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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

**Seminar on
“state-legal aspects of the settlement
of the (Abkhaz) conflict”**

(Pitsunda, Georgia, 12-13 February 2001)

1. Following a request by the Special Representative of the Secretary General of the United Nations in Georgia, Mr Dieter Boden, and a proposal by the Commissioner for Human Rights, the UN Mission to Georgia, the Venice Commission and the Commissioner for Human Rights organised a seminar on State-Legal aspects of the Settlement of the (Abkhaz) Conflict in Pitsunda in the breakaway Abkhaz region of Georgia.
2. The seminar was chaired by three Co-Chairmen: Ambassador Boden, Mr Gil Robles and Mr Buquicchio. The head of the Georgian delegation was Professor Alexidze, Legal Adviser to President Shevardnadze, the Head of the Abkhaz delegation was Mr Jergenia, Prosecutor General and special representative of “President” Ardzinba. The Venice Commission was represented by Messrs Lopez Guerra (Spain), Vogel (Sweden), Malinverni (Switzerland) and Coppieters (expert from Belgium).
3. The seminar provided both sides with an opportunity to present their position and, as far as the Abkhaz side is concerned, the purpose of the seminar seemed to consist essentially in having this possibility to present their views to the outside world. Their presentation was mainly historical, starting in the eighth century and complaining about Georgian colonisation of their land. The main arguments are that Abkhazia become part of the Soviet Union separately from Georgia, that it was originally a Union Republic and was only in 1931 illegally integrated into Georgia by the Georgian Stalin, that it remained faithful to the Soviet Union when Georgia (allegedly illegally) declared its independence and that it was treated thereafter as part of the Soviet Union in a law voted by the Supreme Soviet. In 1994 Abkhazia declared its independence. The Georgian side refuted the various historical arguments and pointed to the fact that under international law Abkhazia had not become an independent State and was not recognised by anybody. The Georgian side regretted that the Abkhaz side had not chosen a more constructive approach.
4. The Venice Commission experts tried to focus on constructive future-oriented issues which could be relevant for a settlement of the conflict. Besides presenting aspects of the federal system of their countries the experts gave a clear message insisting on the need:
 - to adopt pragmatic solutions which may evolve over time;
 - to co-operate;
 - to accept that there is not necessarily a single identity based only on the ethnic factor;
 - to discuss the distribution of various powers instead of focussing on the general concept of sovereignty;
 - to see the conflict in a perspective of possible future regional integration.
5. While the Abkhaz side listened attentively to the experts and participated actively in the discussions of their reports, it again and again asked for an assessment of their basic position as to the right of self-determination of the Abkhaz people. While the experts refused to give a judgement on the validity of the positions of both sides, they set out some general principles:
 - The right to self-determination belongs to peoples and not to any minority (both sides regard the Abkhaz as a people);
 - Separation requires the consent of both sides and, on the side of the separatist region, has to reflect the will of the whole population and not only one group (before the conflict the Abkhaz constituted only 17% of the population);

- The right to self-determination has been recognised mainly in a context of decolonisation;
 - The use of force should be excluded;
 - Self-determination does not equal secession but may be realised internally through autonomous or similar status.
6. At the end of the seminar, the Abkhaz delegation continued to ask the experts for an assessment of their position. They, as well as the Georgian delegation, will present a written summary of their position. All sides agreed to continue discussions at a future seminar.
 7. President Shevardnadze received the Council of Europe delegation following its return to Tbilisi. He gave a positive assessment of the seminar as a first opportunity since many years for dialogue on these matters and underlined the need for contacts of the Abkhaz with the outside world. At present their society is still a Soviet-type closed society.
 8. In conclusion, any progress on this issue seems extremely difficult. On the other hand, the will of both sides, and of the UN, to continue along these lines should not be ignored and the Abkhaz side may adopt a more constructive attitude in the future. As regards co-operation with the UN, the seminar was a full success and no problems whatsoever arose.