georgian Dream and the National Movement. The latter was trying to excessively politicise the issue in order to discredit the coalition.

At the meeting in Istanbul, it was sincerely explained why the settlement of the issue had been delayed for so long. At the same time, we assured the relatives of the prisoners that the Georgian side was not going to hide the topic. On the contrary, it wanted the issue to be constantly in the public spotlight.

At the meeting in Istanbul, in addition to the civil sector, three major Georgian institutions were represented on the Georgian side: the Office of the State Minister for Reconciliation and Civic Equality, the Public Defender's Office and the Pardon Commission (President's Administration). This fact had a convincing influence. The prisoners' relatives realized that the Georgian side was not going to deceive them and sincerely tried to find the solution, though it was not easy.⁵⁸

The culmination of the release process was on February 16, when the co-chairs of the International Geneva Discussions on Security and Stability in the South Caucasus arrived in Tskhinvali amid the universal hunger strike. This is a common procedure when the co-chairs arrive in Tbilisi, Moscow, Tskhinvali and Sukhumi to agree on the agenda for the next

⁵⁸ Accessible at: <https://www.ekhokavkaza.com/a/26845527.html>.

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Geneva meeting. On this occasion, the meeting in Tskhinvali was entirely dedicated to the issue of the prisoners serving life sentence. The turning point of the process was, when at the level of international organizations, information was publicized and the demand was made to include this topic in the agenda of the International Geneva Discussions on Security and Stability in the South Caucasus. This move was taken not only by the prisoners' relatives but also by the officials of de facto South Ossetia. The political temperature was rising more and more.⁵⁹

At the next meeting in Ergneti on February 27, the Ossetian side critically raised the issue of the health of the prisoners on hunger strike and demanded that the Georgian side take measures to end the protest. On the 37th day of the strike, the Minister of Corrections and Legal Assistance – Sozar Subari visited the hunger strikers and promised to start discussing their demands. This ends the “hunger marathon”⁶⁰ in the hope that the Ministry of Justice will start to consider their demands.⁶¹

At that time, 83 people were sentenced to life imprisonment in Georgian prisons. Of these, fifty-one were on hunger strike demanding to determine their terms of sentence. The parents of Ossetian prisoners demanded the same. With regard to the three Ossetian prisoners in particular, it was my vision to work for the release and exchange. In other words, the process was carried out in two directions simultaneously – to change the terms and to discharge. At the end of the sto-

⁵⁹ Accessible at: <https://www.ekhokavkaza.com/a/26852842.html>.

⁶⁰ Accessible at: <https://www.kavkaz-uzel.eu/articles/258341/>.

⁶¹ Accessible at: <https://www.kavkaz-uzel.eu/articles/258209/>.

ry you will see that at the moment of liberation they were still serving life sentence, their hunger strike had ended in vain and the terms of their detention had not been revised.

Between March 17-18, 2015, the next meeting of the International Geneva Discussions on Security and Stability in the South Caucasus was held in Geneva. One of the main topics of the meeting was the health condition of the Ossetian prisoners and their hunger strike. Such an explicit discussion of the issue in Geneva enabled me to speak more boldly on how we could use the case of three Ossetian convicts to resolve a matter of common concern, conduct a peace process and release Georgian prisoners from Sukhumi and Tskhinvali. The Geneva meeting showed the importance of the issue to my opponents, who did not welcome my initiatives. This meeting fundamentally changed the situation and the Georgian side realized the process was irreversible. Before this occasion, I was personally criticized for setting “an unachievable goal”, but now they understood this task was achievable.

This round of Geneva Discussions was also unique in that the de facto president of South Ossetia sent a letter to the negotiators asking them to be involved in the release of South Ossetian citizens. However, in the letter he did not say anything about the process we had been constantly proposed to him: Georgian-Ossetian-Abkhazian “all for all release“. Noise caused by the hunger strike of the prisoners, as well as the involvement and interest of the co-chairs of the Geneva format, gave the Ossetian side an illusion that the three prisoners could be discharged without their compromises. Our scenario was that the Ossetian prisoners would leave Georgian prisons only in case of a mutual release. However, Tibilov was

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trying to sideline this scenario, take advantage of the noise created and make only the Georgian side discharge prisoners at the Georgian-Ossetian level. For me, this maneuver was completely unacceptable and a principled issue. I tried my best not to limit this topic to the Georgian-Ossetian context and to achieve “all for all release”.⁶²

Meanwhile, the euphoria related to Geneva ceased. March was over, the political temperature still remained high, but everyone saw that the format of the Geneva Discussions was not alone capable to resolve this issue. In other words, none of the results meeting the interests or desires of the interested parties were achieved. Therefore, in parallel with the official Geneva Discussions, I resumed work on the second level – in the direction of civil society, where it was understood how this issue could be resolved.

The first point of my plan was that I would make contact with the civil sector representatives on the territory of South Ossetia. They would communicate with the parents of the prisoners and they, in turn, could talk to the Tskhinvali authorities. NGOs in Tskhinvali did not have a significant impact, although the families of prisoners were an important factor for the de facto government. Then, South Ossetia would start negotiations with the de-facto government of Abkhazia on discharging eight prisoners serving long-term sentences in Abkhazian prisons.

While communicating with the civil sector of South Ossetia, my position was as follows: “As you know, negotiations are underway in Geneva and everyone expects relevant deci-

⁶² Accessible at: <http://cominf.org/node/1166504382>.

sions to be made there. But it is not enough for the Georgian side to accept only five prisoners from Tskhinvali. Such an agreement would not be beneficial for Tbilisi and would significantly strengthen the opposition against the government. However, if the Abkhaz side was involved, it would make our task really unique. Consequently, it would be really difficult for the opposition to attack the government.”

Therefore, my clear position was to discuss the issue in Geneva as well. Although, Geneva alone would not provide a final guarantee. In addition, it was necessary to work in other directions. For example, Tibilov had to address not only the Geneva format, but also contact with the Abkhaz side. We had to try this opportunity and asked the prisoners’ parents to talk to de facto President Tibilov in a principled way, so that he would contact with the Abkhaz side.

The official Sukhumi positively accepted such a proposal from Tskhinvali and promised solidarity to the Ossetian side in this process. Earlier in Geneva, Abkhazians became well aware of the issue raised by the Ossetian side within the framework of the International Geneva Discussions on Security and Stability in the South Caucasus. This project seemed almost unpredictable and impossible and I had no grounds to hope that the de facto government of Abkhazia would take such a step. However, we counted on the sense of solidarity and partnership, as well as the fact that all this would be positively assessed later in the Geneva Discussions.

By this time, it became necessary to inform the head of the government. On April 21, 2015, I wrote a letter to the Prime Minister of Georgia, Irakli Gharibashvili, where I comprehensively described the work already done for the “all for

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all release” of prisoners and presented a plan of further steps we had planned to achieve the final goal. The substantial part of the letter submitted to the Prime Minister did not differ significantly from the letter sent to the head of the State Security and Crisis Management Council exactly one year earlier, on April 23, 2014. However, while the letter of 2014 was justified by the need to start the process, the one sent in 2015 was aimed at the successful completion of the activities so that all services in the final stage could interact synchronously with each other.

In parallel, agreeing the details of the prisoners’s release with the Prime Minister, on May 16-17, 2015, in the village Kachreti, a team of the coalition Georgian Dream held a political discussion on the challenge of conflicts resolution in Georgia. The discussion was initiated by the Ministry of Foreign Affairs and was attended by representatives of the Ministry of Defense and all law enforcement agencies, the Office of the State Minister for Reconciliation and other bodies.

It was one of the most vivid and memorable lively political debate that took place within the coalition in an informal format, though not behind the scenes. This meeting exposed many problems that hindered the timely and effective adoption of political decisions. It became clear that there were principled and, in many cases, mutually exclusive positions between the law enforcement agencies, on the one hand, and political institutions, on the other. In my opinion, the Kachreti meeting served as a watershed moment to finally outline the positions of these two directions. However, against the background of other difficult issues, the discussion of the prisoners’ release was held in a manner that was

painless and mutually understanding. The only result of the meeting was the agreement which allowed me to continue working in a tripartite format for the release of prisoners.

On September 20, a meeting between the Ossetian and Abkhaz sides took place in Tskhinvali⁶³, where Leonid Tibilov and Raul Khajimba finally agreed on discharging the prisoners. At the request of Ossetians, the Abkhaz side undertook to release ethnic Georgian prisoners from Abkhazian prisons. After the detailed confirmation and multiple verification of this agreement, on November 15, 2015, I wrote a letter to the President of Georgia, where I set out the positions for which the parties were ready and actions that were left to be implemented. After describing all the details and episodes, I asked the President to discuss the topic and, in case of agreement, to issue an act of pardon for the ethnic Ossetian prisoners demanded by the official Tskhinvali. I stated that this was necessary for the liberation of the Georgian citizens illegally detained in Tskhinvali and Sukhumi prisons. In addition, I emphasized that the Abkhaz side had no demands on the Georgian government to release the convicts from the Georgian penitentiary facilities. I also stated that the Abkhaz side had expressed good will in facilitating the release of the convicts according to the principle “all for all”. As for the three prisoners with life sentence, they might be discharged after a certain period.⁶⁴ Georgia was expected to reconsider its policy

⁶³ Accessible at: http://presidentofabkhazia.org/about/info/news/?ELEMENT_ID=2817.

⁶⁴ The law allows for the release of a person sentenced to life imprisonment if they have served at least 20 years. The only exception is the act of the pardon or amnesty issued by the President.

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of life imprisonment as part of the country's integration into European institutions. Therefore, it could not be excluded that after few years these three and many other convicts serving life sentence would be released under Georgian legislation.

Thus, in my letter to the President, I argued that it would be better to use the act of discharging these concrete convicts in the interests of the Georgian state and to assist in the release of the prisoners with illegal long-term imprisonment in Abkhazia and South Ossetia. In the letter I also spoke about the transformation of the conflicts. I mentioned that the Georgian side had to undergo a long-term peace process with the Abkhaz and Ossetian sides, and, as a rule, any such process started with resolving issues of the humanitarian dimension. I thought that the government of the coalition Georgian Dream had a chance to move the well-started peace process to sustainable peace.

The three-year peaceful pause attained by that time gave the Abkhaz and Ossetian communities, as well as the international society, the feeling that Georgian-Abkhazian and Georgian-Ossetian reconciliation was possible. Therefore, starting the process required first concrete steps. Based on the resources at our disposal, I considered the most effective form to be the release of convicts with the principle – “all for all”. I had already reached a principled agreement with the Abkhaz and Ossetian sides in this direction. In addition, I was sure that this decision would be evaluated only positively by our international partners. They had repeatedly called on us to take effective steps in this dimension. I believed that at the international level this move would be considered as a successful investment in the peace process.

I also informed the President that if he made a decision to pardon the requested convicts, then the prisoners on which the agreement had been reached in advance with the Abkhaz and Ossetian sides, would be released simultaneously on December 4, 2015. Unfortunately, the position and arguments set out in my letter to the President did not prove convincing. He asked us to refrain from exchanging prisoners on December 4. This occasion only took place 4 months later – on March 10, 2016. However, no specific action was taken during these four months and nothing changed essentially.

To this day, I do not know exactly what factors led the President to refuse the pardon act and later what circumstances made him receive the decision we wanted. Cancelling the occasion scheduled for December 4 caused tensions on the Abkhaz side: they believed the exchange was primarily needed by the Georgian side and our refusal confused them. Suddenly, a strange delay in the process came from the Georgian side.

I had to have honest conversations with both the Abkhaz and Ossetian sides. I explained that we were dealing with our own internal problems and we were not going to blame this delay on either side, despite the many difficulties created in the process. Any kind of accusation was unacceptable to me. In the end, being honest is always the right way. This is what happened in this case as well and I got their consent: the tripartite release of historical significance and unique format was postponed for the spring.

The then Prime Minister Irakli Gharibashvili was very interested in the release of the prisoners scheduled for

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December 4. He did everything in his power to ensure that the prisoners were discharged on December 4. Thus, he was greatly disturbed when confronted with the fact that the release had been postponed to spring. Gharibashvili, as a former Minister of Internal Affairs, under whose leadership the Security Service was part of this ministry, really helped me in the dialogue with the Security Service and law enforcement agencies. Gharibashvili resigned from the position of the Prime Minister in late December, but he had already played a positive role in the process.

The constructiveness of the Abkhaz and Ossetian sides allowed us to work in a calm mode, without haste, and we discussed this issue again with various structures and services, law enforcement agencies and politicians. The work was carried out on a daily basis. The names and surnames of the released persons were checked many times by various services to ensure that all errors and inaccuracies were excluded.

By the beginning of March, as a result of this continuous work, all procedures had been discussed and agreed at all levels. On March 7, I submitted another letter to the President requesting to pardon ethnic Ossetian prisoners with life sentences. At the request of the Ossetian side, another prisoner was added to the three initially demanded convicts. So, the pardon was granted for four prisoners. The fourth person was an ethnic Georgian, his case was not serious and he could be pardoned at any time. However, the main topic was the three convicts with life imprisonment. This time my request to the President was granted.

The tripartite release of the prisoners took place in a painless manner. To manage the process leading to this occasion was difficult and sometimes even incredible. Against this background, the day of discharging the prisoners turned out to be very easy. This was March 10, 2016. All services worked cooperatively – Penitentiary Department, security services, Police and Escort. The issue of moving from Tbilisi to Zugdidi, as well as crossing the Enguri bridge was planned in detail in advance. Prisoners were discharged from Sukhumi, Tskhinvali and Tbilisi within half an hour. We received all requested prisoners from Tskhinvali and Sukhumi – 14 people. We handed over the four convicts requested by the representatives of the Tskhinvali de facto government who met us on the Enguri bridge. The task of freeing the prisoners was thus accomplished, and it was a unique breakthrough in the peace process.

It should be noted that, the de facto President of Abkhazia Raul Khajimba had a decisive role and principled position in the process of release and exchange. I think, in those days Georgian-Abkhazian and Georgian-Ossetian relations reached a new stage.⁶⁵ The fact of freeing the prisoners was followed by a very important and interesting response from abroad. The reaction was much more active abroad than in the Georgian official space. The co-chairs of the OSCE⁶⁶ and Geneva International Discussions⁶⁷ responded to the successful process. The release of the prisoners was

⁶⁵ Accessible at: https://netgazeti.ge/south_caucasus/100558/.

⁶⁶ Accessible at: <https://www.osce.org/cio/226871>.

⁶⁷ Accessible at: https://netgazeti.ge/south_caucasus/100591/.

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also welcomed by the British Foreign Secretary.⁶⁸ The fact was positively assessed by the Abkhaz⁶⁹ and Ossetian⁷⁰ sides too. The Public Defender⁷¹ positively evaluated the tripartite release of prisoners in Tbilisi.

For reasons completely unknown to me, the release of prisoners caused fireworks of the so-called “fake news” in the Georgian media space. For example, the TV Channel Rustavi 2 prepared such a “fake” – “Negotiations between the Georgian and Abkhaz sides on the Enguri bridge are underway at the moment and Paata Zakareishvili is meeting with a Russian General in the occupied territories.” It was a feeble lie. I did not meet any Russian General.

Rustavi 2 also reported: “The process of liberating the hostages is beginning and the Russians are demanding that the Georgian side hand over “Kochoia”, who has been convicted of terrorism.” It is inexplicable where this absurdity came

⁶⁸ Accessible at: <https://ka-ge.facebook.com/notes/uk-in-the-south-caucasus-resolving-conflicts/%D1%82%D0%B5%D0%BA%D1%81%D1%82-%D0%B2%D1%8B%D1%81%D1%82%D1%83%D0%BF%D0%BB%D0%B5%D0%BD%D0%B8%D1%8F-%D0%BC%D0%B8%D0%BD%D0%B8%D1%81%D1%82%D1%80%D0%B0-%D0%B8%D0%BD%D0%BE%D1%81%D1%82%D1%80%D0%B0%D0%BD%D0%BD%D1%8B%D1%85-%D0%B4%D0%B5%D0%BB-%D0%B2%D0%B5%D0%BB%D0%B8%D0%BA%D0%BE%D0%B1%D1%80%D0%B8%D1%82%D0%B0%D0%BD%D0%B8%D0%B8-%D1%84%D0%B8%D0%BB%D0%B8%D0%BF%D0%B0-%D1%85%D1%8D%D0%BC%D0%BC%D0%BE%D0%BD%D0%B4%D0%B0-%D0%BD%D0%B0-%D1%84%D0%BE%D1%80/851204098345964>.

⁶⁹ Accessible at: <https://sputnik-abkhazia.ru/Abkhazia/20160310/1017463742.html>.

⁷⁰ Accessible at: <http://kvira.ge/242198>.

⁷¹ Accessible at: <http://www.ombudsman.ge/geo/190307023143si-akhleebi/saxalxo-damcveli-konfliqtis-zonashi-patimarta-gatavisuflebas-miesalmeba>.

from. Moreover, during the whole two-year complicated process of negotiations, no one ever mentioned “Kochoia”. The TV channel’s fake fantasy was fully fabricated: “As it is known, the negotiations are led by Paata Zakareishvili and the mentioned agreement was reached during the Abashidze-Karasin meetings.” This was also a complete lie – Zurab Abashidze and Grigory Karasin were not involved in this process.

This information of the TV Channel Rustavi 2 at that time was a very amusing, vaudeville type of “fake”. Hereby, I will bring another quote from this fake news: “Initially, the talk was about 17 hostages taken from the Drand prison, but eventually their number was reduced to nine.” The TV station did not say what happened to the others. Newposts.ge did not delay to spread information as if they had confirmed on the spot that “Kochoia” was sent back on the road. They claimed as if we had to take “Kochoia” to the spot, where 12 prisoners would be handed over in exchange, but we sent him back because the journalists found out about it. They even mentioned the time, as if “Kochoia” was taken back at 13:30. In other words, according to this version of the misinformation, Abkhazians and Ossetians handed over 12 prisoners to us and did not receive “Kochoia” in return.⁷²

⁷² Accessible at: <http://www.newposts.ge/?newsid=101821-%D0%B1%D1%93%D1%9E%D0%B1%D1%93%C2%A7%D0%B1%D1%93%E2%80%A2%D0%B1%D1%93%E2%80%9D%D0%B1%D1%93%E2%80%94%D0%B1%D1%93%D1%92%20%D0%B1%D1%93%E2%80%99%D0%B1%D1%93%D1%92%D0%B1%D1%93%D0%84%D0%B1%D1%93%E2%80%A2%D0%B1%D1%93%D1%99%D0%B1%D1%93%D1%92,%20%D0%B1%D1%93%E2%80%9D%D0%B1%D1%93%D1%9A%D0%B1%D1%93%E2%80%99%D0%B1%D1%93%D0%88%D0%B1%D1%93%C2%A0%D0%B1%D1%93%C2%98>.

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Rustavi 2 and other opposition media outlets intensified their campaign, claiming that the release would not have been possible without Russian intervention. Some experts also stated that it was impossible for Zakareishvili to do this without Russia. So, the legend spread that the exchange took place through the assistance of Russians. It was a complete falsity and aimed at discrediting the successfully launched peace process. I had no contact with the Russians at any stage of this process and no one can bring evidence of that. These were just the assessments of the embittered people and would cause only a smile.^{73 74 75}

As I have already mentioned, the Abkhaz side worked very well. It was an example of successful cooperation and we showed the interested international organizations that collaboration on such topics was possible. However, the de facto government of Abkhazia painfully accepted my gratitude towards the civil sector. Although, my gratitude was directed to the civil sector in South Ossetia, as civil activists really helped me only from Tskhinvali.

A letter⁷⁶ was published in Abkhazia stating that the issue of the tripartite release of prisoners had been discussed and resolved only in the Geneva format. For some reason, the Abkhaz side believed that the civil sector should not have been involved in such issues, which I think is wrong. In my opinion,

⁷³ Accessible at: https://netgazeti.ge/south_caucasus/100867/

⁷⁴ Accessible at: <https://www.timer.ge/paata-zaqareishvili-patimrebis-gath-avisuplebasthan-dakavshirebul-molaparakebebshi-rusul-paqtors-gamor-ickhavs/>

⁷⁵ Accessible at: <https://www.ekhokavkaza.com/a/27605549.html>.

⁷⁶ Accessible at: <http://www.mfaapsny.org/news/index.php?ID=4222>.

the more cooperation there is between the officials and the civil sector, the more positive impact it may have on the case. The story I have told is a wonderful example of this. The Abkhaz side considered the following: they had done good service in this case (which was true), but I shared it with the civil sector. Even now I can say confidently that only officials worked from the Abkhaz side and representatives of the Abkhazian civil society were not involved in this process.

I believe that the authorities should not place government and civil society in different directions. They do not contradict, but complement each other. I believe that there should not be confrontation between these two dimensions. They are collaborators for each other and not competitors. Thus, the more this contact is strengthened, the more beneficial it will be for the common cause.

A complete picture of the history of the tripartite release cannot be created without one episode. Unfortunately, one Georgian prisoner could not be liberated. This was Giorgi Lukava, who was arrested by Abkhazians in 2011 and sentenced to 20 years in prison. We spent a lot of time negotiating on Lukava. The Abkhazians claimed that all prisoners except Giorgi Lukava would be handed over to us without any conditions, but he would not be released under any circumstances. Apart from him, the Abkhaz side did not charge any of the released persons with serious criminal offences. The rest were accused of mainly unsubstantiated charges of intelligence activities and espionage. Of course, Lukava, like any other prisoners, was subjected to investigation and trial that did not comply with Georgian law. Although the Abkhaz side charged him with a serious crime – murder. Despite several

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months of negotiations, we were unable to convince the official Sukhumi to release him.

The de facto President Khajimba did not pardon Lukava and, consequently, he was not extradited. We had to make a decision – either to continue the negotiations for additional months because of Lukava, that might cause disruption of the whole process, or we could release the other prisoners after having waited for a long time. On December 4, when the exchange failed, Georgian prisoners in Sukhumi already knew they were being set free as they had signed a pardon request. Although, they were suddenly sent back to their cells. It was a huge blow to them. These prisoners managed to contact their relatives in Zugdidi and Tbilisi. As the exchange failed on December 4, the relations with the relatives of these Georgian prisoners became quite tense. This created additional difficulty in this process. Therefore, we did not have the right to stop the issue of other prisoners for one important convict. Consequently, we had to complete the process without Lukava.

However, the negotiations concerning Giorgi Lukava continued and on December 25, 2017, he was exchanged for Roland Zhiba, who had been convicted by a Georgian court. Consequently, Lukava was released in a year and a half after the general exchange.⁷⁷ At the time of his exchange, I was no longer in power. Meanwhile, after the elections, the Georgian Dream no longer existed as a coalition. The coalition disbanded and only the party of Georgian Dream was the ruling party. Authorities then made a statement that Lukava's exchange

⁷⁷ Accessible at: https://www.ekhokavkaza.com/a/28953447.htm-?utm_source=dlvr.it&utm_medium=facebook.

was a continuation of the co-operation which led to the tripartite release of prisoners in March 2016.⁷⁸

Thus, the result – the tripartite release of prisoners in 2016 with the principle “all for all” – is an unprecedented event. I tried to give the reader an idea of how difficult this process was. I also attempted to show what the outcomes can be if you consider the interests of all conflict parties and have a well-designed action plan. It all started when Marek Dudayev was unexpectedly released. By properly evaluating this single episode, it was possible to successfully manage the process described to you, which had multiple levels and many actors. Therefore, to question the success of the described process is completely unjustified to me. The only purpose of such an attempt is to establish a narrative that was once again used in the government of Georgia after the withdrawal of the coalition Georgian Dream from politics. It was argued that direct contact with the Ossetian and Abkhaz sides is not appropriate for it only creates the illusion that conflict transformation can be reached through cooperation with the Abkhaz and South Ossetian sides.

The story I have told about the tripartite release of prisoners is a clear example of how successful the work can be with the Abkhaz and Ossetian sides. Therefore, communication with the Abkhaz and Ossetian sides through direct contact is a unique resource for the Georgian government. In addition to the fact that the mentioned occasion on March 10 had a major humanitarian impact, as people were held illegally in Sukhumi and Tskhinvali prisons, this action caused

⁷⁸ Accessible at: <https://netgazeti.ge/news/242944/>.

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serious political shifts. It is true these shifts soon stopped, but the parties to the conflict felt that success could be achieved through direct contacts. At the same time, the international community also saw how much resources the Georgian state had to implement direct communication with the Abkhaz and Ossetian sides.

Although I had close contact and collaboration with the security services throughout this process, they were still skeptical and did not express satisfaction, unlike their colleagues from other agencies. Security officials were really concerned about the practice of bypassing their service. In my anticipation, they would welcome the fact of releasing prisoners. Instead, they tried to terminate the process. It is hard to bring evidence of that, but I really felt it. For example, the fact that the President of Georgia did not sign the pardon order on December 4 (which he did later), in my opinion, resulted from the efforts of the security services. However, I have no direct evidence of this, so let it be my personal opinion. Although, the following fact can be considered as an indirect argument: the vocabulary of the President's arguments was exactly the same as the wording used by my colleagues from the security services when debating with me.

If the prisoners had been discharged on December 4, there would have been almost a year left before the elections, and important affairs could have been accomplished during this time. We could have also affirmed to the Georgian and international communities that Georgian-Abkhazian and Georgian-Ossetian relations are irreversible and sustainable, and a peace process can be built on this type of relationship.