

SELF-DETERMINATION OF ABKHAZIA AND SOUTH OSSETIA

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Abstract

The article is devoted to the study of the problem of self-determination of Abkhazia and South Ossetia. The aspirations of the peoples of Abkhazia and South Ossetia are shown here, the provisions of national legislation, the norms of International law are analyzed. Established provisions in which young state-like entities can receive the legal right to self-determination, the role of referendums on self-determination, as well as the recognition of such new states in accordance with international law are noted. The article shows the historical chronicle of self-determination of Abkhazia and South Ossetia.

Keywords: *independence, Russian-Georgian war, sovereignty, independence, territorial integrity, federal laws, human rights violations", genocide, genocide intent ethnic cleansing*

Abkhazia and South Ossetia are partially recognized republics in the Caucasus, asserting independence from Georgia [23, 45]. Russia's initial recognition of the independence of Abkhazia and South Ossetia came after the Russian-Georgian war, six months after Western recognition of Kosovo's unilateral Declaration of independence from Serbia in February 2008. This, and the resulting non-recognition by the West of Abkhazia and South Ossetia, led to statements of hypocrisy and double standards on the part of both sides of the gap in recognition.

In total, Abkhazia and South Ossetia were recognized by seven and six UN member States, although Vanuatu withdrew its recognition of Abkhazia in 2013 and Tuvalu in 2014. The two regions recognize each other and also have some recognition from other non-UN States. In May 2018, Syria recognized the independence of both breakaway territories. Georgia and most countries of the world do not recognize them as independent. Georgia officially considers them the sovereign territory of the Georgian state under the military occupation of Russia.

The history of Abkhazia and South Ossetia. South Ossetia declared independence from Georgia during the war in South Ossetia in 1991-1992 on May 29, 1992, and its Constitution concerned the "Republic of South Ossetia"[22, 12-15]. Abkhazia declared its independence after its war with Georgia in 1992-1993. Its Constitution was adopted on 26 November 1994[16, 31-33]. In April 2008, the United Nations Security Council unanimously adopted resolution 1808, which reaffirms "the commitment of all member States to the sovereignty, independence and territorial integrity of Georgia within its internationally recognized borders and supports all efforts of the United Nations and The group of friends of the Secretary-General, guided by their determination to contribute to the settlement of the Georgian – Abkhaz conflict only by peaceful means and within the framework of security Council resolutions". The war in South Ossetia in 2008 took place in August 2008 between Georgia on the one hand and South Ossetia, Abkhazia and Russia on the other, resulting in the victory of South Ossetia, Abkhazia and Russia and the expulsion of Georgian troops from both territories [6, 18-28].

On August 21, 2008, rallies were held in Tskhinvali and Sukhumi, where residents of South Ossetia and Abkhazia, respectively, appealed to Russian President Dmitry

Medvedev and the Federal Assembly of Russia for official recognition of their independence as sovereign States. President of South Ossetia Eduard Kokoity arrived in Moscow on August 23, 2008 and addressed the Council of Federation of Russia. In his address he stated that "what the Georgian leadership has done in South Ossetia can only be called the Caucasian Stalingrad" [7, 66-75]. On 25 August 2008, President of Abkhazia Sergei Bagapsh also made a report to the Federation Council. In his address to the Council, Bagapsh said: "I can say with confidence that Abkhazia and South Ossetia will never be [part of] Georgia" [1, 12-18].

Russian recognition. President Medvedev announced that he had signed decrees on recognition of independence of Abkhazia and South Ossetia [13, 14]. After hearing the above-mentioned calls from both the Abkhaz and South Ossetia leaders, on 25 August 2008, the Federation Council and the state Duma adopted proposals for President Dmitry Medvedev to recognize the independence of both States and to establish diplomatic relations. On 26 August 2008, President Medvedev signed decrees recognizing the independence of Abkhazia and South Ossetia as sovereign States and made the following statement: "the Decision must be taken on the basis of the situation on the ground. Taking into account the freely expressed will of the Ossetia and Abkhaz peoples and guided by the provisions of the UN Charter, the 1970 Declaration on principles of international law governing friendly relations between the United States, the CSCE in Helsinki, the 1975 Final act and other fundamental international documents, I signed Decrees on the recognition by the Russian Federation of the independence of South Ossetia and the independence of Abkhazia[21], Russia calls on other States to follow its example. It is not an easy choice, but it is the only way to save lives".

President Medvedev said that "Western countries rushed to recognize the illegal Declaration of independence of Kosovo from Serbia. We have consistently argued that after that it would be impossible to tell Abkhazians and Ossetia's (and dozens of other groups around the world) that good for Kosovo Albanians was bad for them. In international relations, you cannot have one rule for some and another rule for others". [24] Russian Prime Minister Vladimir Putin noted the previous Georgian aggression against Ossetia, and said: "those who insist that these territories should continue to belong to Georgia Stalinists - they stick To Stalin Because of the decision "s", referring to the fact that it was Stalin, an ethnic Georgian who gave the territory of the Georgian Soviet Socialist Republic, the predecessor of the modern Georgian Republic. Russia's NATO representative, Dmitry Rogozin, said that Russia's recognition of the independence of Abkhazia and South Ossetia is "irreversible", but called on "NATO countries to withdraw and revise their decision on the independence of Kosovo", and then "to act on the premise that this is a new political reality"[15].

In addition, he warned that any NATO attacks on regions supported by Russia "would mean a Declaration of war with Russia"[18]. In the UN Security Council, the United States strongly criticized Russia's support for separatist governments, accusing the government of violating Georgia's territorial integrity. In response, Vitaly Churkin, Russia's permanent representative to the UN, attacked the us statement of moral position, Recalling his invasion of Iraq in 2003 [19]. Others accused the United States of hypocrisy, citing its support for the violation of Serbia's territorial integrity when it recognized Kosovo's independence in 2008 [20].

The Russian government also welcomed Nicaragua's recognition of the two States and called on other countries to "recognize reality" and follow Nicaragua's example.

President Daniel Ortega stated that his government "recognizes the independence of South Ossetia and Abkhazia and fully supports the position of the Russian government" [17]. Dmitry Medvedev also signed legal Federal bills ratifying agreements on friendship, cooperation and mutual assistance between his government and the governments of Abkhazia and South Ossetia. The laws provided for the obligations of each state to assist each other if any of them were attacked, to jointly protect the borders of Abkhazia and South Ossetia [9, 12-15].

Georgia's Reaction. Georgian ex-President Mikheil Saakashvili considered Russia's move as an attempt to change the borders of Europe by force. Below are some excerpts from his statement: This is the first attempt on European territory ... since then, both the Hitler regime and the Stalin Soviet Union, where a large state is trying unilaterally with the use of force to completely crush the neighboring country and openly Annex its territory. The question of restoring Georgia's territorial integrity and protecting its freedom is not an internal Georgian problem, but a question of Georgia and Russia. Now we are talking about Russia and the rest of the civilized world. The future of Georgia is not only the future of Georgia; it is the future of the entire civilized world.

Deputy foreign Minister Giga Bokeria said: "this is an undisguised annexation of these territories that are part of Georgia" [11, 12-21]. On 28 August, the Georgian Parliament adopted a resolution on the recognition of Abkhazia and South Ossetia as "Russian-occupied territories" and instructed the government to cancel all previous treaties on Russian peacekeeping. The next day, the government announced that it had severed diplomatic relations with Russia, with the result that the Georgian Embassy in Moscow and the Russian Embassy in Tbilisi had completed their work. Georgia reminded its Ambassador from Russia and ordered all Russian diplomats to leave Georgia, saying that only Russian consular relations would be maintained. The Ministry of foreign Affairs commented on the decision, saying that between 600,000 and 1 million Georgians in Russia will be left to "the mercy of fate".

Later, Georgia also severed diplomatic relations with Nicaragua. Georgia switched to economic isolation of the regions. A ban was issued on economic activity in the regions without the permission of Georgia, and anyone who caught a violation of this ban by the Georgian authorities was prosecuted. Georgian Navy blockaded the coast of Abkhazia, and has seized 23 cargo ships trying to bring supplies to Abkhazia, primarily fuel supply. Abkhazia depends on fuel imports and as a result faces a serious shortage. In response, Russia began deploying boats from its black sea fleet on September 21, 2009 [2, 31-36]. In August 2009, Russia and South Ossetia accused Georgia of destroying Ossetia villages and kidnapping four South Ossetia citizens. Russia threatened to use force until the shelling stopped, and put its troops in South Ossetia with high readiness [4]. Georgia criticized Nauru after the recognition of the Small island state of Abkhazia. Minister of reintegration Temur Yakobashvili said: "Recognition of independence of Abkhazia Nauru is more like a Comedy it does not change anything in the international arena" [8, 43-49]. The European Union, NATO, OSCE, and the US immediately expressed dissatisfaction with Russia's decision [12, 54-56].

Abkhazia is recognized by Russia and four other countries. South Ossetia is recognized by Russia and four other countries.

Conclusion

As this document comes to an end, I will summarize the provisions of international law, the history of Russia's recognition policy, and the triggers for the recognition of Abkhazia and South Ossetia in this Chapter to draw conclusions for this study. International law does not provide for the right of ethnic or religious minorities to self-determination. Where self-determination concerns a sovereign state, self-determination is exercised by the rules against interference in the internal Affairs of the state and in the free choice of its population by the form and composition of the government of the state. Customary law provided that the right to self-determination could not be divided and belonged to the entire population. Both Abkhazia and South Ossetia exercised internal self-determination in Georgia on the basis of the relevant provisions on autonomy. Abkhazians and Ossetia's not only have access to governing bodies in their autonomies, but are clearly overrepresented in local authorities. Access to primary, secondary and higher education in their native languages, as well as to the regional press and television and cultural autonomy, was guaranteed. It can be argued that with the abolition of the South Ossetia Autonomous region, Ossetia's were deprived of the right to internal self-determination. However, this argument has no basis, since the abolition of the death penalty was the result of unconstitutional actions of the leadership of the Autonomous district and throughout the international process of conflict resolution Georgia was ready to re-grant broad autonomy to South Ossetia. It was the South Ossetia side that rejected the proposals for autonomy. Similarly, Abkhazia rejected all proposals for autonomy, including those coming from the UN. The remedies for the internal self-determination of Abkhazia and South Ossetia within the Georgian state have not only not been exhausted (as should be the case in order to claim corrective secession), but have not even been accepted by the separatists. Moreover, both Treaty law and customary law clearly establish the inviolability of the borders of sovereign States and their territorial integrity with regard to self-determination.) Thus, self-determination in independent sovereign States like Georgia is limited only by its internal character – autonomy, unless there are serious human rights violations against a particular racial or ethnic group that could invoke the right to external self-determination-secession. If in the 1990-ies Russian support was mainly indirect, in 2008, it has grown to a total of the Georgian-Russian war. Despite the fact that South Ossetia and Abkhazia held referendums on independence in 1992/2006 and 1999, respectively, they were contrary to the Constitution of Georgia, part of which at that time constituted these entities, and did not cover the entire population of the autonomies, since a significant part of the population had already been expelled.

In addition, these referendums were declared invalid by international organizations. As for the *uti possidetis juris*, according to this principle, only former constituent parts - such as Georgia – gain independence by dissolving a larger entity - such as the USSR - but not the administrative-territorial units that make up it. In the view of the ICJ, the borders reached at independence are inviolable. Since none of the three principles of due process was respected, the cases of South Ossetia and Abkhazia could not be regarded as normative, even if they met the criteria for redress as a result of the oppression of the metropolis. However, Abkhazia and South Ossetia also do not have the right to re-establish the right to secession. Despite the fact that "human rights violations" were committed by the Georgian side during the armed conflict, there is no evidence that it was attributed to genocide, the intention of genocide or one of its forms

- ethnic cleansing. On the contrary, according to the resolutions adopted by the OSCE and the UN, as well as EU and NATO bodies, the Georgian population suffered from ethnic cleansing both in Abkhazia and South Ossetia.

The third aspect that we need to discuss from an international legal point of view is whether the Russian unilateral act of recognition is in conformity with international law. As described in the section on recognition, a fundamental problem in recognition is the lack of well-defined recognition criteria. This, of course, makes the recognition of the subject of political manipulation.

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