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From Creeping to Sweeping Annexation: Implications of Russia's Establishment of Legal Links with Abkhazia & South Ossetia

I. INTRODUCTION

A decree signed on April 16 by Russian President Vladimir Putin establishing a range of legal ties between Russia and Georgia's separatist territories of Abkhazia and South Ossetia marks a dramatic escalation in Moscow's annexation policy. The move could have profound consequences on the prospects for peace in the region, on the fate of hundreds of thousands of persons forcibly expelled from the territories, and on relations between Russia and the West.

Russia's actions were immediately condemned by the international community. "I am deeply concerned by the actions Russia has taken to establish legal links with the Georgian regions of Abkhazia and South Ossetia," NATO Secretary-General Jaap de Hoop Scheffer said, noting NATO's support for Georgia's territorial integrity. "The Russian steps undermine that sovereignty. I urge the Russian Federation to reverse these measures." EU foreign policy chief Javier Solana criticized Russia's "unilateral decisions," expressing "concern" while underscoring the Union's support for Georgian sovereignty.

II. IMPLICATIONS & ANALYSIS

Russia's decision represents the first time that a foreign state has formally acknowledged the legal authority of the regimes in Sukhumi and Tskhinvali by recognizing the validity of legal acts and documents issued by the separatist entities. Under the decree, separatist-issued "passports" and other legal acts will be "recognized by counterpart state agencies of the Russian Federation."

The move takes place following a recent Government of Georgia peace plan envisaging widespread autonomy for the separatist entities, including in the case of Abkhazia the position of Vice President, the establishment of free economic zones, constitutional guarantees for ethnic and linguistic rights, and formal veto rights over national legislation pertaining to Abkhazia. Russia's decree, however, threatens to undermine prospects for dialogue and peaceful resolution of the conflicts.

Russia's decision marks a significant departure from statements made by the Russian Foreign Ministry at the time of the conflict, when senior officials condemned the "widespread ethnic cleansing" conducted by Abkhaz rebels. Recognizing the legal validity of Abkhaz institutions risks whitewashing the ethnic cleansing that has driven out 400,000 residents from Abkhazia, while permanently denying them the chance to return.

Yesterday's decree also represents the fulfillment of a systematic strategy by the Kremlin to assert indirect sovereignty over Abkhazia through its "passportization" policy. Moscow began issuing Russian passports in Abkhazia in 2002; nearly 80 percent of residents in the territory now hold such passports, primarily for the economic and mobility benefits they bestow. With yesterday's decree, Russia has created the legal preconditions for taking political and even military action to "protect" its citizens in Abkhazia.

The Sukhumi authorities have interpreted the Russian decree as a form of recognition of their independence. "Actually, only the final step now remains to be taken on the road towards eventual recognition of our independence," Abkhazia's de facto foreign minister, Sergey Shamba, said. "Putin's instructions envisage recognition of our documents and this is very important. Recognition is a long process, but a Kosovo precedent gives an impetus to it."

As such, the de facto regimes would not appear to have any motivation to enter into a dialogue with Tbilisi on the peace plan tabled earlier this month by the Georgian government.

III. RECENT RUSSIAN MOVES

Yesterday's decree is the latest in a series of recent acts by Moscow that have raised profound concerns about Russia's goals in the region. These include:

- March 6: Russia withdraws from the 1996 CIS sanctions regime, which prohibits military support of the separatist regime, as well as economic and trade relations.
- March 21: The Duma adopts a resolution calling on the government to consider "the expediency of recognizing the independence" of the Georgian separatist regions of Abkhazia and South Ossetia. The resolution also urges the Kremlin to intensify efforts aimed at the protection of Russian citizens in the separatist regions.
- April 3: President Putin, in a letter to the two separatist leaders, vows to continue with the de facto recognition of Abkhazia and South Ossetia through means that are "not declarative, but practical"—such as the lifting of sanctions and yesterday's establishment of legal links.
- April 8: The Russian justice ministry sends a letter to its Georgian counterpart stating Moscow's intent to "closely cooperate, hold talks, and make legal-related decisions with the Abkhaz authorities."

IV. KEY POINTS OF THE RUSSIAN DECREE

Putin's decree authorizes Russian state agencies to:

- Cooperate with counterpart agencies in Abkhazia and South Ossetia;
- Organize cooperation in trade, economic, social, scientific, and cultural areas, and include Russian regions in the process;
- Define a list of documents issued by Abkhaz and South Ossetian state agencies to individuals that will be recognized by counterpart state agencies in Russia;
- Recognize legal entities registered under the laws of Abkhazia and South Ossetia;
- Provide legal assistance in the field of civil, family, and criminal law;
- Russian Foreign Ministry local representations in the Krasnodar district (at the Abkhaz border) and in Russia's North Ossetian Republic (at the border with South Ossetia) will perform, if necessary, consular functions by providing assistance to residents of Abkhazia and South Ossetia.

V. ANNEX: FULL TEXT OF THE RUSSIAN FOREIGN MINISTRY STATEMENT

Russian President Vladimir Putin has given instructions to the government of the Russian Federation regarding regulation of Russia's relations with Abkhazia and South Ossetia.

The instructions are directed towards implementation of the declared course of the Russian authorities aimed at rendering, in compliance with the norms of international law, purposeful support to the population of the two republics, as well as Russian citizens living there, taking into account Russia's recent withdrawal from the 1996 CIS treaty, restricting the relations with Abkhazia at a state level, as well as the recommendations given by the State Duma.

The implementation of the President's instructions will allow creating of mechanisms for comprehensive protection of rights, freedoms and legal interests of Russian citizens living in Abkhazia and South Ossetia.

With this purpose the Russian government was instructed to interact with the actual governmental bodies of Abkhazia and South Ossetia, including establishment of cooperation in trade-economic, social, scientific-technical fields, as well as in the spheres of information, culture and education, including through the involvement of the Russia's regions.

List of documents issued by Abkhaz and South Ossetian state agencies to individuals that are recognized by the state agencies of the Russian Federation is defined. Legal personality of legal entities, registered under the legislation of Abkhazia and South Ossetia, which is considered as *lex personalis* of such legal entities, is recognized as well. Federal bodies of the executive authorities are instructed to carry out cooperation with Abkhazia and South Ossetia in frames of legal

assistance in the field of civil, family and criminal laws. In case of necessity, the Russian Foreign Ministry's local representations in Krasnodar district and in the Republic of North Ossetia–Alania will perform consular functions to provide assistance to persons permanently living in Abkhazia and South Ossetia.

It is also envisaged to develop additional proposals on concrete directions of further interaction with Abkhazia and South Ossetia in favor of the social-economic development of these republics, protection of rights of the population living there, including the Russian citizens. The key motive behind our actions in this direction is taking care of the interests of population of Abkhazia and South Ossetia, including the Russian citizens living there. During the protracted conflicts the residents of these unrecognized republics have appeared in a distressful situation. They were actually deprived of the possibility to realize their universal rights to dignified life and sustainable development.

Their conditions are worsened by Tbilisi's actions, which actually neglects the capabilities of the existing mechanisms for establishing normal economic relations, solving social problems in Abkhazia and South Ossetia. The Georgian leadership refuses to sign with Sokhumi and Tskhinvali binding documents on non-use of force and non-resumption of hostilities, builds up its offensive armament through various channels and demonstrates aggressive intentions, particularly in the upper part of the Kodori Gorge, thus violating the resolutions of the UN Security Council. Against this background "new peaceful initiatives" pushed by the Georgian leadership cannot be perceived seriously.

Our decision to move towards rendering more purposeful, practical assistance to the populations of unrecognized republics does not differ from the mood of the international community. It is worth of mentioning that the resolution of the UN Security Council adopted on April 15 (on prolongation of the UNOMIG mandate) directly points at urgent necessity of economic development of Abkhazia, improvement of living conditions of the population affected by the conflict.

Our actions in respect of Abkhazia and South Ossetia do not mean that Russia makes a choice in favor of confrontation with Georgia. We are in favor of removing all sanctions and restrictions, hindering the social-economic development of the region. This is confirmed by resumption of air and sea traffic with Georgia, other moves, which represent a positive alternative to the course of the present Georgian leadership.

Implementation of the above-mentioned measures will promote strengthening of security and stability in the Caucasus region.