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Nikoloz Samkharadze

**RUSSIA'S RECOGNITION OF  
THE INDEPENDENCE OF  
ABKHAZIA AND SOUTH OSSETIA**

Analysis of a Deviant Case in Moscow's Foreign Policy Behavior

With a foreword by Neil MacFarlane

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# List of Acronyms

AKP	Justice and Development Party (Turkey)
AR	Autonomous Republic
ASSR	Autonomous Soviet Socialist Republic
BTC	Baku-Tbilisi-Ceyhan oil pipeline
CENTO	The Central Treaty Organisation
CFE	Treaty on Conventional Armed Forces in Europe
CIS	Commonwealth of Independent States
CoE	Council of Europe
CPSU	Communist Party of the Soviet Union
CSCE	Conference on Security and Cooperation in Europe
CST	Collective Security Treaty
DRG	Democratic Republic of Georgia
EAPC	Euro-Atlantic Partnership Council
EC	European Communities
ECHR	European Court of Human Rights
EU	European Union
FLN	National Liberation Front of Algeria
FRG	Federal Republic of Germany
GA	General Assembly
GDP	Gross Domestic Product
GDR	German Democratic Republic
GPRA	Provisional Government of Algerian Republic
GSSR	Georgian Soviet Socialist Republic
GU(U)AM	Georgia, Ukraine, (Uzbekistan), Azerbaijan, Moldova
ICJ	International Court of Justice
IIFFMCG	The Independent International Fact-Finding Mission on the Conflict in Georgia
JCC	Joint Control Commission
KGB	Committee of State Security of the Soviet Union
KLA	Kosovo Liberation Army
MAP	Membership Action Plan
MFA	Ministry of Foreign Affairs

NATO	Northern Atlantic Treaty Organisation
NKR	Nagorno Karabakh Republic
OUA	Organisation for African Unity
OSCE	Organisation for Security and Cooperation in Europe
PACE	Parliamentary Assembly of the Council of Europe
PD	Prisoner's Dilemma
PISG	Provisional Institution of Self-Government in Kosovo
PPP	Pakistan People's Party
PRC	People's Republic of China
RF	Russian Federation
RSFSR	Russian Soviet Federal Socialist Republic
RSK	Republic of Srpska Krajina
SC	Supreme Council
SEATO	South East Asian Treaty Organisation
SFRY	Socialist Federal Republic of Yugoslavia
SSR	Soviet Socialist Republic
TMR	Transnistrian Moldovan Republic
TRNC	Turkish Republic of Northern Cyprus
UK	United Kingdom of Great Britain and Northern Ireland
UN	United Nations
UNFICYP	UN Peacekeeping Force in Cyprus
UNMIK	United Nations Interim Administration Mission in Kosovo
UNOMIG	United Nations Observer Mission to Georgia
UNSC	United Nations Security Council
UNSG	United Nations Secretary-General
UNSIMIC	United Nations Settlement Implementation Mission in Cyprus
UNTAET	United Nations Transitional Administration in East Timor
USA	United States of America
USD	United States Dollar
USSR	Union of Soviet Socialist Republics
WW	World War

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## Foreword

Russia's diplomatic recognition of Georgia's secessionist territories of Abkhazia and South Ossetia at the end of August 2008 was a momentous event. It breached Russia's (and the USSR's) longstanding embrace of the international legal principles of sovereignty and territorial integrity, which was reaffirmed in the founding documents of the Commonwealth of Independent States. It also jeopardised Europe's post-World War II territorial settlement based on those principles. In these respects, it appeared to present a fundamental challenge to the European and international legal and political order.

It was also a curious event. In justifying their actions in legal terms, Russian spokespersons cited the right of defence against aggression, the right to national self-determination, and the responsibility to protect, the right to protect Russian citizens outside the country, and to protect Russian peacekeepers stationed in South Ossetia. This scattershot (spaghetti on the wall) approach suggested a certain amount of confusion and "grasping at straws" in the Russian legal approach.

Ambiguity prevailed also in Russian political reasoning for the decision. Was it a response to the April 2008 NATO Bucharest Declaration and the prospect of eventual Georgian membership in the alliance, given Russia's claim to a zone of "privileged interest" in the former Soviet space? Was it payback for NATO intervention in Kosovo and the subsequent recognition of that territory by many Western states? Was it an opportunity to demonstrate Russia's return to great power status? Was it a manifestation of Putin's antipathy towards colour revolutions and concern over possible demonstration effects in Russia itself? Or was it a manifestation of personal animus, given that Putin and Saakashvili despised each other?

When viewed comparatively, one notes that recognition has not been repeated in other similar situations in, for example, Transnistria, Nagorno-Karabakh, and eastern Ukraine. Why just Georgia?

Russian experts themselves had no clear understanding of the reasons for recognition, as I discovered in long conversations in Moscow in 2009.

This book constitutes an able and well-informed effort to sort out the confusion. It begins with a careful unpicking of relevant international law on self-determination, secession, and recognition. It continues through a close examination of the historical and political background to the conflicts in Abkhazia. Finally, it turns to Russia, discussing Soviet/Russian historical behaviour on recognition, establishing the deviant quality of the recognition decisions regarding Georgia's breakaway territories. The analysis then turns to the evolution of Georgian-Russian relations, and the war and recognition. This leads to an illuminating discussion of Russian reasons for recognition.

In short, Dr. Samkharadze's book is a worthy addition to the literature on these events and their broader implications. It is well worth reading in the academic and policy analysis communities.

Prof. Neil MacFarlane

# 1. Introduction

The principle of territorial integrity of a state is an established, fundamental, sacrosanct principle of international law and a baseline for international relations. This principle however, was neglected twice in the short, six-month period running from February to August 2008 by four out of five permanent members of the United Nations Security Council. On the one hand, the USA, the UK and France recognised Kosovo's secession from Serbia and on the other hand, Russia recognised Abkhazia and South Ossetia's secession from Georgia. The recognition of new entities without the consent of the parent state and the subsequent erosion of the territorial integrity principle has turned into one of the most pressing topics of international relations. It is an important bone of contention in current Russia-West discourse too. The recognition of tiny entities in the South Caucasus resonated as far as Latin America and Oceania, thus outgrowing the Georgia-Russian context and becoming a global issue.

The Russian Federation has been the most important stakeholder in all negotiations on protracted and frozen conflicts on the former Soviet territory, as the latter represents a zone of "privileged interests" for Russia. Hence, it is logical that Russia assumed the role of mediator in these conflicts in the early 1990s and was the only country to provide peacekeeping forces in Georgia, emphasising the significance this region bears for Russian national interests. Despite Russian covert and overt financial or political support to Georgia's breakaway entities and despite those entities' appeals to have their statehood recognised by the mighty northern neighbour, for almost two decades the Russian Federation adhered to the principle of territorial integrity and ruled out recognition of the independence of Georgia's rebel provinces. The principle of inviolability of Soviet administrative borders was enshrined in the Charter establishing the Commonwealth of Independent States, which was created in order to keep the former Soviet states together after the fall of the Soviet Union. The charter explicitly stated that "member

states of the CIS will build their relations on the basis of the inviolability of state borders, the recognition of existing borders and the rejection of unlawful territorial annexations; the territorial integrity of states and the rejection of any actions directed towards breaking up alien territory".<sup>1</sup>

Up until August 2008 Russia always supported UN Security Council resolutions reaffirming the territorial integrity of Georgia<sup>2</sup>. A sudden, unprecedented and, for many, an unexpected discontinuation of this policy occurred in the aftermath of the 2008 Georgia-Russia war. On August 26, 2008, the Russian Federation officially recognised Abkhazia and South Ossetia as independent states<sup>3</sup> calling on the rest of the world to follow suit and adapt to the new realities in the Caucasus. The fact that Moscow did not recognise other breakaway entities on the former Soviet territory – Transnistria and Karabakh – and most importantly Kosovo, which had been recognised by several dozen nations by that time makes the Georgian case even more peculiar. Being a permanent member of the UN Security Council and Contact Group on Kosovo, Russia has unequivocally supported the territorial integrity of Serbia and opposed granting independence to Kosovo.

The Russian Federation's recognition of Abkhazian and South Ossetian independence had a tremendous impact on peace and stability in the region and the future aspirations of Georgia and the whole South Caucasus region. This decision completely changed the system of state relations in the former Soviet space. Since August 26, 2008 none of the states emerging from the ex-USSR could be sure of the inviolability of their territorial integrity. This assumption was shortly confirmed after the Russian annexation of Crimea

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- 1 Устав Содружества Независимых Государств, 22.01.1993, available at: <http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=187>
  - 2 S/Res. 876 (1993); S/Res. 896, (1994); S/Res.993 (1995); S/Res. 1065, (1996); S/Res. 1124 (1997); S/Res.1150 (1998); S/Res. 1287 (2000); S/Res 1494 (2003); S/Res. 1554 (2004); S/Res.1615 (2005); S/Res.1716 (2006); S/Res.1781 (2007); S/Res. 1808 (2008)
  - 3 Указ Президента Российской Федерации от 26 августа 2008 г. N 1260 <http://www.rg.ru/2008/08/29/abhaziya-dok.html> Указ Президента Российской Федерации от 26 августа 2008 г. N 1261 <http://www.rg.ru/2008/08/29/osetiya-dok.html>

in 2014. Recognition of Abkhazia and South Ossetia was condemned by the EU and the United States, and strained Russia's relations with the West. This act had an overall adverse impact on Russia's international image and relations and risked a new cold war<sup>4</sup>. Negotiations on the framework Russia-EU agreement were halted. The NATO-Russia Council was suspended. The United States Senate termed the presence of Russian troops in Abkhazia and South Ossetia an occupation of sovereign Georgian territory.<sup>5</sup> This statement was echoed by the NATO Parliamentary Assembly<sup>6</sup> and European Parliament Resolution.<sup>7</sup> Although more than a decade has passed, the topic is still high on the agenda of not only the Georgian government but at Russia-EU, Russia-NATO and Russia-US summits.

Recognition of the independence of the two Georgian provinces eroded the territorial integrity principle and brought systemic change to the post-1945 order. It is undoubtedly a significant act both in international law and international relations. Furthermore, it is the most negative blow that any outside state has inflicted on Georgia in the course of the last 90 years. This act of recognition also raised numerous questions, which have paramount importance not only for the relations between Russia and Georgia, but for the state-of-play in the whole former Soviet space: Why did Russia apply a different policy of recognition to the Georgian breakaway territories from its mainstream policy? Is Russia's recognition

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- 4 On August 26, 2008 President Medvedev said in relation to recognition of Abkhazia and South Ossetia that "Russia is not afraid of anything including the prospect of a new cold war". UK Foreign Secretary Milliband declared on August 27, 2008 that "Russian President has a great responsibility not to start a new cold war".
  - 5 US Senate Resolution 175, 112th Congress, May 10, 2011, available at: <https://www.congress.gov/bill/112th-congress/senate-resolution/175>
  - 6 NATO PA Resolution 382, 16 November, 2010, available at: <http://www.nato-pa.int/default.asp?SHORTCUT=2245>
  - 7 European Parliament resolution of 17 November 2011 containing the European Parliament's recommendations to the Council, the Commission and the EES on the negotiations of the EU-Georgia Association Agreement (2011/2133(INI)), available at: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2011-0514>

act the Kremlin's "homemade response" to the Kosovo recognition? Did eventual NATO membership signalled to Georgia influence the Russian decision? How compliant was the Russian decision with the norms of international law? What does it imply regionally for the former Soviet republics?

This book, however focuses on two main questions:

- Is Russian recognition of Georgia's breakaway entities a deviation from its traditional recognition policy and compliant with international law?
- Why did Russia extend recognition to Georgia's breakaway entities whereas it continues to conduct a non-recognition policy towards other secessionist entities?

In order to provide a comprehensive analysis of the topic I have divided my research into three major chapters. In chapter two, I explore the history of the development of norms of self-determination, secession and recognition in international law and their relevance and significance to international relations. Further, I review the existing sources of international law and provide examples of applications of these norms from international practice.

In chapter three, I look at the evolution of Soviet and Russian perspectives and policies on recognition of new states in the post WW-II period. I chose this period, because the contemporary world order was set with the establishment of the United Nations after 1945. For the purpose of analysis I have divided the cases into three sub-groups: states that were not recognised by the parent-state before their recognition by the USSR/RF; states that were recognised by Moscow after recognition by the parent state; and de-facto secessionist entities that have declared independence but were not recognised by the USSR/RF. I focus on the application of a particular norm by USSR/RF across similar cases to find out how consistent the Kremlin was in its recognition policy and to answer whether recognition of Abkhazia and South Ossetia represents an exception in general Soviet/Russian policy of non-recognition of secessionist entities. This part prepared an empirical basis to positively answer the first research question whether the recognition of

Georgia's breakaway entities is a deviation from the traditional mainstream policy of recognition by Russia.

In chapter four, I concentrate on the Abkhazia and South Ossetian cases. Here too, I offer a comprehensive picture of factors influencing the course of the conflicts. The chapter begins with a historical description of the conflicts in South Ossetia and Abkhazia, their evolution and ensuing conflict resolution formats. Then, I turn to an analysis of general Georgian-Russian relations after the fall of the Soviet Union up to the August war of 2008. The third part of the chapter is dedicated to the August War, its results and theoretical framework. I apply a standard example of Game Theory, the Prisoner's Dilemma, which deals with strategic rationality to evaluate the Russian decision to extend recognition to Abkhazia and South Ossetia.

In the concluding part of the chapter, I trace the process of recognition and conclude that recognition of Abkhazia and South Ossetia was caused by a combination of three factors. These factors were:

1. recognition of Kosovo by the West in disregard of the Russian position
2. prevention of Georgia's membership to NATO and
3. the necessity of the legalization of Russian troops in Abkhazia and South Ossetia after the war.

In my book I use extensively the term recognition. For the purposes of this research the recognition of a state under international law is a declaration of intent by one state to acknowledge another entity as a state within the meaning of international law. Recognition constitutes a unilateral declaration of intent. It is entirely at the discretion of any state to decide to recognize another as a subject of international law.

In this book I also use the term South Ossetia to denominate the territory in the administrative boundaries of the former South Ossetian Autonomous District within Georgia, although such an entity does not exist according to the Georgian constitution and the territory is referred to as Tskhinvali Region.