

Recognition of South Ossetia and Abkhazia two years later: Unicum or trendsetting?

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It has been two years since the Russian Federation recognized Abkhazia and South Ossetia, after an armed conflict with Georgia over these areas. An extensive discussion followed on whether the Russian Federation could unilaterally recognize the secession, and what recognition by the Russian Federation meant for the status of Abkhazia and South Ossetia.

Two years later, and in addition to the Russian Federation, South Ossetia and Abkhazia have been recognized by Nicaragua, Venezuela and Nauru. Often parallels are drawn with the case of Kosovo, which after several years of international administration proclaimed independence and is now recognized by several Western states. Not all Western states have recognized Kosovo. Especially those who have secessionist groups on their territory are concerned that recognition might lead to problems on their own territory, like the relationship between the Basques, the Catalans and the Government of Spain.

Because it is unclear to many whether in cases of secession recognition would be proper under international law, the General Assembly of the UN asked the International Court of Justice in the Hague for an opinion on the legality of the unilateral declaration of independence. On July 22 2010, the Court published its opinion. In this case, which has both legal and political components, the Court opted for a purely legal reasoning. Political controversial issues were not discussed in the advice. The Court finds that there are no rules of international law which forbid an entity to declare independence². However, it is another question whether the secessionist territory is recognized. That is a political choice which every state must make. A state which recognizes another state, will not normally withdraw recognition. And so Abkhazia, South Ossetia and Kosovo are recognized Georgia and Serbia want to preserve their territorial integrity. A solution between these two diverging positions can only be found at the negotiating table. In this case the parties at the negotiating table are Abkhazia, South Ossetia, Georgia and the Russian Federation.

By acknowledging the problems, they are not yet solved. The question remains whether Abkhazia and South Ossetia can become members of organizations like the UN, Council of Europe and the EU. The UN has emphasized in resolutions of the Security Council, which are binding for all members of the UN, that its members should respect the territorial integrity of Georgia. In this case this is equal to asking for non-recognition of Abkhazia and South Ossetia³. Also, in the mediation efforts of the UN, the organization expressed its view that the territorial integrity of Georgia be preserved. This implies that Abkhazia and South Ossetia cannot successfully apply for membership of the UN. This raises the question of how the UN can operate as a neutral mediator in talks between the Russian Federation, Georgia, Abkhazia and South Ossetia⁴. The OSCE and the EU, the other mediators in the conflict, have indicated that the territorial integrity of Georgia should be respected, and follow the reasoning of the UN.

What does the fact that entities can declare independence mean for Nagorno Karabakh, which already has declared unilateral independence? This area has already unilaterally declared independence in January 1992,

2 <http://www.icj-cij.org/docket/files/141/15987.pdf?PHPSESSID=da74383c2e64837f98387e6fa3c0c722>

3 http://www.rferl.org/content/The_Wider_Implications_Of_The_RussianArmenian_Defense_Deal/2136480.html, http://www.rferl.org/content/Russia_Armenia_Sign_Extended_Defense_Pact_/2133043.html, accessed 1 September 2010, article 3 CSTO.

4 Mediation is voluntary and the mediator is supposed to be neutral. Although mediators in international conflicts are not always completely neutral, taking sides will diminish the chances for success, since the mediator will have more difficulty in keeping the disadvantaged party at the negotiation table.

but has not yet been recognized. The recognition of Kosovo, Abkhazia and South Ossetia means that other areas have greater hope that in the future they will be recognized, and be seen as independent states. This refers not only to areas that already have unilaterally declared independence and are not recognized, but also to areas that are dissatisfied and wish to go beyond internal self-determination.

Two years ago, just after the ceasefire between Russia and Georgia, it seemed possible that a solution to the stalemate on the status of Nagorno Karabakh would be found. On 2 November 2008 Armenian president Serzh Sarkisian, Azerbaijan President Ilham Aliyev and Russian President Dmitry Medvedev signed an accord determining their commitment to continue the peace talks. The continuing attention for a military solution of the conflict by Azerbaijan was conceived in Armenia as a dangerous development⁵. At present there are interesting developments going on in the South Caucasus. Armenia has recently concluded a bilateral treaty with the Russian Federation which allows for the presence of the Russian army on Armenian territory until 2041, and indicates that an attack on the territorial integrity of Armenia will result in support by the CSTO organization. However, a political solution is preferred, in accordance with the CSTO treaty⁶. Some politicians in Armenia interpret this in such a way that Russia would defend Armenia against a possible attack by Azerbaijan (on Nagorno Karabakh)⁷. Meanwhile, the Russian Federation agreed with Azerbaijan to supply the state with arms⁸. This means that the Russian Federation on the one hand acts as a peace dove, while the possibility of military conflict is not eliminated.


We can conclude by noting that the recognition of Abkhazia and South Ossetia did not lead to the recognition of other entities which have long been de facto independent. Unilateral independence is no panacea for all ailments, if no recognition materializes. In the case of unrecognized de facto independent areas, such as Nagorno Karabakh, there is a strong preference to solve the conflict at the negotiating table. It is certain that the Russian Federation will play a significant role as a superpower in this case.

5 <http://www.eurasianet.org/departments/insight/articles/pp020907.shtml>, accessed 14 November 2010.

6 http://untreaty.un.org/unts/144078_158780/5/9/13289.pdf, accessed 1 September 2010.

7 http://www.rferl.org/archive/Caucasus_Report/2/963/963.html, accessed 1 September 2010.

8 http://www.rferl.org/content/Armenian_Opposition_Party_Concerned_About_New_Deal_With_Russia/2136581.html, accessed 1 September 2010.



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