

**DECREE ISSUED BY THE SUPREME COUNCIL OF THE REPUBLIC OF GEORGIA on  
the Decree issued by the President of the USSR on 7 January 1991**

The Supreme Council of the Republic of Georgia having acquainted itself with the Decree issued by the President of the USSR on January 7, 1991 deems it necessary to decree the following:

1. The Decree issued by the President of the USSR, which does not recognize legality of the decree issued on January 7, 1991 by the Supreme Council of the Republic of Georgia on Abolition of the Autonomous Oblast of South Ossetia, is anti-constitutional due to the following circumstances:

a) In accordance with the Constitutions of the Republic of Georgia and the USSR, the Republic of Georgia is a sovereign State and within its borders exercises supreme authority (Article 70 of the Constitution of the Republic of Georgia and Article 78 of the Constitution of the USSR), and all state organs, civil organizations, enterprises and other legal entities located on the territory of Georgia are obliged to strictly adhere and implement laws and other legal acts of the Republic of Georgia. Therefore, not a single body of the USSR is authorized to invalidate legal acts of the Republic of Georgia;

b) In accordance with the Constitutions of the Republic of Georgia and the USSR, the Supreme Council of the Republic of Georgia is authorized to make decisions on any issues relating to nation-building. Having applied this constitutional right, the Supreme Council of the Republic of Georgia abolished the illegally created Autonomous Oblast of South Ossetia, which became the bulwark for extremists and separatists carrying out not only the policy of discrimination and suppression of the local Georgian population, but they are also doing their utmost to separate this region from Georgia;

c) In accordance with the Constitution of the USSR, the Supreme Council of the USSR is authorized to endorse the creation of new autonomous entities (Article 73 paragraph 2) while taking decisions on this issue is under the jurisdiction of Union Republics (article 72 paragraph 3 of the Constitution of the Republic of Georgia).

The Decree on Abolition of the Autonomous Oblast of South Ossetia has not been submitted for endorsement to the Supreme authority of the USSR, since there is no such a legal mechanism provided by either the Constitution of the USSR or the Constitution of the Republic of Georgia. The law "on Separation of Authorities between the USSR and Subjects of the Federation", adopted on 26 April 1990, despite all its anti-constitutional character, did not provide mechanism for endorsement of decisions on abolishment of an Autonomous Oblast.

The Supreme Council of the USSR is obliged to remove from Article 87 of the Constitution of the USSR provision on Autonomous Oblast of South Ossetia as a constituent part of the Republic of Georgia, with the purpose of bringing the Constitution of the USSR in line with the legal and factual reality.

2. The Supreme Council of the Republic of Georgia does not belittle the right of people to self-determination, including right to creation a new state, however, it deems absolutely unacceptable the application of the above mentioned rights by those ethnic minorities living in Georgia and having their own statehood outside the frontiers of the Republic of Georgia. The International Law itself guarantees for ethnic minorities only cultural autonomy and equality in all spheres of life (Article 27 of International Convention on Civil and Political Human Rights, recently adopted the Paris Charter for New Europe and other legal acts) and those rights have always been and are guaranteed and respected to the maximum extent in Georgia for representatives of all ethnic minorities.

It also should be mentioned that in addition to the Autonomous Oblast with 65 000 population, there are more than 100 000 Ossetian nationals residing in defferent regions of Georgia and enjoyng the civil, economic and cultural rights.

3. The Supreme Council of the Republic of Georgia deems the stance assumed by the highest state bodies of USSR and personally by the President of the USSR unacceptable, since during the whole period of separatist and activities carried out by the Peoples' Deputies of Autonomous Oblast, when it adopted unambiguously anti-constitutional legal acts (dated of September 20 and October 16 of 1990), the Union bodies failed to react in any official manner and did not support the Supreme Council of the Republic of Georgia and its Presidium, the very body that, in full conformity with relevant provisions of the Constitution of the USSR- so often referred to by the President of the USSR- had declared anti-constitutional activities carried out by the Council of Peoples' Deputies of Autonomous Oblast.

If we are to take face value the Constitution of USSR, it is an obligation of the Union, and first of all of President of the USSR, to secure constitutionally guaranteed sovereignty and territorial integrity of the Union Republics.

In fact, the Union organs encouraged the separatists in their illegal activities; on 9 December 1990 so called elections were held in the illegally created "republic". However, the President of the USSR, as well as the Presidium of the Supreme Council of the USSR preferred to turn blind eye to this unlawfulness.

The President of the USSR responded to this fact only when the Supreme Council of the Republic of Georgia had to abolish the South Ossetian Autonomous Oblast that practically had been abolished upon the decree of the Oblast Council on reorganization of the Autonomous Oblast into Autonomous Republic independent from Georgia.

It's worth to be mentioned that announcement of the State of Emergency was based on the prior negligence of the authorities of the USSR to the facts of separatism. They didn't respond the facts of murder of Georgian law-enforcers in Tskhinvali though there were the troops of the Ministry of Interior of the USSR.

Backed from the center, the extremists made a rule to attack Georgian law-enforcers that are dispatched there to maintain public order. Often they are taken hostage.

Due to the established situation Georgian law-enforcers failed to seize the guns and ammunitions that were under the possession of the impudent extremists.

The Decree of 7 January 1991 issued by the President of USSR and calling for withdrawal of all armed formations- save for the troops of Ministry of Interior of USSR- from the region is devoid of any moral and legal rational.

There are no "armed formations" in the region, save for Ossetian extremist, who thanks to negligence and on the part of the troops of Ministry of Interior of the USSR, are hunting for representatives of the Ministry of Interior of Georgia. Unfortunately, the presidential decree failed to mention this deplorable fact. Troops of the Ministry of Interior of the Republic of Georgia are carrying out activities aimed at stabilization of the situation in the region during the curfew.

Involvement of troops of the Ministry of Interior and State Security of the Republic of Georgia for maintaining public order is clearly envisaged by both the legislatures of the Republic of Georgia and the USSR. This is one of the sovereign rights of the Republic not a single Union body, including the President of USSR, is authorized to limit the Republic of Georgia in exercising its jurisdiction and maintaining public order during the curfew. Moreover, the Union bodies had approved introduction of a regime of curfew.

The order of the President entailed the tragic events in a few hours after its publication. Encouraged by this Act the extremists attacked the Georgian Policemen. The attack caused the casualties.

It should be noted, that the presidential decree, on the one hand, questions the legality of the Georgian law and indicates on necessitate to undertake some steps, on the other hand, it turns blind eye to the necessity of abolition of structures of the so called Soviet Democratic Republic of South Ossetia.

The Supreme Council of the Republic of Georgia **decrees:**

1. To endorse the decree issued on December 11, 1990 by the Supreme Council of the Republic of Georgia “on Abolition of the Autonomous Oblast of South Ossetia”.

2. To submit a proposal on introduction of relevant amendments to Article 87 of the Constitution of the USSR to the Supreme Council of the USSR.

3. To note that the decree issued by the President of the USSR considered illegal acts by the Council of People’s Deputies of the Autonomous Oblast of South Ossetia on creation of the so called Soviet Democratic Republic of South Ossetia.

4. To consider illegal the decree calling for withdrawal of militia detachments of the Ministry of Interior of the Republic of Georgia from the region, for the detachments are functioning on the Georgian territory to secure public order and acting in full conformity with the existing legislation.

6. To consider the USSR presidential decree of 7 January 1991 as gross interference in internal affairs of Georgia and encroachment on its territorial integrity, disrespect for sovereign rights of the republic and its people that found its reflection in distortion of the official title of the Republic of Georgia- in the decree the old title of Georgia-the Georgian SSR had been used.

7. It amounts to gross violation of supremacy of legally elected state authority and principle of territorial integrity to prevent the state authorities to use its own law enforcing bodies to control an integral part of its own territory.

In case if the troops of the Ministry of Interior of the USSR deployed in the region would venture to forcefully remove the law enforcement organs of the Republic of Georgia from the region, such an action will be considered as initiation of war by the center against Georgia.

Responsibility for consequences of such actions before the international community shall fully lie on the supreme authorities of the USSR and personally on the President of the USSR.

8. The decree shall come into force immediately upon adoption.

Chairman of the Supreme Council of the Republic of Georgia **Z. Gamsakhurdia**

9 January 1991