

## Drafts of the Act of Independence of May 26, 1918

The founding of a new state or the restoration of freedom lost by the old one, the founders of this state announce to their population and the international community by making and adopting an extraordinary political statement as for an event of special importance. In most cases, such a document is called the Declaration of Independence. It, like the constitution, is the most important legal and historical document of the country. In addition to its declaratory nature, the Act of Independence also has a purely normative nature.<sup>1</sup> Usually, it describes the prerequisites for the origin of a particular state, explains what led to the separation of a new state, defines the form of political organization of a given country, outlines the basic rights and responsibilities of citizens, emphasizes the value orientations of the ruling political elite or society, etc. The day of adoption of the declaration is considered the day of independence of this state.

The Declaration of Independence of different states is similar in structure, all of them have the same purpose, and goal, but the time, situation and circumstances of their development or publication are different.

When, how, and in what reality was the Act of Independence of Georgia created, which marked the beginning of the existence of the Democratic Republic of Georgia on May 26, 1918?

Until now, we could find two sources to answer this question: 1. archival material and 2. memoirs. The archival material consists of the minutes of the meetings of the Executive Committee of the National Council of Georgia on May 24 and 25, 1918, which are directly related to the issue of our interest.<sup>2</sup>

After discussing the restoration of Georgia's state independence, the Executive Committee of the National Council formed a commission (Giorgi Gvazava, Ioseb Machavariani, Grigol Rtskhiladze, Petre Kavtaradze, Biktor Tevzaya, Razhden Arsenidze, Irakli Japaridze) at its meeting on May 24, 1918, which was tasked with developing the Act of Independence of Georgia and its presentation to the committee.

The minutes of the meeting of the Executive Committee of the National Council of Georgia held on May 25 contain more essential information. It turns out that a part of the participants of the session demanded the Declaration of Independence on the same day, while some members of the executive committee made a choice for May 26. During the voting, the majority (6 votes against 4) supported the immediate declaration of sovereignty.

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<sup>1</sup> Tsnobiladze P., Constitutional Law, Vol. I, Tbilisi., 2004, p. 95.

<sup>2</sup>National Archive of Georgia, Historical Central Archive, Fund 1836, ref. 1, Georgia. #49, sheet. 4..

Chairman of the National Council and its Executive Committee Noe Jordania categorically opposed this decision. In his opinion, before the restoration of Georgia's independence, it was necessary to convene the Transcaucasian Seim, which would confirm the dissolution of the Transcaucasian Independent Federal Republic and the self-liquidation of the Seim. Otherwise, Noah Jordania would be fully freed from the responsibility for the expected results. In such a situation, it turned out that the Act of Independence of Georgia had not yet been fully developed, which caused the postponement of its announcement to the next day.

The draft of the Act of Independence prepared by the commission was read at the session, and then a debate was held. According to the minutes, the discussion ended with the resolution: "The project was amended according to the views expressed during the discussion." Amendment of the draft act was assigned to Mr. N. Jordania".<sup>3</sup>

As for the memoir literature, there are memoirs of Noah Jordania, Zurab Avalishvili, and Razhden Arsenidze, which contain important information regarding the topic under discussion. For example, Noe Jordania later recalled the above-mentioned story as follows: the issue of restoration of Georgia's statehood was discussed in the national council, which had to prepare for its implementation after the dissolution of the Seim. "It was necessary to draw up the Act of Independence and adopt it in the council. We appointed a commission to work with me on this issue. I asked the commission member G. Gvazava to draft a project as a lawyer and bring it to me. He compiled it, I read it, I was amazed. Along with the correct, national provisions, the provisions of social reforms were put forward: eight-hour working day, confiscation of estates, etc. I considered such items inappropriate; It was necessary to create a single national platform acceptable to all, from which all divisive elements should be excluded. According to this opinion, I corrected the project, removed all articles of the class nature, and left only those of a national-political nature with the amendment. I read it to the commission as amended. ... This is how the declaration was drafted, which I read on May 26, and it became our chart of freedom."<sup>4</sup>

Noah Jordania's narration complements the data of archival documents. However, it remains unclear whether Giorgi Gvazava, a lawyer by profession and one of the leaders of the National Democratic Party, presented the project developed by him to the chairman of the National Council or whether he presented the project of the mentioned commission, and it is not at all excluded that he could have been chosen as the head of this commission.

Razhden Arsenidze, the Minister of Justice of the Democratic Republic of Georgia, tells us: that the National Council appointed a commission to work on the draft of the Act of Independence. The commission met on May 25. "We started working in the afternoon. We were in a hurry, because tomorrow was the meeting of the National Council, which committed itself to the execution of this historic act. We were in a hurry, but it could not be that the act was not thoughtful, serious, worthy of its purpose; There should be included ... the rights of a newly born citizen; We could not ignore the

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<sup>3</sup>National Archive of Georgia, Historical Central Archive, Fund 1836, ref. 1, Georgia. #49, sheet. 4..

<sup>4</sup>Jordania N., My Past, Tbilisi, 1990. p. 89-90.

national minority groups that live within our territory. And all this should be said briefly, clearly. Therefore, each word causes a dispute, an argument, a clash of opinions; Every phrase was crafted with great care. In the end, the fight and the battle were ended by reconciliation; What was accepted was accepted by everyone. There should be no room for division and heartlessness here at this crucial moment. We all felt this, although no one dictated it to us. ...we were fighting and hurrying. ...it was getting dark. ...we could not finish our work. ...we gathered after dinner and we discussed again, we thoroughly checked all the ideas of the text again; At midnight, we finished processing the project, and two members, Giorgi Gvazava and Pavle Sarjveladze, immediately went to the meeting of the Bureau of the Council (it should be the Executive Committee, - O. J.) to finish this difficult, but very responsible duty. In the middle of the night, the Bureau (it should be the Executive Committee, - O. J.) received the final edition with some amendments, and on Sunday, May 26, it would be publicly announced in the White Hall of the Palace. <sup>5</sup>

The memoirs of the famous scholar and diplomat Zurab Avalishvili present the case somewhat differently. Zurab Avalishvili together with Akaki Chkhenkeli, Niko Nikoladze and others was in Batumi as an adviser to the delegation of the Transcaucasian Republic and participated in the ongoing peace conference with the Ottomans since May 11, 1918. When the members of the Georgian delegation started preparations to restore Georgia's state independence in agreement with the German representative, General von Losov, they invited the Chairman of the National Council Noah Jordan to Batumi and informed him about the situation. Noe Jordania, contrary to his party beliefs, was convinced that at that moment there was no alternative to the restoration of Georgia's independence.

Zurab Avalishvili tells us: "I wrote a sample draft of the Declaration of Independence Georgia. The time has come to formulate a case and act. Chkhenkeli, Jordania, Nikoladze and Surguladze (Petre Surguladze - Chairman of the Liberation Committee of Georgia, joined the German diplomatic mission as an advisor at the Batumi negotiations, - O. J.) approved it. Jordania took this project to Tbilisi." <sup>6</sup>

It turns out that Noe Jordania had two drafts of the Act of Independence – by Giorgi Gvazava (the same commission of the Executive Committee of the National Council?) and Zurab Avalishvili. Unfortunately, we do not know any of these documents because they either did not survive or have not been traced yet.

Against this background, new significant material, which I found in the personal archive of Niko Nikoladze, kept in the National Library of the Parliament of Georgia, is of particular interest. This is a two-page, typewritten, hand-corrected text of the Act of Independence of Georgia by Niko Nikoladze, as well as an unfinished manuscript of the Act of Independence by Niko Nikoladze, containing 4 pages, made in pencil.

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<sup>5</sup> Inasaridze K., Little "Golden Age." Democratic Republic of Georgia. 1918-1921. Radio documentation. Munich, 1984, p. 76-77.

<sup>6</sup>Avalishvili Z., Georgia's independence in the international politics of 1918-1921, Tbilisi, 1925, p. 84.

In my opinion, the edited version of the first document should be the printed "Act of Independence of Georgia" (Appendix I)<sup>2</sup> preserved in the Central State Historical Archive of Georgia, which is also included in the book "Collection of Legal Acts of the Democratic Republic of Georgia" published in 1990. 1918-1921".<sup>7</sup>

The texts of the newly traced documents significantly differ from each other. None of them fully matches the content of the official version of the Act of Independence of Georgia. So, we are dealing with a previously unknown primary source, which somewhat completes our knowledge in relation to this issue.

It turns out that the Last of the Mohicans of Tergdaleuli contributed to the preparation of the Act of Independence of Georgia. The struggle of Ilia Chavchavadze and his fellow-soldiers for the national-political freedom of Georgia reached its logical end with the active participation of the outstanding representative of this generation, Niko Nikoladze.

We have already seen above that Noah Jordania does not mention the name of Niko Nikoladze when talking about the preparation of the Act of Independence (in Jordania's memoirs, we do not find any reference to Zurab Avalishvili's project either). According to Zurab Avalishvili, the connection of the great Samotsianeli (representative of generation sixties) with this case is limited only to the approval of the project. Fortunately, there is another additional material that proves that Niko Nikoladze was actively involved in the work carried out in Batumi for the restoration of Georgia's freedom and renewal of statehood, shared and agreed with the course of Georgian-German relations established during the negotiation process, which brought Georgia to May 26.<sup>8</sup>

Those who know the rich heritage of Niko Nikoladze in one way or another will agree that this "strict man of business" was able to do many things. During his long life, he has turned many ideas, plans and projects into reality. It is hard to imagine that a layman involved in the vicissitudes of Georgia's independence would not have expressed his opinion and view on such an important document as the Declaration of Independence.

There is nothing unexpected in the fact that he designed and developed the draft of the Act of Independence of Georgia in Batumi. I consider it quite possible that the pencil handwritten text of the of Independence of Georgia is written by Niko Nikoladze, and the printed version, which is partially also corrected with Niko Nikoladze's pen, maybe a piece of Zurab Avalishvili's project, which "Nikoladze also liked", and the chairman of the National Council Noe Jordania brought to Tbilisi.

It is likely that the Committee for the Liberation of Georgia, operating in Europe during World War I, also took into account the mentioned contribution of Niko Nikoladze, when it presented this famous figure with the Order of King Tamar on June 9, 1918, while in Berlin. With the mentioned order, the committee awarded military and civilian persons for their outstanding contribution to the struggle for

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<sup>7</sup>Collection of legal acts of the Democratic Republic of Georgia. 1918-1921, Tbilisi, 1990, p. 5-6.

<sup>8</sup>Janelidze O., Niko Nikoladze. Torn out pages from biography, Tbilisi, 1998, p. 25

the freedom of Georgia. In the award certificate, signed by Giorgi Machabeli, Giorgi Kereselidze, Meliton Kartsivadze and Mikhako Tsereteli, we read: "To Niko Nikoladze. As a reminder of the valuable service you have provided in our work, we have the honor to present you with a commemorative sign of the Georgian Legion".<sup>9</sup>

Recently, the electronic media have published controversial reports about the active participation of this or that person in the preparation of the Act of Independence of Georgia. For example, in the biography of Count Werner von der Schulenburg posted in the Russian-language Wikipedia, it is mentioned that this German figure helped Georgian politicians to prepare the necessary documents for the Declaration of Independence of their country.<sup>10</sup> It is interesting that neither the German nor Georgian versions of Schulenburg's biography found in the same electronic encyclopedia contain such information. Instead, the compilers of Zurab Avalishvili's biography believe that the latter was consulted by Count Schulenburg in drafting the Act of Independence of Georgia.

According to the same source, Zurab Avalishvili drafted the Act of Independence of Georgia in Batumi and sent it to the National Council of Georgia on May 22, 1918, and that "after making minor corrections, this text was approved at an extraordinary meeting of the National Council on May 26 of the same year."<sup>11</sup>

The point of view of the Georgian-language free electronic encyclopedia, that the extraordinary congress (should be the session) of the National Council accepted the draft act of independence developed exclusively by Zurab Avalishvili, needs to be clarified. We have already shown above that neither the archival material nor the memoir literature known until today contains any infallible information proving this.

The famous Georgian national figure, the last leader of the nobility of Tbilisi Governorate, Konstantine Abkhazi, is also named as the co-author of the Act of Independence of Georgia. Some researchers go further and write that the Act of Independence of Georgia was developed under the chairmanship of Kote Abkhazi.<sup>12</sup>

It is necessary to note that these reports are not true either. Ilia Chavchavadze's nephew, General Kote Abkhazi, is credited with many merits to the Georgian nation, but there is no reliable source confirming his participation in the drafting of the Act of Independence.

A comparative analysis of the drafts of the Act of Independence of Georgia reveals that all of them have a common architecture: a small preamble precedes the specific articles defining the political appearance and value priorities of the state. The first sentence of the preamble of all projects informs us that Georgia was free for many centuries and had its own statehood.

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<sup>9</sup> Janelidze O., Knight of the Order of King Tamar, journal "Omega", 2003, #8, p. 80-81.

<sup>10</sup> [http://ru.wikipedia.org/wiki/Шуленбург,\\_Вернер\\_фон\\_дер](http://ru.wikipedia.org/wiki/Шуленбург,_Вернер_фон_дер)

<sup>11</sup> [http://ka.wikipedia.org/wiki/Zurab\\_Avalishvili](http://ka.wikipedia.org/wiki/Zurab_Avalishvili)

<sup>12</sup> <http://sakartvelos-tavadaznauroba.ge/masalebi.php>

The next few paragraphs are dedicated to the overview of Russia's attitude towards our country, and finally there are briefly mentioned the preconditions that led to the restoration of Georgian statehood and renewal of sovereignty. It should be noted that in the Act of Independence there is not a single word that the restoration of the state sovereignty of Georgia became possible as a result of the struggle of the Georgian people for freedom. Due to this circumstance, the creators of the Act of Independence and especially the leaders of the Social Democratic Party were severely criticized by the national organization "Tetri Giorgi" that was born in exile and one of its leaders, Leo Kereselidze.<sup>13</sup> Here we would like to comment that prominent Georgian social-democrat Akaki Chkhenkeli also wrote about the inconvenience in this regard. In his words: We gave a kind of explanation to the Act of Independence, in which there is not one main thing: "That this is the supreme will of the Georgian nation. In the explanation, we seem to have apologized, and pretended that the circumstances forced us to do so."<sup>14</sup>

Based on the democratic principles of society development, each project of the State Independence Act of Georgia emphasizes that the source of sovereign rights in the territory of Georgia is the entire Georgian nation (according to the documents - "People of Georgia", "Georgian nation"), and the political form of the newly created state is a democratic republic.

In the official version of the Act of Independence of Georgia (Article 3), as well as in Niko Nikoladze's handwritten version of the act (Article 3), it is indicated that Georgia is a permanent neutral state in international hostilities. The document that I assumed to be Zurab Avalishvili's project does not contain an article on neutrality, on the contrary, the National Council and the provisional government are directly instructed to "protect the borders of Georgia with military forces".

The Democratic Republic of Georgia was formed at a time when World War I was not yet finished. The government was obliged to define the country's attitude towards this most important event, which was reflected in the " Act of Independence ". Georgia declared permanent neutrality in international hostilities.

It is clear that, in such a complex geopolitical region as the South Caucasus, neutrality seemed less realistic, but it demonstrated the peaceful aspiration of the Georgian state.

The borders of Georgia are not described in any draft of the Act of Independence. It was possible, if not completely, at least in general lines, to indicate in which territory the new Georgian state was being formed, that it was the historical space of Georgia, but it seems that they gave an account of the current situation. The thing is that during the short period of existence of the Transcaucasian Federal Democratic Republic, it was not possible to completely and clearly separate the borders of the dominant nations of the region. Both Armenians and Azerbaijanis claimed the land and water belonging to Georgia, and the dispute was not over yet. Supposedly the authors of the Declaration of

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Kereselidze L., Social Democrats and Independence, Journal "White Giorgi", Paris, 1930, # 33, October, p. 2.

<sup>14</sup> Journal "Brdzola", 1925, Paris, # 1, p. 18-19; Janelidze O., Georgia's social democracy and the issue of state independence, collection - Eldar Mamistvalishvili - 80, Tbilisi, 2019, p. 377.

Independence avoided complicating the situation with their neighbors, especially since the Act of Independence envisaged the establishment of good neighborly relations with neighboring states and nations.

The Act of Independence of Georgia was approved twice: the first time on May 26, 1918, by the National Council of Georgia, and the second time on March 12, 1919, when the country's highest legislative body, the Constituent Assembly, established through general elections started its activities. The principles of the Act of Independence are fully reflected in the Constitution of the Democratic Republic of Georgia adopted in February 1921.

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