

Could a *De Facto* State Survive without External Help? The Case of Abkhazia

EKATERINA KOSIUK¹

After the dissolution of the Soviet Union and the Georgian–Abkhazian war, Abkhazia proclaimed its independence; however, at that time none of the other states recognised its independence. Following the so-called Russo–Georgian war, Abkhazia was recognised by Russia and soon after by some other states. How did Abkhazians live during the period when the territory was not recognised internationally and how did life change after gaining some recognition? The aim of this article is to answer these questions, to trace changes after international recognition of Abkhazia and to consider future prospects for wider global recognition. The article also analyses Russian–Georgian relations that had a direct impact on Abkhazia. The article consists of six parts, which analyse the reasoning behind Abkhazian justifications for independence, the right to self-determination, analyse in detail the period of time when Abkhazia existed as an unrecognised and isolated state, and also consider the changes that occurred after Abkhazia was recognised by several countries. This paper analyses the legal and geopolitical aspects behind recognition of internationally disputed territories. The significant role of international organisations in supporting peace in the region is discussed, as well as humanitarian aid to Abkhazia during its isolation.

Keywords: Abkhazia, Georgia, the right to self-determination, human rights, Russian–Georgian relations

The right to self-determination in international law

The right to self-determination in international law can be interpreted in many ways. Since the moment this right was enshrined in the UN documents, there have been discussions among scholars and international lawyers about what exactly the right to self-determination includes. The point is that the customary rules on the right to self-determination do not specify how this right should be implemented. After the collapse of two multinational states at the end of the 20th century, some peoples who did not agree to live within the borders of the newly formed states began to insist that the right to self-determination

1 PhD student, University of Public Service, Doctoral School of Public Administration Sciences

included secession. For instance, Abkhazia, which seceded from Georgia as a result of hostilities, began to insist that they have the right to secession within the framework of self-determination. Abkhazia has presented several arguments to justify its secession, which is analysed in this article.

The right to self-determination appeared as a political concept in the late 19th – early 20th century. However, it was fixed in international law only in 1945 in the UN Charter and then was developed in 1965 in two UN pacts.² Many international law scholars analysed the rights of peoples to self-determination, for example, Cassese,³ Castellino,⁴ Knop,⁵ Moore,⁶ Walter and Abushov,⁷ Griffioen.⁸ They researched the following issues:

- which groups are entitled to the right to self-determination, in particular, who is this ‘people’ who is endowed with the right to self-determination
- what the right to self-determination includes: internal self-determination or external
- whether internal self-determination can be applied by the whole population or by minority groups
- whether external self-determination applies only to colonial peoples or to other categories of people as well
- whether the right to self-determination may include secession

Provisions on the right to self-determination can also be found in the Declaration on the Granting of Independence to Colonial Countries and Peoples and Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nation. During the formulation of these documents, delegations from different countries proposed different wording for the right of peoples to self-determination and there were great discussions in the drafting committees. Aspiring to find a compromise, the wording in international documents turned out to be generalised and unclear.

In the modern world in the time of wars of independence, it is important to understand the limits and dangers of the concept of self-determination. Perhaps originally this right served for the good, but after several wars of independence under the pretext of self-determination, it became clear that the right to self-determination can be dangerous. Moreover, secession can lead to the ongoing fragmentation of the territory, and the separation of part of the territory from the ‘mother’ state, even peacefully, can lead to forcibly displaced peoples.

2 International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights.

3 CASSESE 1999: 120.

4 CASTELLINO 2008: 503–568.

5 KNOP 2002.

6 MOORE 1998.

7 WALTER et al. 2014.

8 GRIFFIOEN 2010.

According to Cassese, “the contention could be made that the Declaration on Friendly Relations links external self-determination in exceptional circumstances”. He clarifies that “racial or religious groups may attempt to secession, a form of external self-determination, when it is apparent that internal self-determination is absolutely beyond to reach”.⁹ At the same time Cassese emphasises that “the possibility to secede under the extreme circumstances has not become customary law”.¹⁰ At the end of the 20th century, the concept of remedial secession appeared, according to which the realisation of the right to self-determination through secession is possible if there are gross and massive violations of human rights or/and systematic discrimination, and there are no other ways to change the prevailing reality. The topic of remedial secession came to the fore in connection with the recognition of independence of Kosovo. The International Court of Justice issued a Kosovo advisory opinion, where a most careful wording is selected on the issue of the right to self-determination. Christian Walter in his papers about the Kosovo Advisory Opinion asserts that “even though the Kosovo Advisory Opinion did not expressly say anything on a right to secession, it certainly contributed to the international community’s acquiescence to the developments in the specific case of Kosovo; and in that regard, it cannot be excluded that a precedent for other cases was set”.¹¹ It is also important to outline that the ICJ decided not to consider the issue of the limits of the right to self-determination or the possibility of the right to secession as a remedy as being outside the scope of the question posed (§ 83). The ICJ decided that general international law contains no applicable prohibition of declarations of independence (§ 84).¹²

Some authors who were developing the theory of remedial secession are: Buchanan and Levinson (2021),¹³ Crawford (2007),¹⁴ Hannum (1990),¹⁵ Hilpold (2009),¹⁶ Raič (2002),¹⁷ Ryngaert and Griffioen (2009),¹⁸ Vidmar (2021),¹⁹ Van den Driest (2013).²⁰ According to Buchanan and Levinson (2021), the following grounds can be distinguished to justify the remedial secession:

- reclaiming territory over which people were sovereign but which was unjustly taken from them

9 CASSESE 1999: 120.

10 CASSESE 1999: 121.

11 MIRZAYEV 2014: 18.

12 International Court of Justice. Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion of 22 July 2010.

13 BUCHANAN–LEVINSON 2021.

14 CRAWFORD 2007.

15 HANNUM 1990.

16 HILPOLD 2009: 47–61.

17 RAIČ 2002.

18 RYNGAERT–GRIFFIOEN 2009: 573–587.

19 VIDMAR 2021: 779–851.

20 VAN DEN DRIEST 2013.

- claiming sovereignty over the territory as a result of availing themselves of a last resort remedy against serious and persistent violations of basic human rights
- in some cases, the state's major violations of, or unilateral revocation of intrastate autonomy agreements²¹

Although the main topic of the article is the analysis of whether a de facto state can survive without external help, it is impossible not to consider the topic of the right to self-determination and remedial secession. Abkhazians refer to these provisions of international law, insisting on their own independent state; moreover, these provisions are quoted by other states, which recognised the independence of Abkhazia.

The right of Abkhaz people for self-determination

Most scholars specialising in foreign policy argue that the collapse of the Soviet Union was relatively peaceful and bloodless.²² Of course, one can agree with this perspective when compared with the collapse of another multinational state which was Yugoslavia. However, could the residents of some parts of the former Soviet Union, usually on the edges of the former country, agree with this statement? For the inhabitants of those territories, the collapse of the USSR was far from bloodless. Almost immediately after the collapse of the union, bloody clashes took place in some territories with disputed sovereignty. Such territories claimed their desire to secede by referring to a long history of their own statehood, combined with an unfair nationalities policy in the USSR and inappropriate use of the principle of *uti possidetis* during the collapse of the union. They also referred to the internationally recognised right of peoples to self-determination.

Abkhazia is one of those territories that wished to secede from their parent state after the fall of the Soviet regime. After the 1992–1993 war, this republic had almost no relations with its parent state and most of the global community considers Abkhazia exclusively a part of Georgia. In order to understand the right of the Abkhaz people to self-determination, it is necessary to mention some significant events in the history of both the Abkhaz people and the territory they claim. In the context of the present article, the history of Abkhazia can be divided into three parts, which are: before the formation of Soviet regime, during the USSR and after its dissolution.

Going deeper into the history of the formation of the Abkhaz ethnos, it is worth noting that this ethnos began to form on the territory of modern Abkhazia around the 3rd millennium B.C. It formed as a result of the interaction of the local Caucasian population, who had lived in this territory since the Stone Age with the newcomer Asia Minor superstratum, who migrated to the Caucasus and shared their language

²¹ BUCHANAN–LEVINSON 2021.

²² For example *Subversive Institutions. The Design and the Destruction of Socialism and the State* by Valerie Bunce or *Armageddon Averted. The Soviet Collapse* by Stephen Kotkin.

and at the same time adopted the local material culture.²³ At the end of the 8th century, under Leon II, Abkhazia achieved independence from Byzantium and the Kingdom of Abkhazia (778–1008) was established, whose territory covered the whole of Western Georgia. The population of this kingdom consisted of Abkhazians and Kartvelian tribes (Georgians), who according to Anchabadze, constituted a significant majority.²⁴ It is interesting to note that Anchabadze also claims that in the 10th century the Georgian language was dominant in the territory of the Kingdom of Abkhazia.

After the fall of the Kingdom of Abkhazia, Abkhazia became part of the unified Kingdom of Georgia. And then, after the collapse of the Kingdom of Georgia in the 15th century, the Principality of Abkhazia (1462–1864) was founded. Until 1810, Abkhazia was under the protectorate of the Ottoman Empire. However, from the end of the 18th century, the Abkhaz princes began to look for salvation from Ottoman oppression and found it in the form of the patronage of the Russian Empire. In 1809, Safarbey (Georgy) appealed to the Russian Government for patronage. The request was granted, and in 1810, the manifest of the Russian Emperor Alexander I on the Abkhazian principality joining the Russian Empire was issued.

The Principality of Abkhazia was relatively independent under Russian patronage until 1864, when it was replaced by direct Russian military administration in accordance with which the Sukhum military district was formed. The introduction of the military administration and the annexation of Abkhazia to the Russian system of administrative territorial division caused massive unrest. The largest uprising was in 1866 and was called the Lykhny uprising. The protest movement also grew as a result of the significant resettlement of Abkhazians to the Ottoman Empire. The outflow of population was especially strong after the Russian–Turkish war of 1877–1878. Within 15 years, about 60% of its population had left Abkhazia,²⁵ entire regions were emptied and the territory was mainly inhabited by Russians, Georgians, Armenians, Greeks and Estonians. The Russian Empire encouraged the resettlement of Christians to Abkhazia instead of the Abkhaz Muslims who left the land and mostly settled in the Ottoman Empire. Moreover, at that time neighbouring Georgia had a shortage of arable land, so Georgian peasants began to move in large numbers to the territory of Abkhazia.

During Soviet time, until 1931 the SSR of Abkhazia and the SSR of Georgia were equal subjects bound by a union treaty. However, in 1931 Stalin ordered that Abkhazia should become an autonomous republic (Abkhaz ASSR) within the Georgian SSR. This administrative division took place without considering the will of the Abkhaz people and it was made only on the order of the central government. Autonomous republics within the USSR had a higher status than the autonomous regions and autonomous okrugs. At the same time, the autonomous republics had a lower rank than the union republics. They were not officially considered subjects of the USSR as

23 ANCHABADZE–ARGUN 2012: 94.

24 ANCHABADZE 1959: 106–108.

25 ANCHABADZE–ARGUN 2012: 116.

a federation, did not have the characteristics of a sovereign state (like a union republic). Furthermore, they did not have the right to secede from the USSR or the right to be transferred from one union republic to another. The level of political, administrative and cultural autonomy they enjoyed varied with time, and it was most substantial in the 1950s after the death of Joseph Stalin and in the Brezhnev Era.

During the Stalin years, the government of the Georgian SSR pursued a discriminatory policy towards the Abkhaz population. Political positions in the autonomous republic were predominantly occupied by Georgians, ethnic Georgians moved to the territory of the Abkhaz ASSR, and the names of settlements were changed in accordance with Georgian pronunciation. For example, the name of the city of Sukhum was given a Georgian ending and began to be called Sukhumi. This policy was known as Georgianisation. Until 1950, the Abkhaz language was excluded from the secondary school curriculum and replaced by compulsory study of the Georgian language. The Abkhaz script was replaced by the Georgian graphic basis until 1954, when the Cyrillic script was adopted. In addition, for a certain period of time, the Abkhazians could not study in Russian schools.²⁶ This problem was urgent since a large number of Russian-speaking population lived in Abkhazia.²⁷

The local intelligentsia had repeatedly appealed to the central leadership with a request to grant Abkhazia the status of a fully-fledged union republic, but they were invariably refused. Interethnic tensions in Abkhazia continued to intensify. Mass unrest among the Abkhaz population demanding the withdrawal of Abkhazia from the Georgian SSR took place in April 1957, in April 1967 and the largest took place in May and September 1978. Only after that did Moscow begin to pursue a more inclusive policy towards the Abkhaz. For instance, various quotas appeared for them and ethnic Abkhaz were moved up the career ladder to administrative posts. The Georgians perceived such policy as interference by Moscow in the internal affairs of the union republic.

Georgian–Abkhaz relations continued to deteriorate in the late 1980s. On 18 March 1989, 30,000 Abkhaz people gathered in the village of Lykhny and declared a proposal to withdraw Abkhazia from Georgia and restore it to the status of a union republic. A few months later in July 1989, bloody clashes broke out between Georgians and Abkhazians in Sukhumi.

A new aggravation of tension in Abkhazia occurred in connection with the announcement by the Georgian authorities of the abolition of the Constitution of the Georgian SSR of 1978 and the restoration of the constitution of the Georgian Democratic Republic of 1918. In that constitution Georgia was proclaimed as a unitary state and territorial autonomies were excluded. In Abkhazia, this was perceived as the beginning of complete assimilation of the small Abkhaz ethnos, which by that time constituted a minority of the population of the Abkhaz SSR.

²⁶ HEWITT 1996: 201.

²⁷ ANCHABADZE–ARGUN 2012: 116.

During the period of the so-called parade of sovereignties, the tension in Georgia continued to escalate. In Tbilisi, protests were held not only with demands to secede from the USSR but also to abolish the national autonomies within Georgia and to consolidate the leading role of the Georgian people in governing the republic. Most of the rallies were held by students, and such actions were held peacefully.

In February 1989, the rallies resumed with renewed vigour. The slogans remained the same – “Georgia for Georgians”. The leaders of the protest demanded the elimination of the autonomy for Abkhazia, South Ossetia and Adjara, as well as the complete transformation of the education system into the Georgian language. The statement of the future President of Georgia Zviad Gamsakhurdia was particularly vivid when he said: “The Abkhazian nation historically never existed.” He also declared that “if those tribes will realise it, we can stand next to them, but only with the condition that they restore historical justice and cede our land to us”.²⁸ In a few days 8,000–10,000 people gathered²⁹ and on the night of 9 April 1989, the Central Soviet Government gave an order to disperse the rally. As a result of that decision, 21 people died and 290 were injured.³⁰

The referendum on the preservation of the USSR is important to mention since the Abkhazians often refer to this referendum to justify their right to secede from Georgia. The referendum was held in March 1991 and the main question was “do you consider necessary the preservation of the Union of Soviet Socialist Republics as a renewed federation of equal sovereign republics in which the rights and freedom of an individual of any ethnicity will be fully guaranteed”. Georgia refused to participate in the referendum because they had already decided to separate from the USSR. In Abkhazia, however, this referendum took place, and 52.3% of voters participated in it; 98.6% of them voted for the preservation of the USSR.³¹ Instead of a referendum on the preservation of the USSR a few weeks later, a different referendum was held in Georgia. The referendum was held to restore the independence of Georgia, which in turn was boycotted by the non-Georgian population. The overwhelming majority of those who participated in the referendum voted for the independence of Georgia, and a few days later on 9 April, the Supreme Council of the Republic of Georgia adopted a declaration of independence. Five days later, Gamsakhurdia was elected President.

After the collapse of the USSR, Abkhazia became a part of independent Georgia according to the principle of *uti possidetis*. It should be mentioned that by the early 1990s, the share of the Abkhaz population in Abkhazia was only 17%. In July 1992, the Supreme Soviet of Abkhazia³² annulled the Constitution of the Abkhaz ASSR of 1978 and restored the Constitution of the SSR of Abkhazia of 1925, which raised the

28 MURINSON 2004: 5–26.

29 Conclusions of the Commission of the USSR Congress of People’s Deputies to Investigate the Events which Occurred in the City of Tbilisi on 9 April 1989.

30 MURINSON 2004.

31 The USSR Central Referendum Commission 1991.

32 The supreme body of legislative power.

status of the Abkhazian republic within Georgia from autonomous to contractual. In July 1992, the State Council of Georgia cancelled this resolution of the Abkhazian authorities on the restoration of the 1925 Constitution. Sukhumi declared that the cancellation document had no legal force.

Against this background, on 10 August 1992 the State Council in Tbilisi decided to send troops to the Abkhaz territory to restore order. The official reason given for using the army was the need to protect the railway, which was the only route for transporting necessary goods from Russia to Armenia. Thus, the war began which lasted from 14 August 1992 to 30 September 1993. According to the Human Rights Watch report, during the fighting on the Abkhaz side about 4,040 people (2,220 military, 1,820 civilians) were killed, as well as 8,000 wounded and 122 were reported missing. On the Georgian side, there were 4,000 dead (including military and civilians), about 10,000 wounded, as well as 1,000 reported missing.³³ The Georgian and Abkhaz sides give other figures on the number of deaths during the conflict. The war led to the almost complete devastation of vast areas and massive population displacement. As a result of the hostilities, hundreds of thousands of civilians, mostly Georgians, became refugees and were forced to flee their homes.

After the end of hostilities, the Collective Peacekeeping Forces of the Commonwealth of Independent States (CIS), fully staffed by Russian troops, were deployed in the conflict zone. Their task was to maintain the regime of non-renewal of fire. At the same time, the UN Observer Mission in Georgia (UNOMIG) was deployed on the territory of Abkhazia. The mission was established by the UN Security Council Resolution to verify compliance with a July 1993 ceasefire agreement between the Republic of Georgia and forces in Abkhazia. UNOMIG was subsequently given an interim mandate to maintain contacts with the parties involved and to monitor and report on the situation. It aimed to work towards achieving a comprehensive political settlement. They were also to verify, through observation and patrolling, that troops from either side did not remain in or re-enter the security zone, and that heavy military equipment did not remain or be re-introduced.³⁴ UNOMIG operated until Russia vetoed an extension of the mission in June 2009.

In December 1996, in accordance with the Security Council Resolution the head of mission of the UNOMIG and Deputy Special Envoy of the Secretary-General for Georgia, opened the human rights office in Sukhumi. The aims of the mission were to protect the human rights of the Abkhazian population, to contribute to a safe and dignified return of refugees and internally displaced persons through improvement of the human rights situation, and to report on human rights developments in conformity with United Nations practices.³⁵ The office was closed in 2009 due to the termination of the UNOMIG.

33 Human Rights Watch 1995.

34 United Nations 2006.

35 United Nations 1996.

Abkhazians often refer to history in order to justify their right to secession. Many books devoted to the history of the Abkhaz people and Abkhaz statehood exist, therefore it would be impossible to mention all the facts in the present article, the purpose of which is not an analysis of the formation of the nation and state. However, even from the limited data presented here, it can be concluded that the Abkhaz people have a very long and arguably ambiguous history. The people historically lived side by side with the Georgians, and in some periods were included in the Georgian state. However, one cannot fail to note the claim of the Abkhaz for their own state, independent of any others. For example, as mentioned above, the Abkhazian population perceived their annexation to Russia in the middle of the 19th century extremely negatively, and it is also worth noting the repeated demands for withdrawal from the autonomous republic of Georgia in the Soviet period. Moreover, there was no referendum on the inclusion of Abkhazia into Georgia as an autonomous republic. Abkhazia and Georgia signed the agreement on the creation of the USSR on equal terms since both were parts of the Transcaucasian Socialist Federal Soviet Republic (TSFSR) at that time.

By the time of the collapse of the Soviet Union, ethnic conflicts in Georgia were already intensifying. It is significant that the Abkhaz supported the preservation of the USSR, as evidenced by their participation in the referendum on the future of the Soviet Union. These people saw that by the beginning of the 1990s, anti-Abkhaz sentiments were strong in the territory of Georgia, and the desire to abolish all autonomous regions on the territory of the country prevailed. Perhaps the small nation feared for its existence and assimilation with the Georgians. The risks increased with the collapse of such a huge state as the USSR, when the international community was immersed in other emerging problems. Nevertheless, this cannot justify military action, since violence can never be encouraged even for the sake of seemingly honourable aims such as protecting their nation as the Abkhaz claimed. Furthermore, the principle of territorial integrity should not be forgotten, as it is a fundamental principle of international law today.

At the moment, it remains unknown which side was to blame for an outbreak of hostilities, since both sides blame each other. According to the UN fact-finding mission to investigate human rights violations in Abkhazia, both Georgian government troops and Abkhaz forces, as well as irregulars and civilians who collaborated with them, were responsible for violations of the outbreak of the armed conflict on 14 August 1992.³⁶

Essential provision of the European Community's Declaration of Guidelines on the Recognition of New States in Eastern Europe and in the Former Soviet Union states that countries will not be recognised if they are the result of aggression.³⁷ Furthermore, the UN International Law Commission limited the principle of non-

36 Report of the Secretary-General's fact-finding mission to investigate human rights violations in Abkhazia, Republic of Georgia, art. 48–51.

37 EC 1991.

recognition of territorial acquisition by illegal force to acquisition 'by another State', but did not consider it a valid principle in case of secession.³⁸ Such an approach to the recognition of new states and the complete denial of aggression is reasonable. Peaceful negotiations must always take place, and the parties involved should try to reach an agreement through diplomatic channels.

Abkhazians have their own history and are able to call themselves a nation. Moreover, it should be noted that this nation (genetically) has more in common with the Abazins, Adygs and Ubykhs than with the Georgians.³⁹ However, it is worth noting here the words of the well-known specialist on nationalism issues Ernest Gellner. He wrote "to put in the simplest possible terms: there is a very large number of potential nations on earth [...] our planet also contains room for a certain number of independent or autonomous political units. On any reasonable calculation, the former number (of potential nations) is probably much, much larger than that of possible viable states"⁴⁰

Abkhazia from 1993 to 2008

After the end of the war, Abkhazia became a de facto independent country, even though it was not recognised internationally by any member state of the UN. It has become a de facto state with state symbols, as well as with its own system of government, including legislative, executive and judicial branches. How did this state function before it was recognised by at least several other countries?

After the end of hostilities in September 1993, numerous negotiations began involving both representatives of the conflicting parties and third parties. The attention to Georgian–Abkhaz relations was connected primarily with the fear of a resumption of hostilities, since the peace treaties concluded between Georgia and Abkhazia had already been violated before.

In December 1993, peace talks were held in Geneva under the auspices of the UN, mediated by the Conference on Security and Co-operation in Europe (CSCE) and Russia. As a result, a memorandum of understanding was signed, and the parties pledged not to use force during the negotiations and most importantly to create the conditions for the return of refugees and to exchange prisoners of war. The negotiations came to a standstill in December 1993, when it finally became impossible to deal with the contradictory positions. The Abkhaz side proposed to resolve these contradictions through a referendum and to present three options: the autonomy of Abkhazia within Georgia; a confederation of Abkhazia and Georgia or complete independence of Abkhazia from Georgia. The Georgian side refused to hold such a referendum for its own internal reasons. The Georgian–Abkhaz negotiations continued from January to February 1994 in Geneva, where the question of Russia's

38 CRAWFORD 2007: 267.

39 ANCHABADZE–ARGUN 2012: 112.

40 GELLNER 1983: 2.

possible implementation of a peacekeeping operation under a UN mandate was discussed. However, Russia did not receive such a mandate.

A significant breakthrough in Georgian–Abkhaz relations was the Statement on Measures for a Political Settlement of the Georgian–Abkhaz Conflict, signed by the parties in Moscow in April 1994.⁴¹ This involved UN mediation and the presence of the Secretary-General of the UN, as well as representatives from the CSCE and Russia. The Statement noted that Abkhazia has its own legislation, constitution and parliament, as well as other state symbols. Moreover, the parties agreed on the powers of joint activities in foreign policy, in particular related to customs and border management. It is important to note that an agreement was reached on the voluntary return of displaced persons to the territory of Abkhazia. However, the agreement was not fully implemented. In 1994, only 311 families out of approximately 240,000 affected people received permission to return.⁴² This was mainly due to the provision contained in the agreement that the Abkhaz side had the right to check the returnees on the grounds of security.

According to Stanislav Lakoba, the aforementioned statement called for the restoration of direct channels for negotiation, outlined the contours of the future union state and was regarded by Sukhumi as a confederation.⁴³ Abkhazian representative Anri Dzhergenia stressed in his speech that “Georgia has recognized the sovereignty of Abkhazia”.⁴⁴ However, the Georgian side did not consider the statement in the same way as the Abkhaz did.

According to researcher Viacheslav Chirikba, Georgia “tried to solve the problem of Abkhazia through separate military agreements with Russia and increased political pressure on Abkhazia”.⁴⁵ Indeed, a thaw in relations between Russia and Georgia can be noted. That was demonstrated by Georgia’s accession to the CIS, and Russia’s solidarity with Georgia concerning Abkhazia. The escalation of Russian–Abkhaz relations peaked in August 1994, when Russian forces disarmed the police and temporarily took control of the city of Gadauta. According to Stanislav Lakoba, the country’s leadership and parliament perceived such actions as “open betrayal and a stab in the back”.⁴⁶

The Russian authorities hoped that if they supported Georgia in solving the Abkhaz problem, then in its turn Georgia would support Russia with its operations in Chechnya. In November 1994, while fierce fighting was going on in the centre of Grozny and Russia was busy solving its territorial problems, a new constitution was adopted in Abkhazia which proclaimed Abkhazia as a sovereign democratic state. Moscow perceived such actions of Sukhumi negatively, as expressed by the

41 LAKOBA 2001: 88.

42 MACFARLANE 1999: 36–41.

43 LAKOBA 2001: 90.

44 LAKOBA 2001: 90.

45 CHIRIKBA 2008.

46 LAKOBA 2001: 92.

personal representative of the President of the Russian Federation for the settlement of the Georgian–Abkhaz conflict, Pastukhov.⁴⁷ At the same time, Georgian President Shevardnadze, in an attempt to put pressure on Russia, declared that “Georgia will grant Abkhazia the same status as Russia grants to Chechnya.”⁴⁸

Russia continued its course towards rapprochement with Georgia by supporting it by supporting its claims in relation to Abkhazia. In December 1994, Russia closed the border with the Republic of Abkhazia along the Psou River, and later Russia stopped recognising Abkhaz passports and cut off all telephone lines connecting Abkhazia with the rest of the world. In January 1996 at the Council of the Heads of State of the CIS a decision was made on the political isolation of Abkhazia. The resolution “on the political settlement of the conflict in Abkhazia, Georgia” was supported by all CIS countries with the exception of Belarus and Turkmenistan. In addition to the economic and transport blockade, the countries pledged not to enter into official contacts with representatives or officials of structures existing on the territory of Abkhazia. Moreover, the member states of the CIS appealed to the UN Security Council with a suggestion to recommend for all member states of the organisation to join the measures listed in the document.

The strict blockade of Abkhazia by Moscow lasted from 1995 to 1997. Abkhazia found itself in a difficult situation, and humanitarian aid was frequently provided by international non-governmental organisations (NGOs). This can be explained by the fact that NGOs were more trusted by Abkhazians since they were not strongly connected with politics. For example, the International Committee of the Red Cross (ICRC) and Médecins Sans Frontières were of particular importance. In the ICRC, the following programs supported the population of Abkhazia during its isolation:

- Canteen Assistance Programme. This project was delegated to the Finnish Red Cross after 1996, providing 6,800 mostly elderly and isolated people with two hot meals, bread and milk daily from 27 community canteens and 7 mobile canteens. One canteen in Sukhumi also served daily meals to children under 15 years of age, either orphaned or belonging to large destitute families.
- Destitute Assistance Programme. According to this program, poor people in rural areas living too far from any of the 27 community kitchens were entitled to receive monthly dry food rations (oil, wheat flour, sugar, canned meat, etc.).⁴⁹

According to some scholars, in addition to the help of NGOs, informal trade and economic relations with Turkey helped Abkhazia to withstand almost total isolation.⁵⁰

Gradually, the interests of Russia and Georgia on the Abkhazian issue began to diverge. According to Coppiters, Moscow was satisfied with the status quo in the

47 CHIRIKBA 2008.

48 COPPIETERS et al. 1998: 155.

49 ICRC Special Report 2001: 11–12.

50 BURCU et al. 2016.

Georgian–Abkhaz conflict, in which both sides depended on Russia.⁵¹ Therefore, Russia began to build a more thought-out policy towards Abkhazia. Georgia in turn became disillusioned with Russia and increasingly looked towards the Western countries and NATO. That can be illustrated by the fact that in 1996, under Eduard Shevardnadze’s presidency, Georgia submitted their first Individual Partnership Plan and in 1997 ratified the Status of Forces Agreement. Georgia opened official relations with NATO in 1998 by establishing a diplomatic mission and presenting an ambassador.

In the fall of 1999, Russia toughened its position concerning Georgia, while relations with Abkhazia thawed. Such a turn may be associated with the arrival of Vladimir Putin in government. Russia lifted the blockade of Abkhazia and also supported the presidential elections in Abkhazia. Moreover, Russia recognised the Act of State Independence adopted by Abkhazia in October 1999. In November of the same year, Putin raised the issue of implementing a visa regime between Russia and Georgia.⁵²

During this period, the role of Russia as a mediator in the Georgian–Abkhaz conflict was weakening, but at the same time the UN attempts to maintain peace and return refugees to the territories they had left were of great importance. UNOMIG continued to operate, although it was modified. Every six months, the UN Security Council considered the most recent report of the Secretary-General on the situation in Abkhazia and extended the mandate of UNOMIG for the next six months. It should be noted that both the Georgian and Abkhaz sides created difficulties for the work of the UN missions. For example, in July 1998, a UN employee who had previously worked in Sukhumi was killed in Tbilisi. In the fall, UNOMIG headquarters in Sukhumi was repeatedly bombarded with grenades and three contingent personnel were injured in an attack on a UNOMIG car.⁵³

A group of countries called Friends of Georgia also played an important role in the negotiation process. It was an initiative that consisted of France, Great Britain, the United States, Germany and Russia, and was founded to assist the UN Secretary-General in the peacekeeping process. However, according to the Abkhaz leadership, the Western members of the Group of Friends of Georgia were critical of Abkhazia and were guided by economic and geostrategic interests, so the group could not be viewed as impartial.⁵⁴ In 1997, the Group of Friends of Georgia adopted a more neutral name, the Group of Friends of Secretary-General on Georgia, as an informal group of states formed to support the peacemaking of the United Nations.⁵⁵

The Abkhaz side has often shown its distrust of the UN. The fact is that in the opinion of Abkhazia, the UN uncritically condoned the use of force by Georgia

51 COPPIETERS 2000: 51.

52 FILIPPOV 2009: 1832.

53 MACFARLANE 1999: 36–41.

54 COHEN 1999: 93.

55 DEUTCH 2020.

in Abkhazia in August 1992. The reason was that according to Western interpretations this interference did not violate international law, since Georgia as a sovereign state had the right to establish order on its territory and protect its territorial integrity. The Abkhaz side could not agree with this position.⁵⁶

During the period of isolation, Abkhazia took part in international life through participation in the Community for Democracy and Rights of Nations. This Organisation was founded in 1992, however, only established a permanent coordinating body in November 2000, which was called the Conference of Foreign Ministers. Currently, the organisation includes Abkhazia, South Ossetia, the Nagorno-Karabakh Republic and the Pridnestrovian Moldavian Republic. In the 2000s, this organisation was of great importance for Abkhazia, since the organisation gave an opportunity for the unrecognised countries to communicate on equal terms and participate in international relations, even though this cooperation concerned only these *de facto* states. In addition, they were able to discuss the problems of non-recognition, which affected all members of the organisation almost equally.

In summary, it should be noted that during the years following the end of the war, no international actors supported Abkhazia and it found itself internationally isolated. Nevertheless, the negotiation process did not stop and that is to the credit of international organisations, in particular the UN. Until the 2000s, the Abkhaz were suspicious of both Russia and the UN. Trade restrictions created great difficulties in Abkhazia, however, they could not force the Abkhaz to make concessions and only gave rise to a siege mentality which forced the people to rally. It is important to note that with the beginning of the Putin era, Russian–Abkhaz relations warmed and the gradual passportisation of the Abkhaz population began.

The events of 2008 and Abkhazian recognition

In 2002, the law on ‘Citizenship of the Russian Federation’ was adopted in Russia, according to which former Soviet citizens could obtain Russian citizenship through a simplified procedure. Residents of Abkhazia took this opportunity with enthusiasm, since with a Russian passport it became possible to travel to other countries as well as to receive education in Russia. Soon after the law came into force, a mass collection of Russian passport applications was organised on the territory of Abkhazia, and a special office was opened in the largest Russian city close to Abkhazia, Sochi. It is difficult to say what really motivated Russia at that time to pursue such a policy. Was it really a gesture of goodwill and a desire to help the Abkhaz population, who have been living practically under blockade for many years, or was it a political move thought out for years to come? Some researchers boldly state that passportisation in a breakaway region by a third country dramatically violates the traditional state’s territorial sovereignty and Georgia is a case in point.⁵⁷

⁵⁶ MACFARLANE 1999: 39.

⁵⁷ GERRITS–BADER 2015: 297–313.

Indeed, the large number of Russian citizens in the Georgian breakaway regions gave Russia a pretext for violating the principle of non-interference in the affairs of sovereign states in 2008. The author of the article “Russia Resurgent? Moscow’s Campaign to ‘Coerce Georgia to Peace’” argues that Moscow’s use of the passportisation instrument was entirely successful in allowing them to justify applying the Responsibility to Protect mechanism to intervene in Georgia.⁵⁸

The conflict in Georgia in 2008, also known as the Five-Day War or the Russo–Georgian War, was a dramatic escalation of tensions that had been growing in the previous years. Relations between Russia and Georgia had started to deteriorate rapidly in the 2000s after Putin came to power and deteriorated further after Saakashvili became President of Georgia. Nevertheless, from the very beginning of Saakashvili’s presidency the relationship between Russia and Georgia did not suggest such a sharp deterioration. Saakashvili came to power as a result of the Rose Revolution in November 2003, with Russia reacting calmly to Shevardnadze’s departure. This may be evidenced by the fact that the negotiations between Shevardnadze and Saakashvili’s coalition took place with Russian mediation. The Russian Foreign Minister Igor Ivanov was instrumental in breaking the impasse. The negotiations ended with Shevardnadze’s announcement of his resignation. However, it soon became clear that Saakashvili did not live up to Moscow’s expectations, and Russia’s relations with the unrecognised republic of Abkhazia continued to warm.

Further events developed rapidly. Saakashvili announced that Georgia would like to join NATO. In 2007, Saakashvili demanded the withdrawal of Russian troops from Georgia in spite of the previous agreements that Russian military bases would continue to operate until the end of 2008. The troops were withdrawn ahead of schedule with the exception of the Russian peacekeeping units which operated under a CIS mandate in Abkhazia and South Ossetia. In January 2008, 77% of Georgian voters were in favour of joining NATO according to the referendum. In response, Russia announced the lifting of economic sanctions against Abkhazia. By lifting sanctions, Russia was sending a warning to Georgia and its western allies that Moscow would not tolerate the presence of NATO on its southern borders.

During that period, Kosovo declared its independence and was recognised by most of the EU countries and the United States. Russia, on the one hand, perceived the declaration of Kosovo’s independence negatively. It stated that a legal precedent had been created which could be applied in other similar situations with self-proclaimed states.

On 10 August 2008, Georgia brought its troops into the conflict zone of South Ossetia, in response to which Russia also deployed its military units. Ten days after the conflict started, the parliament of Abkhazia appealed to Russia with a request to recognise the independence of the republic. On 26 August, Russia officially recognised the independence of Abkhazia and South Ossetia, after which Georgia cut all

58 ALLISON 2008: 1145–1171.

diplomatic ties with Russia. The act of recognising the independence of Abkhazia and South Ossetia by Russia was viewed as unacceptable by a majority of leading states. Leaders of international organisations expressed concern over Russia's decision and supported Georgia's territorial integrity.⁵⁹

In legal terms, Russia violated several obligations arising from international law through its recognition of Abkhazia. In the opinion of Farhad Mirzayev, by signing without any reservation the UN Charter, the CIS Foundation Agreement, the Almaty Declaration, the CIS Charter, and a number of other relevant legal instruments, Russia had recognised the territorial integrity and inviolability of the boundaries of the Republic of Georgia. This certainly implied that Abkhazia was a part of Georgia's territory.⁶⁰ Moreover, in 1994 the CIS members signed the new Declaration on Respect of Sovereignty, Territorial Integrity and Inviolability of Boundaries of Member States, which reinforced the application of the principle of *uti possidetis* to the territory and boundaries of the former USSR republics. That document remains in force until the present time.⁶¹ In January 2021, the ECHR finally made a decision on the case of *Georgia v. Russia* after the events of 2008. The verdict confirmed the occupation of the sovereign territories of Georgia, as well as the responsibility of the Russian Federation for significant violations, since Russia exercises *de facto* control over the Tskhinvali region and Abkhazia.⁶²

However, during the recognition of Abkhazia's independence, Russia also presented its legal arguments. In his Presidential Decree, former Russian President Medvedev cited various international legal sources including the UN Charter, the 1970 Declaration on the Principles of International Law Concerning Friendly Relations among States and the 1975 OSCE Helsinki Final Act.⁶³ According to Chirikba, the recognition of Abkhazia and South Ossetia by Russia only formalised the factual disintegration of the former Georgian SSR.⁶⁴ The Russian side also argued its position on the grounds that Abkhazia had already been a self-governed independent polity outside of any Georgian jurisdiction and control for a period of 15 years. Nonetheless, the statement of senior Russian officials should be emphasised when they stated that "Abkhazia and South Ossetia are unique cases and should not be a precedent for other territories".⁶⁵

Soon after the recognition by Russia, several other UN member states recognised the independence of Abkhazia. The first was Nicaragua, then Venezuela, Nauru and finally Syria. In some of these countries, Abkhazia has its own representation, and their diplomats are represented in Sukhumi. Some ambassadors combine the status of ambassador to Russia and Abkhazia, for instance the Venezuelan ambassador

59 BBC News 2008.

60 MIRZAYEV 2014: 202.

61 CIS 1994.

62 European Court of Human Rights 2021.

63 NIKOLSKY 2012.

64 CHIRIKBA 2008: 12.

65 CHIRIKBA 2008: 12.

to Moscow. It is difficult to say exactly what reasons motivated these countries to recognise the independence of Abkhazia, however, there is a widespread opinion that by doing this, the above-mentioned countries were seeking to improve relations with Russia and subsequently Russia wrote off state debts from them.⁶⁶ Nevertheless, the analysis of economic interests is beyond of the scope of this article.

Many countries negatively assessed the recognition of Abkhazia by Russia. This was especially true of the member states of the European Union. For example, the British Foreign Secretary David Miliband commented on the Russian decision as follows: “Russian recognition of Georgia’s breakaway regions was unjustifiable and unacceptable.”⁶⁷ The Hungarian Foreign Ministry expressed regret over the decision of the Russian President stating that “these decisions will not contribute to stabilization in the Caucasus region and negotiations on resolving a serious conflict [...] the Republic of Hungary, being a member of the European Union and NATO, strictly adheres to the position that this conflict must be resolved through dialogue and peaceful means, respecting the territorial integrity of Georgia and its internationally recognized borders.”⁶⁸

Russia recognised a state that emerged through violence, which contradicts some fundamental documents of international law. A rhetorical question arises as to whether this action might create a precedent for other peoples to secede from their state with the help of force and to establish a new state. Also, the fact that Abkhazia has been recognised by few countries globally may indicate that the practice of self-determination through secession appears in international law and Remedial Secession is not only theoretical. Usually, remedial secession is seen as a measure of last resort, where the very existence of the people or their characteristic features are in danger. A wave of interest in these issues was caused by the consequences of the declaration of independence by Kosovo and the adoption of an Advisory Opinion. It is worth noting the position of Russia on the declaration of independence of Kosovo. In a written statement by the Russian Federation on the Kosovo Advisory Opinion analysing remedial secession, Russia acknowledged the possibility of unilateral secession, but emphasised that this was not the case with Kosovo.⁶⁹ This opinion was given after the recognition of the independence of Abkhazia and South Ossetia.

Thomas de Waal, a scholar who specialised in the Caucasus region, made the following prediction regarding the future of the unrecognised states in the South Caucasus. “These separatist statelets have defied predictions that they would disappear and show every sign of persisting into the foreseeable future.”⁷⁰

66 KUKOLEVSKIY 2010.

67 TRAN 2008.

68 Napi Online 2008.

69 International Court of Justice 2009.

70 DE WAAL 2017.

Abkhazia today

As for today, one of the main hopes of Abkhazians is the recognition of their country by the rest of the world. The Abkhaz nation had lived for almost 15 years in isolation hoping that one day they would be recognised. However, the most important question remains whether Abkhazia has a chance to be recognised by other countries as well. Despite the great expectations of this nation to be a fully-fledged state with international recognition, one should not forget about Realpolitik. Practice shows that while human rights are of great value especially for some international organisations and for Western democracies, some countries nevertheless are driven primarily by their geopolitical interests.

As Souleimanov, Abrahamyan and Aliyev state in their article, “although the existing literature on unrecognized states expands well beyond the argument that these political entities are mere ‘puppets’ in the hands of their stronger neighbours or their base states, it is a fact that unrecognized states have masterfully been utilized by the regional actors that are their benefactors in their quests for regional dominance”.⁷¹ Is it possible to say that Kosovo also was ‘puppet’ in the hands of their stronger neighbours? Perhaps in the early 2000s there were some grounds to reason about it, but as for today most of the world has recognised the independence of Kosovo and therefore this is not the case.

The recognition of states is a unilateral expression of the will of one state in relation to a territory that wants to secede, and no international organisation can impose their opinion on a particular state. The case of Abkhazia did not become as resonant as the case of Kosovo. One can argue at length whether the Abkhaz had the right to self-determination by means of secession after the collapse of the USSR or whether there was genocide of the Abkhaz on the territory of Georgia before their secession. There was also discussion about whether there really was a threat of the complete disappearance of the nation. However, what is certain is that the modern world does not accept violence and war, moreover the principle of territorial integrity also should be kept in mind. Russia is still accused of recognising Abkhazia. For example, in August 2021, seven Western countries called on Russia to withdraw recognition of the independence of South Ossetia and Abkhazia.⁷²

It is worth noting that despite the non-recognition of the independence of Abkhazia and the condemnation of Russia by some EU member states, the European Union still interacts with Abkhazia. In December 2009, the EU approved a non-recognition and engagement policy (NREP) for Abkhazia and South Ossetia. This policy provides communication with both territories, however, the recognition of their independence is unequivocally ruled out. The interaction of the EU with Abkhazia is illustrated by the fact that from 2008 to 2017 the EU allocated almost 40 million euros in the framework of the NREP to finance projects in Abkhazia or with the participation

71 SOULEIMANOV et al. 2018: 73–74.

72 JAM News 2021.

of Abkhaz partners.⁷³ The financial aid went to support local NGOs, health and education, repairing water supplies and rebuilding houses that were destroyed by the hostilities. According to Thomas de Waal, “despite this large sum, the EU’s visibility has remained low in Abkhazia.”⁷⁴

The current place of Abkhazia in the international arena is quite interesting. For example, despite the non-recognition of Abkhazia by most of the world, an NGO such as Freedom House considers Abkhazia as a separate country in its reports. Moreover, in the rating for 2020 Abkhazia was estimated as ‘partly free’ and received 40 points whereas Russia, which is the patron of Abkhazia, received half of these points, as well as the status of ‘not free’. The report noted that the tumultuous political environment features significant opposition and civil society activity. Ongoing problems include a flawed criminal justice system, discrimination against ethnic Georgians, and a lack of economic opportunities.⁷⁵

Another important international rating but from an international organisation is the Universal Periodic Review (UPR) by the UN. Since the Human Rights Council only considers the UN member states in this review, the Abkhaz issues are addressed in the review of Georgia. The last such review was in 2021. The Report of the Working Group for the UPR noted that the delegation was concerned that international human rights organisations were constantly denied access to Abkhazia. After analysing the comments of representatives of different countries, it becomes clear that representatives of the EU countries mainly express concern about the situation in the field of human rights in Abkhazia. Even though the report is supposed to be devoted to human rights, it also might have a political feature. The Russian Federation stated that references to the occupied status of Abkhazia and South Ossetia in the national report were unacceptable. Furthermore, Russia recommends conducting a thorough investigation into all the facts of crimes and human rights violations committed by the Georgian authorities before and during the 2008 conflict in the territories of Abkhazia and South Ossetia.

In regard to politics, which in any case is associated with the recognition or non-recognition of *de facto* states, one should not forget about human rights. It is paradoxical that in the literature related to the right to self-determination of Abkhazians, a lot has been written about geopolitics and about the interests of Russia or Western countries and yet so little attention is paid to human rights. During the proceedings and the disputes about which side provoked the war in Abkhazia, the world community forgets about the huge number of internally displaced persons. It was only international organisations which did not stop the dialogue during Abkhazia’s period of isolation trying to facilitate the return of thousands of people to their homes.

73 DE WAAL 2017.

74 DE WAAL 2017.

75 Freedom House 2020.

Currently, human rights in Abkhazia are provided under Chapter II of the Constitution of the Republic of Abkhazia, which refers to Abkhazia's join to the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights.⁷⁶ Since Abkhazia is not a member state of the UN, officially it cannot be considered a state which signed these covenants. In 2016, the position of the Commissioner for Human Rights was established in Abkhazia, and in 2019 the first Annual Report on the Activities of the Commissioner for Human Rights was issued. In the report, the main problems in the field of human rights were considered, and some recommendations were also given.⁷⁷

Today Abkhazia is a partially recognised state whose residents continue to experience enormous inconveniences. What are the legal, political and real-life consequences of partial recognition? The non-recognition of an Abkhaz passport is a salient issue and it is problematic for Abkhazians to travel abroad. Even taking into account the Russian citizenship, obtaining a Russian foreign passport is difficult as only citizens who have residency in the territory of Russia can apply for such a passport. There are not many Russian citizens living in Abkhazia who have this residency. Another example, which might even be seen as paradoxical, concerns education abroad. According to the EU policy of interaction with unrecognised states, some European universities provide scholarships for Abkhaz students.⁷⁸ However, for Abkhaz students, an internationally recognised foreign passport is necessary to study abroad. That means that a European government needs to grant a visa to the Abkhaz holder of a Russian passport and according to Waal, this is “something that not every government is prepared to do”.⁷⁹ Additionally, popular international chain shops and fast food restaurants are not available in Abkhazia and movie theatres also cannot be found. The country does not have a wide variety of foreign-made goods, moreover, the banking system cannot function properly. However, it is interesting to note that in Abkhazia a Duty Free shop is open on the border with Russia. Finally, the airport on the territory of Abkhazia does not operate international passenger flights because the International Civil Aviation Organization (ICAO) recognised the territorial integrity of Georgia and therefore the Sukhumi airport cannot be recognised as an international airport. According to ICAO, the airspace above Abkhazia cannot be opened without the permission of the Georgian authorities otherwise it might violate international regulations.⁸⁰ Member airlines of the International Air Transport Association (IATA) do not operate flights to Abkhazia in order to avoid sanctions and Russian airlines also do not fly to Sukhumi for this reason. Thus, in order to fly to any Russian city,

76 Constitution of the Republic of Abkhazia 2014.

77 *Annual report on the activities of the Commissioner for Human Rights in the Republic of Abkhazia for 2018–2019*.

78 For example, two Chevening scholarships are available, allowing Abkhaz students to study at British universities.

79 DE WAAL 2017.

80 Ministry of Foreign Affairs of Georgia 2019.

Abkhazians should firstly reach the border with another state and only from there they are able to board a flight to another destination. As a rule, it is the 'Psou' border with Russia and this significantly complicates the life of ordinary citizens.

It is also worth noting the position of the Georgians on a possible opening of branch offices of foreign companies in Abkhazia. This primarily applies to transnational corporations, which through the opening of their branches on the territory of a partially recognised state indirectly recognise its independence. The case with McDonald's in 2014 can be illustrated. McDonald's published on its website some information suggesting that a franchise of its restaurant could operate in Abkhazia. Soon after McDonald's denied this information. Nevertheless, some newspaper articles declared that "Georgia claims it has averted an accidental encroachment on its sovereignty by one of the world's most powerful forces. No, not by Russia. By McDonald's."⁸¹ Moreover, the idea was mooted in Georgia of boycotting the company's four Georgia-based restaurants.⁸²

Eventually, Abkhazian people are deprived of some services and their life is greatly complicated just because the status of the territory where they live is contested. These people work, study and would like to travel abroad, just like residents of recognised states. Moreover, they chose institutions and leaders for themselves that function in the same way as institutions of recognised states. Should these people join the state with which they had a war within living memory, and do they have the moral right to do so?

The way out of this situation would be the creation of some international commissions or committees that would purposefully deal with the problems of people who live in unrecognised states. Moreover, it would be extremely useful to introduce some neutral passports, the holders of which could travel to other countries without any particular difficulties.

Conclusions

The desire of the Abkhazians for self-determination through secession and the conviction of the Georgians in the territorial integrity of their country illustrate the contradiction between the right to self-determination and the territorial integrity of the state. In the theory of remedial secession, there are several justifications for the claims of independence; therefore, it is worth considering how the Abkhaz themselves legally explain their right to self-determination, expressed through secession. The three most common arguments should be highlighted: oppression by the majority, the illegitimate authority of the Georgian leadership in 1992 and dissolution of the USSR. One of the main arguments is the existence of the Abkhaz state before joining the Georgian SSR. According to the former Minister of Foreign Affairs of Abkhazia Viacheslav A. Chirikba "in the 20th century, within the Soviet framework,

81 LOMSADZE 2014.

82 Democracy & Freedom Watch 2014.

the statehood of Abkhazia is declared in all Abkhaz and in Georgian constitutions”⁸³ He clarifies his opinion by stating an example. On 31 March 1921 Abkhazia was proclaimed a Soviet Republic, and the Georgian Revolutionary Committee (Revkom) recognised the independence of the Soviet Socialist Republic of Abkhazia.

Also, in explaining its independence, the Abkhaz side refers to the aforementioned referendum on the preservation of the USSR. The fact is that on 3 April 1990 the Soviet law on secession was adopted. According to this law, the autonomous republics and autonomous regions could decide independently whether or not to join the secession of the Union republic in which they were situated. Therefore, Abkhazia as an autonomous republic could decide by itself whether to withdraw from the Soviet Union as a part of Georgia, which was separating. The results of the referendum showed that Abkhazia had no desire to leave the USSR as a part of an independent Georgia. If the USSR had not collapsed, it is likely that Abkhazia would have remained a part of the Union and there would be no legal dispute about the status of Abkhazia within Georgia. This issue only arose as a result of the rapid dissolution of the USSR.

There is also a compelling case for the violation of the principle of ‘non-use of force’, given by the UN against recognition of Abkhazia. The precedent of East Pakistan can be cited. Violent secession took place in March 1971 after the unilateral declaration of independence by Bangladesh, which was soon recognised by many states. Clearly, there are many differences between Bangladesh and Abkhazia but the fact that the state was recognised by the outside world, even though force was used during the secession, still raises important questions.

However, the right of people to self-determination is very controversial and just a few researchers agree that it can be exercised through secession. The territorial integrity of states is still of great importance in international law. Imagine if each nation would like to separate from its ‘mother’ state, then fragmentation will be endless. Moreover, state practice remains opposite to secession. The fact that the secession of Abkhazia from Georgia may not comply with international law is illustrated by the fact that only five UN member states recognised the independence of Abkhazia. According to Cassese, “since the emergence of the political principle of self-determination, states have been adamant rejecting even the possibility that nations, groups and minorities be granted a right to secede from the territory in which they live”⁸⁴

Returning to the fundamental question of whether the de facto state can survive without external help, the analysis of Abkhazia showed that it is possible. In the history of this self-proclaimed state, there was a period when Abkhazia was not recognised by any state in the world, moreover, the neighbouring territories actively increased the isolation of Abkhazia. Nevertheless, the country survived during those difficult years. Furthermore, the example of another territory which is not recognised by any recognised state has to be mentioned. Transnistria exists as a de facto state

83 CHIRIKBA 2009.

84 CASSESE 1999: 122.

around 30 years despite the fact that it is not recognised internationally. However, a significant difference in the history of Transnistria and Abkhazia is that Russia has never turned away from Transnistria and indirectly has always supported this self-proclaimed state, while Abkhazia had been isolated for several years.

References

- ALLISON, Roy (2008): Russia Resurgent? Moscow's Campaign to 'Coerce Georgia to Peace'. *International Affairs*, 84(6), 1145–1171. Online: <https://doi.org/10.1111/j.1468-2346.2008.00762.x>
- ANCHABADZE, Yuri – ARGUN, Yuri eds. (2012): *Abkhazy*. Moscow: Nauka.
- ANCHABADZE, Zurab (1959): *From the History of Medieval Abkhazia (6th–17th Centuries)*. Sukhumi: Abgosizdat.
- Annual report on the activities of the Commissioner for Human Rights in the Republic of Abkhazia for 2018–2019*. Online: <https://ombudsmanra.org/upload/iblock/158/1588f1a7fe9ccbb552c204a002daccb2.pdf>
- BBC News (2008): Reaction to Russia's Recognition of Rebels. *BBC News*, 26 August 2008. Online: <http://news.bbc.co.uk/2/hi/europe/7582367.stm>
- BUCHANAN, Allen – LEVINSON, Elizabeth (2021): Secession. In ZALTA, Edward N. (ed.): *The Stanford Encyclopedia of Philosophy*. Online: <https://plato.stanford.edu/archives/win2021/entries/secession>
- BURCU, G. Punsmann – ANJAPARIDZE, Zaal – AVETISYAN, Sos – CHANIA, Izida – ROMASHOV, Vadim – SHIRINOV, Rashad (2016): Review of Isolation Policies Within and Around the South Caucasus. *Caucasus Edition: Journal of Conflict Transformation*, 18 July 2016.
- CASSESE, Antonio (1999): *Self-Determination of Peoples. A Legal Reappraisal*. Hersch Lauterpacht Memorial Lectures, Series Number 12. Cambridge: Cambridge University Press.
- CASTELLINO, Joshua (2008): Territorial Integrity and the "Right" to Self-determination: An Examination of the Conceptual Tools. *Brooklyn Journal of International Law*, 33(2), 503–568.
- CHIRIKBA, Viacheslav (2008): The Georgian–Abkhazian Conflict: In Search of Ways Out. *Abkhaz World*, 15 October 2008. Online: <https://abkhazworld.com/aw/conflict/731-the-georgian-abkhazian-conflict-chirikba>
- CHIRIKBA, Viacheslav (2009): *The International Legal Status of the Republic of Abkhazia in the Light of International Law*. Istanbul: Bilgi University.
- CIS (1994): Декларация о соблюдении суверенитета, территориальной целостности и неприкосновенности границ государств-участников Содружества Независимых Государств [Declaration on Respect for Sovereignty, Territorial Integrity and Inviolability of Borders of the Member States of the Commonwealth of Independent States]. 15 April 1994. Online: <https://docs.cntd.ru/document/1901148>
- COHEN, Jonathan ed. (1999): *The Georgia–Abkhazia Peace Process*. Accord Series Number 7. London: Conciliation Resources.
- Constitution of the Republic of Abkhazia. April 2014. Online: http://presidentofabkhazia.org/upload/iblock/9b1/Конституция_Республики_Абхазия_2015_03_31_13_14_23_110.pdf
- COPPIETERS, Bruno – NODIA, Ghia – ANCHABADZE, Yuri (1998): *Georgians and Abkhazians. The Search for a Peace Settlement*. Köln: Bundesinstitut für ostwissenschaftliche und internationale Studien.

- COPPIETERS, Bruno (2000): *Western Security Policies and the Georgian–Abkhaz Conflict*. Brussels: VUB Press.
- CRAWFORD, James R. (2007): *The Creation of States in International Law*. Oxford: Oxford University Press. Online: <https://doi.org/10.1093/law/9780199228423.001.0001>
- DE WAAL, Thomas (2017): Enhancing the EU’s Engagement with Separatist Territories. *Carnegie Europe*, 12 April 2017. Online: <https://carnegie.ru/2017/04/12/ru-pub-68650>
- Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations, 1971. Online: <https://digitallibrary.un.org/record/202170?ln=en>
- Democracy & Freedom Watch (2014): McDonald’s to open restaurant in Abkhazia? *Democracy & Freedom Watch*, 14 January 2014. Online: <https://dfwatch.net/mcdonalds-to-open-restaurant-in-abkhazia-78881-25589>
- DEUTCH, David J. (2020): What Are Friends For?: ‘Groups of Friends’ and the UN System. *Universal Rights Group*, 31 March 2020. Online: www.universal-rights.org/blog/what-are-friends-for-groups-of-friends-and-the-un-system/
- EC (1991): Declaration on the “Guidelines on the Recognition of New States in Eastern Europe and in the Soviet Union” and “Declaration on Yugoslavia”. Extraordinary European Political Committee Ministerial meeting, Press Release No. 128/91 and 129/91, Brussels, 16 December 1991.
- European Court of Human Rights (2021): Case of Georgia v. Russia (II), Application no. 38263/08, January 2021.
- FILIPPOV, Mikhail (2009): Diversionary Role of the Georgia–Russia Conflict: International Constraints and Domestic Appeal. *Europe–Asia Studies*, 61(10), 1825–1847. Online: <https://doi.org/10.1080/09668130903278975>
- Freedom House (2020): *Report on Abkhazia 2020*. Online: <https://freedomhouse.org/country/abkhazia/freedom-world/2021>
- GELLNER, Ernest (1983): *Nations and Nationalism*. Oxford: Blackwell Publishers.
- GERRITS, Andre W. M. – BADER, Max (2016): Russian Patronage over Abkhazia and South Ossetia: Implications for Conflict Resolution. *East European Politics*, 32(3), 297–313. Online: <https://doi.org/10.1080/21599165.2016.1166104>
- GRIFFIOEN, Christine (2010): *Self-determination as a Human Right*. Amsterdam: Amsterdam University Press.
- HANNUM, Hurst (1990): *Autonomy, Sovereignty, and Self-Determination. The Accommodation of Conflicting Rights*. Philadelphia: University of Pennsylvania Press.
- HEWITT, Brian George (1996): Abkhazia: A Problem of Identity and Ownership. In WRIGHT, John F. R. – GOLDENBERG, Suzanne – SCHOFIELD, Richard N. (eds.): *Transcaucasian Boundaries*. London: UCL Press. 190–226. Online: https://doi.org/10.4324/9780203214473_chapter_NINE
- HILPOLD, Peter (2009): The Kosovo Case and International Law: Looking for Applicable Theories. *Chinese Journal of International Law*, 8(1), 47–61. Online: <https://doi.org/10.1093/chinesejil/jmn042>
- Human Rights Watch (1995): *Georgia/Abkhazia: Violations of the Laws of War and Russia’s Role in the Conflict*. 1 March 1995. Online: www.refworld.org/docid/3ae6a8274.html
- ICRC Special Report (2001): *Georgia: Paradise Lost*. May 2001. Online: www.icrc.org/en/doc/assets/files/other/georgia_special_report%5b1%5d.pdf
- International Court of Justice (2009): *Written Statement by the Russian Federation*. Kosovo, Advisory Opinion, April 2009.

- International Court of Justice (2010): *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*. Advisory Opinion of 22 July 2010.
- JAM News (2021): Several Countries Urged Russia to Withdraw Recognition of Abkhazia and South Ossetia. *JAM News*, 06 August 2021. Online: <https://jam-news.net/seven-states-urge-russia-to-withdraw-recognition-of-abkhazia-and-south-ossetia/>
- KNOP, Karen (2002): *Diversity and Self-determination in International Law*. Cambridge Studies in International and Comparative Law, Series Number 20. Cambridge: Cambridge University Press.
- KUKOLEVSKIY, Alexander (2010): \$644 млрд — цена признания Абхазии и Южной Осетии [\$644 Billion Is the Price of Recognition of Abkhazia and South Ossetia]. *Kommersant*, 18 January 2010. Online: www.kommersant.ru/doc/1305441
- ЛАКОВА, Stanislav (2001): *Abkhazia de facto or de jure?* Sapporo: Slavic Research Center, Hokkaido University.
- Law on the Procedure for Resolving Issues Related to the Withdrawal of the Union Republic from the USSR, 1990. Online: www.consultant.ru/cons/cgi/online.cgi?req=doc&base=ESU&n=6#kj8HopSmA8EedzC7
- LOMSADZE, Giorgi (2014): Abkhazia: Can McDonald's Play a Role in Conflict Resolution? *Eurasianet*, 15 January 2014. Online: <https://eurasianet.org/abkhazia-can-mcdonalds-play-a-role-in-conflict-resolution>
- MACFARLANE, Neil (1999): The Role of the UN. In COHEN, Jonathan (ed.): *The Georgia–Abkhazia Peace Process*. Accord Series Number 7. London: Conciliation Resources. 36–41.
- Ministry of Foreign Affairs of Georgia (2019): *ICAO Considers the Sokhumi Airport Part of Georgian Airspace*. Online: <https://mfa.gov.ge/News/ICAO-shi-saqartvelos-mudmivm-carmomadgenels-kidev.aspx?lang=en-US>
- MIRZAYEV, Farhad (2014): Abkhazia. In WALTER, Christian – VON UNGERN-STERNBERG, Antje – ABUSHOV, Kavus (eds.): *Self-Determination and Secession in International Law*. Oxford: Oxford University Press. 191–213. Online: <https://doi.org/10.1093/acprof:oso/9780198702375.003.0010>
- MOORE, Margaret (1998): *National Self-Determination and Secession*. Oxford: Oxford University Press. Online: <https://doi.org/10.1093/0198293844.001.0001>
- MURINSON, Alexander (2004): The Secessions of Abkhazia and Nagorny Karabagh. The Roots and Patterns of Development of Post-Soviet Micro-Secessions in Transcaucasia. *Central Asian Survey*, 23(1), 5–26. Online: <https://doi.org/10.1080/02634930410001711152>
- Napi Online (2008): Amennyire vonakodott Koszovó esetében az igennel, annyira kapkod most Dél-Oszétia és Abházia esetében a nemmel a külügyminisztérium. *Napi Online*, 27 August 2008. Online: www.napi.hu/magyar-gazdasag/megkesett-sietseg-a-kormanytol.379205.html
- NIKOLSKY, Alexey (2012): Признание независимости Абхазии и Южной Осетии [Recognition of the Independence of Abkhazia and South Ossetia]. *RIA Novosti*, 26 August 2012. Online: <https://ria.ru/20120826/729874673.html>
- RAIČ, David (2002): *Statehood and the Law of Self-Determination*. The Hague: Martinus Nijhoff Publishers.
- RYNGAERT, Cedric – GRIFFIOEN, Christine (2009): The Relevance of the Right to Self-determination in the Kosovo Matter: In Partial Response to the Agora Papers. *Chinese Journal of International Law*, 8(3), 573–587. Online: <https://doi.org/10.1093/chinesejil/jmp021>
- SOULEIMANOV, Emil A. – ABRAHAMYAN, Eduard – ALIYEV, Huseyn (2018): Unrecognized States as a Means of Coercive Diplomacy? Assessing the Role of Abkhazia and South Ossetia in

- Russia's Foreign Policy in the South Caucasus. *Southeast European and Black Sea Studies*, 18(1), 73–86. Online: <https://doi.org/10.1080/14683857.2017.1390830>
- The USSR Central Referendum Commission (1991): Сообщение Центральной комиссии референдума СССР Об итогах референдума СССР, состоявшегося 17 марта 1991 года [Report on the Results of the USSR Referendum Held on 17 March 1991]. Online: www.gorby.ru/userfiles/file/referendum_rezultat.pdf
- TRAN, Mark (2008): Russia Defies West by Recognising Georgian Rebel Regions. *The Guardian*, 26 August 2008. Online: www.theguardian.com/world/2008/aug/26/russia.georgia1
- United Nations (1996): *Deputy Special Envoy for Georgia Opens Human Rights Office in Sukhumi, Abkhazia, Georgia*. 10 December 1996. Online: www.un.org/press/en/1996/19961210.sgsm6125.html
- United Nations (2006): *UNOMIG Mandate*. Online: <https://peacekeeping.un.org/mission/past/unomig/mandate.html>
- VAN DEN DRIEST, Simone F. (2013): *Remedial Secession. A Right to External Self-Determination as a Remedy to Serious Injustices*. Antwerpen: Intersentia.
- VIDMAR, Jure (2021): International Legal Responses to Kosovo's Declaration of Independence. *Vanderbilt Journal of Transnational Law*, 42(3), 779–851.
- WALTER, Christian – VON UNGERN-STERNBERG, Antje – ABUSHOV, Kavus (2014): *Self-Determination and Secession in International Law*. Oxford: Oxford University Press. Online: <https://doi.org/10.1093/acprof:oso/9780198702375.001.0001>