

PAPERS OF THE SECRETARIAT OF STATE

# **Diplomatic Memoranda of Kaharagia**

VOLUME I





# Diplomatic Memoranda of Kaharagia

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## *Section II — Foreign Affairs, 2026*

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**Diplomatic Memoranda of Kaharagia**

*Section II — Foreign Affairs, 2026*

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Issued by the Secretariat of State, Section II — Foreign Affairs. A Diplomatic Memorandum states the position of the State of Kaharagia on a question of recognition or contested sovereignty, the grounds on which that position rests, and the reservations to which it is subject. Recognition, accreditation, immunity and privilege are conferred by the appropriate Sovereign instrument; this publication records the position those instruments give effect to.

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# Diplomatic Memorandum on the Doctrine of Free Self-Determination

*Recognition, statehood, external control and the rights of peoples*

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## POSITION OF THE STATE

Kaharagia adopts this doctrine as the governing basis for every determination in this series on recognition and contested sovereignty

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|                         |                                                                                         |
|-------------------------|-----------------------------------------------------------------------------------------|
| STATE RECOGNITION       | Determined separately for each case. No case is decided by this instrument.             |
| GOVERNMENT RECOGNITION  | Distinct from recognition of a state, and never implied by it.                          |
| DIPLOMATIC RELATIONS    | Established only by separate decision or agreement.                                     |
| DUTY OF NON-RECOGNITION | Where it arises, it displaces discretion and cannot be cured by attaching reservations. |

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## CORE MAXIM

*Self-determination means determining one's own future, not exchanging one external sovereign for another.*

## 1. Purpose, Scope and the Instruments Relied On

The State of Kaharagia affirms the equal right of peoples to determine their political status and to pursue their economic, social, cultural, and institutional development. That right is applied consistently. Neither the power of a parent state nor the patronage of a foreign state substitutes for the freely expressed will of the people concerned.

The right is not a Kaharagian invention and this doctrine does not treat it as one. Article 1, paragraph 2 of the Charter of the United Nations states the purpose of developing friendly relations among nations “based on respect for the principle of equal rights and self-determination of peoples”, and Article 55 repeats the formula as the basis of international economic and social co-operation. Article 73 binds members administering territories whose peoples have not yet attained a full measure of self-government to recognise that the interests of the inhabitants are paramount. Common Article 1 of the two International Covenants adopted by General Assembly resolution 2200 A (XXI) of 16 December 1966 states it as a right held by peoples rather than a policy owed by governments: “All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”

Two further characteristics fix the weight Kaharagia gives it. The International Law Commission’s conclusions on peremptory norms of general international law, adopted in 2022, annex a non-exhaustive list of such norms which includes the right of self-determination alongside the prohibitions of aggression, genocide, crimes against humanity, racial discrimination and apartheid, slavery and torture. The International Court of Justice, in its judgment of 30 June 1995 in *East Timor (Portugal v. Australia)*, described Portugal’s assertion that the right has an *erga omnes* character as irreproachable, while holding that it could not adjudicate the claim without the consent of a state that was not before it. The right binds against all, and no agreement disposes of it. Those are the floor of this doctrine and nothing below appeals against them.

This doctrine governs Kaharagian assessments of territories whose status is disputed, incompletely recognised, subject to occupation, or dependent upon an external power. It does not assume that every separatist claim must produce an independent state. Self-determination is exercised through independence, free association, federation, confederation, autonomy, integration, or another status freely chosen by the people concerned.

That list is the law’s own and not a Kaharagian softening of it. The Declaration on Principles of International Law concerning Friendly Relations, adopted as General Assembly resolution 2625 (XXV) on 24 October 1970, provides that “the establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people constitute modes of implementing the right of self-determination by that people”. Principle VI of the annex to resolution 1541 (XV) of 15 December 1960 had already set out three routes by which a Non-Self-Governing Territory reaches a full measure of self-government: emergence as a sovereign independent State, free association with an independent State, or integration with an independent State. Independence is one answer among several, and a memorandum that treats it as the only answer

has misread the instruments.

The decisive requirement is that the choice be genuine. In its advisory opinion of 16 October 1975 on Western Sahara the International Court of Justice applied the principle of self-determination through the free and genuine expression of the will of the peoples of the territory. In its advisory opinion of 25 February 2019 on the Chagos Archipelago the Court found that the detachment of 1965 was not based on the free and genuine expression of the will of the people concerned, and that the decolonisation of Mauritius was accordingly not lawfully completed when the country acceded to independence in 1968. Both are advisory opinions. Neither binds any state as a judgment binds parties. Kaharagia adopts the test they state and adopts it as a test, not as a holding against any government.

The doctrine rejects the choice between treating inherited borders as permanently sacred and treating every declaration of independence as conclusive. Territorial integrity remains an important rule of peace and stability, and resolution 2625 (XXV) does not state it unconditionally. Its safeguard clause withholds the protection from any state not “conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour”. Territorial integrity is therefore not a licence for a state to deny a people representation, security, culture, equality, or any peaceful means of altering its political status.

This doctrine binds Kaharagian reasoning and says nothing about what other governments must conclude. Its discipline is internal. Every case memorandum names the test it applies, applies it to the territory before it, states what follows, and names the evidence that would have produced a different answer. Where a memorandum reaches a conclusion the doctrine does not support, either the memorandum is wrong or the doctrine is amended in the open.

## **1.1 The Four Decisions That Must Not Be Confused**

Kaharagian policy distinguishes four decisions that are often collapsed into a single word. Firstly, recognition of a people’s right to self-determination acknowledges that the community has a legitimate political claim. Secondly, recognition of statehood accepts that an entity is a state in international relations. Thirdly, treatment of a government concerns whether particular institutions are accepted as entitled to act for that state. Fourthly, diplomatic relations concern whether Kaharagia and the other state exchange representatives or maintain official channels.

Recognition of a state does not endorse every act of its government, every territorial claim it makes, or every foreign military arrangement imposed upon it. Withholding recognition from a present regime does not deny the dignity, identity, or future political choices of the people living under it. Diplomatic relations may be absent where statehood is recognised, and practical communication may occur without recognition.

The four take independent values. Answering one leaves the others undecided, and implication decides nothing. Treatment of a government admits of more than two answers. Kaharagia may recognise a state’s constitutional institutions without en-

dorsing the administration in office; treat authorities as the de facto administration of a territory without conceding sovereign status; recognise a body as the international representative of a people separately from the executive authority of its state; or withhold all of these and still maintain contact. Each memorandum records which applies.

## 1.2 Foundational Principles

The following principles govern every Kaharagian determination:

- **Universality.** Self-determination belongs equally to peoples favoured by powerful states and to peoples ignored by them. Recognition shall not be bought, traded, or granted merely to reward a patron.
- **Free and genuine choice.** A valid choice requires political pluralism, freedom of expression and association, credible electoral or consultative procedures, and freedom from military intimidation or decisive external control.
- **No acquisition by force.** Invasion, annexation, military occupation, and the implantation of dependent authorities do not create lawful sovereign title.
- **No demographic manufacture.** Ethnic cleansing, forced displacement, population transfer, discriminatory settlement, or the exclusion of displaced residents cannot be used to manufacture the electorate whose vote is then invoked as self-determination.
- **Rights of present residents.** People living in a disputed territory possess individual rights regardless of ethnicity, religion, citizenship, date of arrival, or political preference. No status settlement shall impose collective punishment, statelessness, or mass expulsion.
- **Rights of displaced people.** Refugees and displaced persons retain claims to return, property, restitution, compensation, family unity, and political participation. Practical implementation may be negotiated, but their existence may not be erased.
- **Genuine sovereignty.** A nominally independent state must possess a meaningful capacity to govern, choose its alliances, control its security institutions, and alter its foreign policy without the permission or coercion of an external patron.
- **Minority security.** Independence cannot be justified as liberation for one group while becoming domination for another. Constitutional guarantees, local self-government, language rights, religious freedom, and international monitoring may be required.
- **Recognition is not endorsement.** Recognising a state does not ratify its government's conduct, historical narrative, borders beyond those expressly accepted, or any foreign military presence.
- **Peaceful review.** Recognition determinations may be reviewed where a people later chooses another status, where independence is extinguished by annexation, or where conditions necessary for a free decision materially change.

The third of those principles is not a Kaharagian preference, and the doctrine does not present it as one. Resolution 2625 (XXV) states that “no territorial acquisition resulting from the threat or use of force shall be recognized as legal”. Article 5, paragraph 3

of the Definition of Aggression annexed to General Assembly resolution 3314 (XXIX) of 14 December 1974 states that “no territorial acquisition or special advantage resulting from aggression is or shall be recognized as lawful”. Article 11 of the Montevideo Convention on the Rights and Duties of States, signed on 26 December 1933, binds its parties to “the precise obligation not to recognize territorial acquisitions or special advantages which have been obtained by force”. Kaharagia is party to none of those instruments and adopts the rule the three of them share.

The fourth principle has instruments behind it in the same way. Article 49 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 prohibits individual or mass forcible transfers and deportations of protected persons from occupied territory, regardless of their motive, and provides that “the Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies”. Article 8, paragraph 2 (b) (viii) of the Rome Statute of the International Criminal Court makes that transfer a war crime within the Court’s jurisdiction. Article 7, paragraph 1 (d) makes deportation or forcible transfer of population a crime against humanity, defined at Article 7, paragraph 2 (d) as forced displacement by expulsion or other coercive acts from an area in which the persons concerned are lawfully present.

## 2. Three Families of Claim

Status claims do not begin in the same place, and the claimant’s burden differs according to where it begins. Kaharagia places each case in one of three families before applying any further test. Most disagreement about self-determination is disagreement about classification conducted in the language of principle.

- **Unfinished decolonisation.** A territory administered as non-self-governing whose people have never completed a free and genuine act of choice. The right is an outstanding obligation, not a new claim against a settled sovereign. Delay does not discharge it, and administration by the power that prevented the choice does not ripen into title.
- **Restored statehood or a dissolved union.** A territory separately sovereign, or separately constituted, before entering a union whose terms or whose working are contested. The claim resumes a former status and draws no new frontier. Because it invokes a boundary that already existed, it does not carry the precedential danger of redividing a state along ethnic lines.
- **Separation from a settled state.** A community seeking to leave a state whose sovereignty is not otherwise in question. This claim carries the heaviest burden. It must show that internal self-determination has been denied and that no rights-respecting constitutional remedy remains.

The first family has a text of its own. Resolution 2625 (XXV) provides that “the territory of a colony or other Non-Self-Governing Territory has, under the Charter, a status separate and distinct from the territory of the State administering it”, and that the separate status “shall exist until the people of the colony or Non-Self-Governing Territory have exercised their right of self-determination”. Resolution 1514 (XV) of 14 December 1960 required immediate steps to transfer all powers to the peoples of those territories

“without any conditions or reservations”. Time does not discharge that obligation. The Court’s finding that a detachment carried out in 1965 had still not been cured by 2019 is the same point stated in a case rather than in a resolution.

Classification is a question of history, and neither party chooses it. A parent state cannot convert an unfinished decolonisation into a domestic secession by administering the territory for long enough, and a claimant cannot convert an ordinary separation into a restoration by asserting an older sovereignty it cannot demonstrate. Classification does not wait on statehood. The first family is named for its commonest instance and is fixed by a right of self-determination never freely exercised, so it reaches a territory held under occupation as it reaches one administered as non-self-governing, and a people may hold a state while that right remains unexercised. This amendment is made in the open, as this doctrine requires, and it disturbs no determination already adopted.

## **2.1 Inherited Boundaries and What the Presumption Actually Settles**

Inherited administrative and colonial boundaries carry a strong presumption, and Kaharagia does not treat them lightly. A Chamber of the International Court of Justice stated the principle in its judgment of 22 December 1986 in *Frontier Dispute (Burkina Faso/Republic of Mali)*. *Uti possidetis juris* accords pre-eminence to legal title over effective possession as a basis of sovereignty, and its object is respect for the territorial boundaries which existed at the moment when independence was achieved. Where the colonial lines were delimitations between administrative divisions or colonies all subject to the same sovereign, the principle converts them into international frontiers.

The presumption serves peace, not title. It settles which line is the starting point, not whether the people inside it have consented. Paragraph 6 of resolution 1514 (XV) states that “any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations”, and it sits in the same resolution as paragraph 2, which states the right of all peoples to self-determination. Read together, paragraph 6 protects a territory undergoing decolonisation from being dismembered on the way out. It does not convert an administering power’s convenience into title. The same principle may therefore support a claim to restore a former external boundary and defeat a claim to draw a new internal one.

## **3. Assessment Framework**

The Secretariat of State assesses each case on its facts, not by analogy alone. The Kosovo, Abkhazian, Sahrawi, Palestinian, Somaliland, Cypriot, Transnistrian, and Ossetian questions arise from different histories, and this series has already reached different answers on them.

The assessment considers the continuity of the political community; its relationship to the territory; prior constitutional or colonial status; the clarity and persistence of popular will; the representativeness and effectiveness of institutions; the degree of foreign military, political, and economic control; the treatment of minorities and opponents;

the position of refugees and displaced people; the legality of territorial acquisition; and the availability of a peaceful negotiated settlement.

No single factor is conclusive. Effective institutions do not cure conquest. Historical identity does not authorise ethnic expulsion. International non-recognition does not erase a people. Foreign support does not by itself invalidate a claim, but foreign effective control may prevent the present authorities from demonstrating that the claim is freely expressed.

### 3.1 The Constituency Question

Before asking what a people has chosen, Kaharagia asks who was permitted to choose.

The body entitled to decide status and the body entitled to ordinary civil rights need not be identical. It does not follow from a lawful right to live somewhere that a population introduced by a controlling power during the period of control acquires a decisive voice over whether that control becomes sovereignty. Nor does it follow that people expelled from the territory lose their voice because the expulsion succeeded.

- Displaced persons and their descendants with a demonstrable connection to the territory shall not be excluded from a status process because return has not yet been achieved.
- Present residents shall not be disqualified from civil and political life on grounds of origin, ethnicity, religion or date of arrival.
- Settlement organised or encouraged by a controlling power shall not decide the status question it was designed to foreclose.

The procedural standard is old and it was written for the easiest case. Principle IX of the annex to resolution 1541 (XV) required, before a territory could be treated as having integrated with an independent State, that the wishes of its peoples be expressed “through informed and democratic processes, impartially conducted and based on universal adult suffrage”, and contemplated that the United Nations could supervise those processes where it deemed supervision necessary. Principle VII required that free association be the result of a free and voluntary choice expressed through informed and democratic processes, and that the associated people retain the freedom to modify that status later. A process that cannot meet the standard set for the least contested transition cannot carry a contested one.

The General Assembly has applied the constituency rule to an occupation within living memory. Resolution ES-11/4 of 12 October 2022 condemned the organisation of what it called illegal so-called referendums held from 23 to 27 September 2022 in parts of the Donetsk, Kherson, Luhansk and Zaporizhzhia regions of Ukraine that were or had been under temporary military control, declared that those votes and the attempted annexation which followed “have no validity under international law and do not form the basis for any alteration of the status of these regions”, and called upon all States not to recognise any alteration of status. A resolution of the General Assembly is a recommendation and not a binding decision. Kaharagia records it as the clearest recent statement of the rule that a vote held on ground the voting authority took by force settles nothing.

Registration rules, eligibility and the framing of the question are settled before a process begins, by a body no interested party controls. A vote taken on an electorate defined by the winner of the last war is evidence of the war, not of consent.

### **3.2 Population Movement, Residence and Sovereignty**

A person's residence in a territory and a state's sovereign title to that territory are different legal and moral questions. Residents may be entitled to safety, due process, family life, property adjudication, and a path to lawful status even where the settlement policy that brought them there was unlawful. Their presence does not transfer sovereignty to the state that settled or protected them.

The rights of people living under occupation do not wait on the status question, and the parties cannot trade them away. Article 47 of the Fourth Geneva Convention provides that protected persons in occupied territory "shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention" by any change introduced into the institutions or government of the territory, "nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory". Article 8 provides that protected persons "may in no circumstances renounce in part or in entirety" the rights secured to them. Kaharagia treats those two articles as the model for every settlement it is asked to endorse, whether or not the territory in question is under occupation.

Accordingly, Kaharagia rejects both collective expulsion and permanent privileged enclaves. A sovereign successor or newly recognised state may regulate citizenship, immigration, residence, landholding, and public security without religious or ethnic discrimination. It is not required to preserve foreign military protection, extraterritorial law, segregated infrastructure, or title obtained through confiscation. Restitution, compensation, land exchange, residency, naturalisation, and voluntary relocation may all form part of a lawful settlement.

### **3.3 External Patronage and the Puppet-State Problem**

Small and emerging states often require security or economic assistance. Dependency alone does not make a state unreal, and many widely recognised states depend heavily upon allies. The decisive question is whether the people and institutions retain meaningful freedom to refuse, renegotiate, or terminate the relationship.

Kaharagia therefore avoids the indiscriminate label "puppet state", which erases the identity and agency of an entire population. Where courts or credible evidence demonstrate foreign effective control, the memorandum says so precisely. It also identifies local dissent, independent political interests, and movements that seek sovereignty from both the parent state and the patron state.

The Kaharagian position is neither forced reintegration nor disguised annexation. Kaharagia does not accept that a people must exchange Tbilisi for Moscow, Chişinău for Moscow, Nicosia for Ankara, Mogadishu for another patron, or one military dependency for another. Sovereignty must be capable of becoming real.

### 3.4 Dependency, Effective Control and Absorption

External influence is a matter of degree, and recognition policy fails when it treats the whole range as one condition. Kaharagia locates each case on a scale of three.

- **Dependency.** The entity relies on another state for security, budget, trade or diplomatic cover, but its institutions can refuse, renegotiate or end the relationship at a cost they are capable of bearing. Dependency is ordinary among recognised states and does not defeat statehood.
- **Effective control.** Another state's forces, security services, finance or administration determine the political environment, to the degree that a court or comparable body may attribute conduct in the territory to that state. Effective control does not by itself defeat a claim. It shifts the burden, and the entity must then show that the will it expresses is its own.
- **Absorption.** The relationship is being converted into incorporation: by treaty, by the merger or transfer of state functions, by mass conferral of the patron's citizenship, or by the progressive replacement of local institutions. Absorption is the condition the core maxim forbids. An entity travelling toward it cannot demonstrate a free choice of independence, because the choice is being taken out of its hands.

Effective control is a term with legal content and Kaharagia uses it in that sense. The International Law Commission's commentary on attribution records the holding in *Military and Paramilitary Activities in and against Nicaragua*, decided on the merits on 27 June 1986, that for the conduct of an irregular force to engage a state's responsibility "it would in principle have to be proved that that State had effective control of the military or paramilitary operations in the course of which the alleged violations were committed". Other tribunals apply their own tests to their own questions, and the threshold for attributing a particular operation is not the threshold for holding a state answerable for a territory. Where a memorandum in this series relies on a finding of control, it names the body, the case and the test that body applied, and does not merge one standard into another.

Four indicators locate a case on that scale. Whether the claim to self-government predates the patron's involvement or was produced by it. Whether the population and its institutions have demonstrably refused the patron something the patron wanted. Whether the trajectory over time runs toward greater independence or toward incorporation. Whether a party, a newspaper or a candidate may campaign against the relationship with the patron and survive doing so.

The obvious objection is that a scale licenses inconsistency: two territories under one patron treated differently, the difference explained afterwards. The answer is that the indicators are set in advance and can produce an unwelcome result. A territory whose claim long predates its patron, whose institutions have refused that patron on questions the patron cared about, and whose politics still contain a live argument about the relationship, is not in the condition of a territory whose state functions are being merged into the patron's by treaty and whose population has been issued the patron's passports. Treating those two alike would be the inconsistency. Cases sharing a patron may therefore end differently in this series, and each memorandum states the degree

it found.

#### GOVERNING PROPOSITION

*Recognition must answer two questions at once: whether a people is entitled to choose its political future, and whether the institutions claiming to embody that choice are themselves free, representative and genuinely sovereign.*

## 4. Statehood, Separation and the Reach of Recognition

Statehood is neither a prize bestowed by other governments nor a conclusion established by a flag, constitution, referendum or declaration alone. Kaharagia considers a permanent population, a reasonably identifiable territory, institutions capable of public government, and the capacity to conduct external relations. Those four *indicia* are the qualifications listed at Article 1 of the Montevideo Convention, which names a permanent population, a defined territory, government, and capacity to enter into relations with the other states. They are not applied mechanically. A state may survive occupation or the temporary collapse of government, while an entity with functioning ministries may remain so controlled by an external patron that its asserted independence is largely nominal.

Article 3 of the same convention states the proposition that matters more here: “The political existence of the state is independent of recognition by the other states.” Recognition records a judgment about a thing that either exists or does not. It does not manufacture the thing judged, and it does not extinguish it by being withheld. That is why non-recognition in this series is drafted as a Kaharagian position and never as an assertion that a population has ceased to exist.

Effectiveness is therefore read together with legality and popular legitimacy. Military conquest cannot manufacture title merely because it creates effective control. A people does not lose its statehood or its right to statehood merely because an occupying power obstructs the ordinary exercise of authority. The doctrine keeps apart the existence of a state, the lawfulness of territorial acquisition, the legitimacy of a government, and the practical degree of independence actually enjoyed.

The most cited modern authority on declarations of independence decides less than it is made to carry. On a request made by the General Assembly in resolution 63/3 of 8 October 2008, the International Court of Justice found by ten votes to four, on 22 July 2010, that the declaration of independence of Kosovo adopted on 17 February 2008 did not violate international law. The Court set out what it was not deciding. It was not asked whether Kosovo had achieved statehood, nor about the validity or legal effects of recognition by other states, and it did not decide whether international law confers a positive entitlement to declare independence or any right of remedial secession. That is an advisory opinion given on a request under Article 96 of the Charter, and it binds nobody. The absence of a prohibition on declaring independence is not a title to territory, and a Kaharagian memorandum that cites the opinion for more than it holds is wrong on its face.

#### 4.1 Internal Self-Determination, Separation and Exhausted Remedies

The ordinary expression of self-determination is internal: equal citizenship, democratic participation, cultural and language rights, meaningful local government, and access to lawful constitutional change. Independence is not the only legitimate answer. In many cases, autonomy, federation, free association or a guaranteed power-sharing settlement can protect both the community seeking self-government and the wider state.

The Supreme Court of Canada put the ordinary case plainly in *Reference re Secession of Quebec*, decided on 20 August 1998 on a reference by the Governor in Council. The right “is normally fulfilled through internal self-determination, a people’s pursuit of its political, economic, social and cultural development within the framework of an existing state”, and a right to external self-determination “arises in only the most extreme of cases and, even then, under carefully defined circumstances”. The Court treated colonial peoples and peoples subject to alien subjugation as the recognised cases. It described a third as asserted rather than settled: that a people “blocked from the meaningful exercise of its right to self-determination internally” is entitled, as a last resort, to exercise it by secession. It declined to decide whether that third proposition reflects an established standard of international law, holding that Quebec came nowhere near the threshold in any event. That is a domestic court answering a domestic reference. Kaharagia cites it for the structure of the argument and not as an international ruling.

Kaharagia rejects the proposition that territorial integrity gives a parent state an unlimited veto. The textual anchor is the safeguard clause of resolution 2625 (XXV), which conditions the protection of a state’s territorial integrity on that state possessing a government representing the whole people belonging to the territory without distinction. Where a people has been systematically excluded, violently repressed, denied meaningful internal self-determination, or left without a credible constitutional remedy, external self-determination may become a legitimate remedy. The relevant inquiry is not whether separation is convenient for powerful states, but whether a durable, rights-respecting and freely chosen political order remains possible within the existing state.

#### 4.2 Nested Claims and the Limits of a Recognised Boundary

Recognising a state is not recognising every boundary that state claims. Kaharagia may recognise that a state exists while expressly reserving the status of territory at or within its asserted limits, and a reservation of that kind is a determination in its own right, not an evasion of one. A people asserting self-determination against a parent state acquires no licence to deny it to a community inside the territory it claims, and recognition authorises nothing by way of force, siege or the imposition of administration on a population that rejects it.

Kaharagia does not accept ethnic partition as a default remedy. Dividing territory to match populations rewards the coercive movement of people and endangers every community left on the wrong side of the new line. Boundary change may be legitimate where it is freely negotiated between the states concerned, accepted by the residents affected, and accompanied by protection for those who stay. Contested localities are

matters for local consent, negotiation and, where necessary, supervised consultation.

## 5. Atrocity Crimes and Duties of Non-Recognition

Recognition policy is not insulated from genocide, crimes against humanity, war crimes, aggression, annexation or apartheid. Kaharagia does not treat diplomatic convenience as a reason to recognise territorial acquisition produced by force, to legitimise an unlawful settlement programme, or to provide political cover for the destruction or forcible removal of a protected population.

Recognition of a state does not grant immunity to its leaders or institutions. Kaharagia may continue to recognise the legal personality of a state while refusing official contact with a government, imposing targeted measures upon responsible persons, supporting international criminal proceedings, or determining that particular conduct constitutes an international crime. The continuity of a state and the criminal responsibility of those governing it are separate questions.

A duty of non-recognition is not an exercise of the discretion described elsewhere in this doctrine. Where a situation is the product of a serious breach of a peremptory norm, and in particular where the competent international organs have called upon states to withhold recognition, Kaharagia shall withhold it and shall not attempt to cure the position by attaching reservations. That rule is taken from instruments and not composed here. Article 41 of the articles on responsibility of States for internationally wrongful acts, of which the General Assembly took note in resolution 56/83 of 12 December 2001, provides that “no State shall recognize as lawful a situation created by a serious breach” of an obligation arising under a peremptory norm, “nor render aid or assistance in maintaining that situation”. Article 40 defines such a breach as a gross or systematic failure by the responsible state to fulfil the obligation. The Commission’s commentary states that the duty applies to situations such as the attempted acquisition of sovereignty over territory through the denial of the right of self-determination of peoples, and that it “not only refers to the formal recognition of these situations, but also prohibits acts which would imply such recognition”. The Commission restated the same rule in 2022 as Conclusion 19 of its conclusions on peremptory norms.

The organs have applied it, and the instruments can be read. In its advisory opinion of 21 June 1971 on Namibia the International Court of Justice held that States were bound to recognise the illegality of South Africa’s presence and to refrain from any acts implying recognition of the legality of, or lending support or assistance to, that presence and administration. By resolution 541 (1983), adopted at its 2500th meeting on 18 November 1983, the Security Council considered the declaration of the Turkish Cypriot authorities of 15 November 1983 “legally invalid”, called for its withdrawal, and called upon all States “not to recognize any Cypriot State other than the Republic of Cyprus”. By resolution 662 (1990), adopted unanimously on 9 August 1990, the Council decided that annexation of Kuwait by Iraq “under any form and whatever pretext has no legal validity, and is considered null and void”. In its advisory opinion of 9 July 2004 on the wall in the occupied Palestinian territory the Court held that all States were under an obligation not to recognise the illegal situation resulting from the construction and not to render aid or assistance in maintaining it.

The instruments say in terms that the duty reaches past the formal act. Resolution 662 (1990) called upon all States to refrain from “any action or dealing that might be interpreted as an indirect recognition of the annexation”. Resolution ES-11/4 called upon all States, international organizations and specialized agencies to refrain from “any action or dealing that might be interpreted as recognizing any such altered status”. Kaharagia therefore applies the duty to the acceptance of documents, the treatment of the territory as part of the acquiring state for purposes of trade, procurement, address or origin, and any agreement whose performance would consolidate the unlawful position. Where such a duty arises, Kaharagia withholds recognition and does not attempt to cure the position by attaching reservations.

## 5.1 Legal Character of Kaharagian Findings

A Diplomatic Memorandum reaches a reasoned governmental conclusion on questions of international law and foreign policy. It may determine, for Kaharagian purposes, that a state is committing genocide, that an office-holder is responsible for war crimes, or that an organisation is extremist or terrorist. Such a conclusion may govern recognition, sanctions, entry, procurement, official contact and public terminology.

The memorandum also describes the procedural status accurately, and the standards it is distinguishing are written down. A Pre-Trial Chamber of the International Criminal Court issues a warrant of arrest where it is satisfied that “there are reasonable grounds to believe that the person has committed a crime within the jurisdiction of the Court”, under Article 58, paragraph 1 (a) of the Rome Statute. A conviction requires the Court to be “convinced of the guilt of the accused beyond reasonable doubt”, under Article 66, paragraph 3, and Article 66, paragraph 1 presumes every person innocent until guilt is proved before the Court. The distance between those two thresholds is the reason a Kaharagian finding is never presented as a criminal conviction where no competent court has entered judgment.

The same discipline applies to the character of every source relied on. An advisory opinion is given at the request of an organ competent to seek one under Article 96 of the Charter and is not a judgment between parties. A resolution of the General Assembly is a recommendation. A commission of inquiry reports and a court adjudicates. A sanctions designation, an investigative submission and a final judicial determination carry different evidentiary and legal weight, and each memorandum in this series identifies which it is relying on.

Proceedings pending elsewhere do not suspend Kaharagian judgment, and the law of prevention is drafted on that assumption. Article I of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted on 9 December 1948 and in force from 12 January 1951, confirms genocide as a crime under international law which the parties “undertake to prevent and to punish”. In its judgment of 26 February 2007 in the case brought by Bosnia and Herzegovina, the International Court of Justice held that the obligation to prevent arises when a state is aware, or should normally have been aware, of the serious danger that acts of genocide would be committed, and requires it to employ all means reasonably available within the limits permitted by international law. An obligation framed that way attaches to a risk, not to a verdict. The converse binds equally. A Kaharagian determination creates no criminal liability, es-

tablishes nothing before any court, and does not become a conviction by repetition. Where a memorandum names a person, the basis of the finding and the procedural status of any related proceeding appear in the same passage, so that the two cannot be quoted apart.

## 5.2 Extremist and Terrorist Classifications

Kaharagia uses a graduated classification rather than treating every objectionable movement as legally identical. **Extremist organisation** describes a group that advocates or facilitates systematic supremacy, political exclusion, forced population transfer, authoritarian violence or the denial of equal civic membership. **Violent extremist organisation** adds a demonstrated association with violence or its operational encouragement. **Terrorist organisation** is reserved for an organisation that commits, attempts, directs, knowingly supports or is constituted around politically motivated violence against civilians or other protected persons.

Political-party status does not preclude an extremist classification. Electoral participation cannot cleanse an ideology of ethnic supremacy or forced transfer. The extremist classification of an organisation is never converted into collective blame against a religion, nationality or ethnic community. The subject of the finding is the organisation and its conduct.

## 5.3 Deference to the People Concerned

On questions belonging to a people rather than to Kaharagia, Kaharagia follows that people's recognised representative. Which state a people recognises, which boundary adjustments it accepts and which final-status agreement it authorises are decisions Kaharagia has no standing to take on its behalf. Neither the parent state nor the patron state supplies the answer, and neither does Kaharagian preference.

Deference runs to the people and to the body recognised as representing them internationally, not to whichever administration holds office, and it is not withdrawn by criticism of that administration. It has limits the representative cannot waive. No consent authorises what peremptory law forbids, and no agreement extinguishes the individual rights of residents, minorities, refugees or displaced people, who are not parties to it. Articles 8 and 47 of the Fourth Geneva Convention state that limit for occupied territory in express terms, and Kaharagia applies the same limit to any settlement negotiated over the heads of the people it governs.

## 6. The Five Dispositions

Every case memorandum closes on one of five dispositions and names it.

- **Recognition.** The claim is established and no reservation of substance is required.
- **Recognition with reservations.** The state exists and is recognised, but identified questions of boundary, government, foreign presence, displacement or minority protection are expressly excluded from the effect of the act.

- **Deferral.** The claim is not rejected. The conditions under which a free choice could be shown are absent, and Kaharagia records what would have to change. Deferral is not denial, and the memorandum says so in terms, so that its subject is not described as having lost.
- **Non-recognition on the merits.** The claim as presently constituted is not made out, while the underlying rights of the people concerned continue undiminished.
- **Non-recognition required.** Recognition is foreclosed by a duty of the kind described above, independently of the merits of any local claim.

The five differ in what they decide, not in what they owe. None authorises the removal of a population, the withdrawal of humanitarian access, the treatment of individuals as instruments of the authority governing them, or the closing of the question against the future. None authorises reprisal, retaliation or adverse treatment of any person or community on account of a Kaharagian recognition decision or the recognition policy of any other state. Two further limits follow, and neither is available to be traded away: no recognition decision is a warrant for force, and one people's rights shall not be exchanged for another people's recognition.

A disposition tells Organs of State what Kaharagia has decided. It does not by itself tell them what to do. Recognition makes it possible for Organs of State to give effect to a recognised state's public documents in the ordinary way; it does not by itself direct any Organ of State to do so.

## 6.1 Recognition with Reservations, Conditions and Review

Recognition may be accompanied by express reservations concerning boundaries, foreign bases, displaced persons, minority rights, governmental legitimacy, annexation claims or the establishment of diplomatic relations. Reservations are drafted concretely enough to prevent recognition from being misused as endorsement of unlawful conduct.

A reservation is worth what it can be tested against. Conditions attached to recognition or to future engagement are capable of being satisfied by the entity addressed and capable of being assessed by an observer. A condition no government could ever meet is a refusal wearing the language of encouragement, and Kaharagia does not draft one.

- **Periodic review.** Every contested-status memorandum is reviewed when control, borders, democratic conditions or the position of the people materially changes.
- **No purchase of recognition.** Financial assistance, diplomatic patronage or security guarantees do not determine the legal conclusion.
- **Reversibility where necessary.** Recognition may be suspended, qualified or withdrawn if an entity ceases to be independent, is annexed, or was recognised on materially false premises.
- **Continuity of human rights.** No change of recognition extinguishes the rights of residents, minorities, refugees or displaced persons.

Recognition is not a poll. The number of states recognising an entity, the identity of the most recent to do so and any later withdrawal are facts about those states rather

than answers to the question this doctrine asks. Article 3 of the Montevideo Convention makes the point from one side: the political existence of the state is independent of recognition by the other states. The Supreme Court of Canada made it from the other, observing that international law may adapt to recognise a political or factual reality regardless of the legality of the steps leading to its creation, while holding that effectivity of that kind answered no question about right. Kaharagia takes both halves. A count of recognitions is not a title, and a fact established on the ground is not one either.

## 6.2 Engagement Without Recognition

The standing objection to any refusal of status is that it punishes ordinary people for the conduct of the authorities above them. That objection holds wherever non-recognition is allowed to become isolation. A refusal of status is not a refusal of contact, and no Kaharagian instrument makes the daily life of a population an instrument of pressure on its government.

Kaharagia therefore deals with authorities it does not recognise. Humanitarian access, cultural and educational contact, preservation of evidence, missing persons, family reunification and the technical business of ordinary life do not require a decision on status and are not held hostage to one. Such contact is expressly without prejudice to recognition and strengthens a community's own institutions rather than the reach of a controlling power. It does not extend to acts that would consolidate an unlawful acquisition, and no party may represent it as recognition by conduct.

## 7. Operative Doctrine

The State of Kaharagia supports peaceful, rights-respecting processes through which peoples may determine their status free from foreign coercion. It does not treat diplomatic recognition as a reward for geopolitical alignment. It recognises statehood where the evidence supports a durable and legitimate claim, attaches express reservations where territory or government legitimacy remains disputed, and withholds or defers recognition where present conditions do not permit a free determination.

In every case, Kaharagia opposes annexation, ethnic cleansing, forced displacement, demographic engineering, collective punishment, and the permanent denial of minority or refugee rights. Its recognition policy gives legal and diplomatic meaning to self-determination while refusing to dignify domination as independence.

This doctrine decides no case. It settles how cases are to be decided, and it operates on Kaharagian conduct rather than on any territory. Each memorandum in the series states its family of claim, the degree of external control found, its disposition among the five, and the conditions on which it falls to be reviewed. Kaharagian publications, terminology, procurement, entry decisions and official contact conform to the dispositions actually adopted and do not describe territory in terms the Sovereign has not accepted. No existing determination was disturbed by the adoption of this doctrine, and nothing in it recognises or refuses anything by itself.

## 8. Publication and Legal Effect

This memorandum is a public statement of the foreign policy of the State of Kaharagia. Under Kaharagian constitutional practice, the recognition or non-recognition of a state, the recognition of a government, the establishment of a diplomatic mission, the imposition of sanctions and the entry into formal diplomatic relations remain decisions reserved to the Sovereign and implemented through the appropriate instrument. This memorandum states the grounds, scope, reservations and consequences of the doctrine adopted; it does not by itself confer accreditation, immunity or privilege, and the doctrine it states was adopted by Sovereign instrument.

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### Selected Authorities and Official Materials

*Every authority listed was retrieved and read by the Secretariat of State in the week of publication. Titles are followed by the issuing body, the date and a source link. Treaties, resolutions of the General Assembly, decisions of the Security Council, judgments, advisory opinions, texts of the International Law Commission and decisions of domestic courts are identified according to their actual legal character, and none is described as more than it is. Where a source could not be retrieved at the address previously held, the entry gives the address at which the same document was obtained and records why the earlier address failed.*

1. *Charter of the United Nations*. United Nations, 1945; Article 1, paragraph 2 and Article 55 on "the principle of equal rights and self-determination of peoples", Article 2, paragraph 4 on the threat or use of force, Article 73 on territories whose peoples have not yet attained a full measure of self-government, and Article 96 on requests for advisory opinions.  
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2. *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations*. United Nations General Assembly resolution 2625 (XXV), adopted at the 1883rd plenary meeting, 24 October 1970; the modes of implementing self-determination, the separate and distinct status of a colony or other Non-Self-Governing Territory, the safeguard clause on territorial integrity and representative government, and the rule that "no territorial acquisition resulting from the threat or use of force shall be recognized as legal". A recommendation of the General Assembly. Official United Nations text retrieved from the document server; the previously held Digital Library address returned HTTP 403.  
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4. *Principles which should guide Members in determining whether or not an obligation exists to transmit the information called for under Article 73 e of the Charter*. United Nations General Assembly resolution 1541 (XV), adopted at the 948th plenary meeting, 15 December 1960; Principle VI on the three ways a Non-Self-Governing Territory reaches a full measure of self-government, Principle VII on free association, and Principle IX requiring that integration be expressed "through informed and democratic processes, impartially

conducted and based on universal adult suffrage”, with provision for United Nations supervision.

[https://documents.un.org/api/symbol/access?s=A/RES/1541\(XV\)&l=E&t=pdf](https://documents.un.org/api/symbol/access?s=A/RES/1541(XV)&l=E&t=pdf)

5. *International Covenant on Civil and Political Rights*, adopted and opened for signature by United Nations General Assembly resolution 2200 A (XXI) of 16 December 1966; common Article 1 on the right of all peoples to self-determination, Article 25 on participation in public affairs and genuine periodic elections, and Article 27 on the rights of minorities. Official United Nations text of the adopting resolution; the previously held Office of the High Commissioner for Human Rights address returned HTTP 403.  
[https://documents.un.org/api/symbol/access?s=A/RES/2200\(XVI\)&l=E&t=pdf](https://documents.un.org/api/symbol/access?s=A/RES/2200(XVI)&l=E&t=pdf)
6. *Convention on Rights and Duties of States adopted by the Seventh International Conference of American States (Montevideo Convention)*. Signed at Montevideo, 26 December 1933; in force 26 December 1934; League of Nations Treaty Series vol. 165 p. 19, registration no. 3802. Treaty record of the United Nations Treaty Collection.  
<https://treaties.un.org/pages/showDetails.aspx?objid=0800000280166aef>
7. *Montevideo Convention on the Rights and Duties of States: text*. Article 1 on the qualifications of a state, Article 3 that “the political existence of the state is independent of recognition by the other states”, and Article 11 on the obligation not to recognise territorial acquisitions or special advantages obtained by force. Treaty text reproduced by the Faculty of Law of the University of Oslo; the United Nations Treaty Collection serves the record at authority 6 without a retrievable English text page.  
<https://www.jus.uio.no/english/services/library/treaties/01/1-02/rights-duties-states.html>
8. *Western Sahara*. International Court of Justice, Advisory Opinion, 16 October 1975; the application of self-determination through the free and genuine expression of the will of the peoples of the territory, and the finding that the ties found did not affect the application of resolution 1514 (XV). An advisory opinion, not a judgment.  
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9. *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*. International Court of Justice, Advisory Opinion, 21 June 1971; the obligation of States to recognise the illegality of South Africa’s presence and to refrain from any acts implying recognition of its legality or lending support or assistance to it. An advisory opinion, not a judgment.  
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10. *Frontier Dispute (Burkina Faso/Republic of Mali)*. International Court of Justice, Judgment of a Chamber, 22 December 1986; *uti possidetis juris* accords pre-eminence to legal title over effective possession, secures respect for the boundaries existing at the moment independence is achieved, and converts former administrative delimitations into international frontiers. A judgment, binding between the parties.  
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11. *East Timor (Portugal v. Australia)*. International Court of Justice, Judgment, 30 June 1995; the Court described as irreproachable the assertion that the right of peoples to self-determination has an *erga omnes* character, while holding that it could not adjudicate without the consent of a State not party to the case. A judgment on jurisdiction and admissibility, not a ruling on the merits of the underlying claim.  
<https://www.icj-cij.org/case/84>
12. *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*. International Court of Justice, Advisory Opinion, 9 July 2004; all States are under an obligation not to recognise the illegal situation resulting from the construction and not to render aid or assistance in maintaining that situation. An advisory opinion, not a judgment.  
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13. *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*. International Court of Justice, Judgment on the merits, 26 February 2007; the obligation to prevent genocide arises when a State is aware, or should normally have been aware, of the serious danger that acts of genocide would be committed, and requires it to employ all means reasonably available within the limits permitted by international law. A judgment.  
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14. *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*. International Court of Justice, Advisory Opinion, 22 July 2010, on a request made by General Assembly resolution 63/3 of 8 October 2008. An advisory opinion, not a

- judgment.  
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  16. *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*. International Court of Justice, Advisory Opinion, 25 February 2019; the detachment "was not based on the free and genuine expression of the will of the people concerned", the decolonisation of Mauritius was not lawfully completed on accession to independence, and the United Kingdom is under an obligation to bring its administration of the Archipelago to an end as rapidly as possible. An advisory opinion, not a judgment.  
<https://www.icj-cij.org/case/169>
  17. *Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries*. International Law Commission, adopted at its fifty-third session, 2001; Article 40 on serious breaches of obligations under peremptory norms, Article 41 on the consequent duties of cooperation and non-recognition, and the commentary to Article 41 stating that the obligation applies to situations such as attempted acquisition of sovereignty over territory through the denial of the right of self-determination of peoples and "not only refers to the formal recognition of these situations, but also prohibits acts which would imply such recognition". The commentary to Article 8 records the Court's effective-control formulation in the Nicaragua case. Articles of the Commission, not a treaty in force.  
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[https://legal.un.org/ilc/texts/instruments/english/draft\\_articles/1\\_14\\_2022.pdf](https://legal.un.org/ilc/texts/instruments/english/draft_articles/1_14_2022.pdf)
  20. *Convention on the Prevention and Punishment of the Crime of Genocide*. Adopted by the United Nations General Assembly on 9 December 1948; in force 12 January 1951. Article I confirms genocide as a crime under international law which the parties undertake to prevent and to punish; Article II defines the crime; Article IX confers jurisdiction on the International Court of Justice over disputes as to interpretation, application or fulfilment. Text published by the United Nations; the previously held Office of the High Commissioner for Human Rights address returned HTTP 403.  
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  23. *Rome Statute of the International Criminal Court, Part 6: The trial*. Article 66: everyone is

presumed innocent until proved guilty before the Court, the onus is on the Prosecutor, and conviction requires the Court to be “convinced of the guilt of the accused beyond reasonable doubt”.

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24. *Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)*, 12 August 1949. Article 8 on non-renunciation of rights; Article 47 on the inviolability of rights notwithstanding any change of institutions, any agreement between the authorities of the occupied territory and the Occupying Power, or any annexation; Article 49 on deportations, transfers and evacuations, including the prohibition on the Occupying Power transferring parts of its own civilian population into the territory it occupies. Official text as published by the International Committee of the Red Cross; the Committee’s per-article database pages serve their text through a script the Secretariat could not retrieve.  
<https://www.icrc.org/sites/default/files/external/doc/en/assets/files/publications/icrc-002-0173.pdf>
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27. *Security Council resolution 662 (1990)*. United Nations Security Council, adopted unanimously at the 2934th meeting, 9 August 1990; decides that annexation of Kuwait by Iraq “under any form and whatever pretext has no legal validity, and is considered null and void”, and calls upon all States not to recognise that annexation “and to refrain from any action or dealing that might be interpreted as an indirect recognition of the annexation”. A decision of the Security Council.  
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28. *Territorial integrity of Ukraine: defending the principles of the Charter of the United Nations*. United Nations General Assembly resolution ES-11/4, adopted at the 14th plenary meeting of the eleventh emergency special session, 12 October 2022; condemns the organisation of the referendums held from 23 to 27 September 2022 in parts of the Donetsk, Kherson, Luhansk and Zaporizhzhia regions that are or have been under temporary military control, declares that those votes and the attempted annexation “have no validity under international law and do not form the basis for any alteration of the status of these regions”, and calls upon all States to refrain from “any action or dealing that might be interpreted as recognizing any such altered status”. A recommendation of the General Assembly, not a binding decision.  
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29. *Reference re Secession of Quebec*, [1998] 2 S.C.R. 217. Supreme Court of Canada, File No. 25506, decided 20 August 1998 on a reference by the Governor in Council; paragraph 126 on internal self-determination as the normal fulfilment of the right and external self-determination as arising “in only the most extreme of cases”, paragraphs 134 and 135 on the asserted third circumstance where a people is blocked from the meaningful exercise of the right internally and the Court’s refusal to decide whether it reflects an established standard, and paragraphs 140 and 141 on the effectivity argument. A domestic court answering a domestic reference, not an international tribunal. Judgment text reproduced by the University of Milano-Bicocca; the Supreme Court of Canada, Lexum and CanLII addresses all returned HTTP 403 to retrieval.  
[https://elearning.unimib.it/pluginfile.php/993798/mod\\_folder/content/0/02%20DIRITTI%20UMANI/08\\_Supreme%20Court%20of%20Canada\\_Quebec.pdf?forcedownload=1](https://elearning.unimib.it/pluginfile.php/993798/mod_folder/content/0/02%20DIRITTI%20UMANI/08_Supreme%20Court%20of%20Canada_Quebec.pdf?forcedownload=1)

# Diplomatic Memorandum on the Status and Recognition of Abkhazia

*Abkhaz self-determination, displaced communities and freedom from external control*

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## POSITION OF THE STATE

Kaharagia recognises the statehood of Abkhazia with express reservations;  
Kaharagia does not establish diplomatic relations at this time

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|-------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SELF-DETERMINATION      | Recognised. The Abkhaz people possess a genuine right to determine their political status.                                                                    |
| FAMILY OF CLAIM         | Separation from a settled state, the heaviest burden under DM-2026-001.                                                                                       |
| EXTERNAL CONTROL        | Effective control, found by the Strasbourg Court. Not absorption: the trajectory does not run toward incorporation and refusal of the patron is demonstrated. |
| STATE RECOGNITION       | Extended, subject to express reservations. Disposition: recognition with reservations.                                                                        |
| GOVERNMENT              | The incumbent authorities are treated as the de facto administration; recognition is not an endorsement of any institution or office-holder.                  |
| DIPLOMATIC RELATIONS    | Not established. Recognition and relations are separate decisions.                                                                                            |
| TERRITORIAL RESERVATION | Without prejudice to boundaries negotiated with Georgia, the rights of displaced persons, or property claims.                                                 |

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COMMON DOCTRINAL BASIS

*A people's right to self-determination is not extinguished by an inherited border. Nor is it fulfilled by foreign occupation, coerced integration, ethnic cleansing, demographic engineering, or a nominal independence maintained under another state's effective control. Recognition of a state is separate from endorsement of its government and from the establishment of diplomatic relations.*

## 1. Executive Position

Kaharagia recognises the Republic of Abkhazia as a state and does not establish diplomatic relations with it at this time. These are two decisions, and this publication answers them differently. Recognition rests on three findings: the Abkhaz are a distinct people with a sustained national claim; their institutions have endured for more than three decades; their refusal to be governed from Tbilisi has been plainly demonstrated. Recognition affirms that Abkhazia is entitled to be independent of both Georgia and the Russian Federation. It is not an endorsement of Russia's regional policy.

Among the five dispositions in DM-2026-001, this publication closes on recognition with reservations. That disposition is available because no duty of non-recognition arises. The Security Council has addressed Abkhazia repeatedly and has reaffirmed the sovereignty and territorial integrity of Georgia while calling for the status of Abkhazia to be defined in accordance with those principles. It has not called upon States to withhold recognition, and no instrument doing so is before the Secretariat. The contrast with DM-2026-008 is exact and it decides the form of this answer rather than its substance.

The reservations attached to this recognition are not decoration. The mass displacement of Georgians from Abkhazia cannot be treated as a completed demographic fact that removes them from the political and moral community of the territory. Russian military presence and structural dependency also constrain present-day Abkhaz sovereignty. Kaharagia recognises the state while requiring that its independence become genuine and rights-respecting. Withholding diplomatic relations is what keeps that requirement real.

### 1.1 Abkhaz Statehood Recognised, Relations Withheld

Abkhazia is a case where the four decisions of the doctrine come apart sharply, and the answers do not run together:

- **The right of self-determination.** Recognised. The Abkhaz people possess a genuine right to determine their political status.
- **Statehood.** Recognised, subject to the reservations below.
- **Government.** The incumbent authorities are treated as the de facto administration. Recognition is not an endorsement of any institution or office-holder, and expresses no view on how those offices were filled.
- **Diplomatic relations.** Not established. Recognition and relations are separate decisions, and the second is withheld.

The doctrine also requires each case to be placed in a family of claim before any further test is applied, and provides that classification is a question of history which neither party may choose. No earlier Abkhaz external sovereignty is established in the material before the Secretariat, and the claim as pressed is not the restoration of one. The case falls in the third family, separation from a settled state, which carries the heaviest burden. On the doctrine's scale of dependency, effective control and absorption, the degree found is effective control. That finding shifts the burden to Abkhazia rather

than answering the question, and the four indicators by which the burden is tested are applied below.

## **2. Self-Determination, the Expulsion and the Limits of Abkhaz Sovereignty**

The Abkhaz claim cannot honestly be described as an invention of the Russian Federation or as a dispute that began in 2008. It was pressed as a party claim, in negotiations under the aegis of the United Nations, fourteen years before any state recognised Abkhazia. On 4 April 1994 the Georgian and Abkhaz sides signed at Moscow a Declaration on measures for a political settlement of the Georgian-Abkhaz conflict, in the presence of the United Nations, the Russian Federation and the Conference on Security and Co-operation in Europe. Paragraph 6 of that declaration provides that Abkhazia shall have its own constitution and legislation and appropriate state symbols, such as anthem, emblem and flag.

The same declaration shows what an internal settlement was going to look like. Paragraph 7 records that the parties had reached a mutual understanding regarding powers for joint action in foreign policy and foreign economic ties, border guard arrangements, customs, energy, transport and communications, ecology, and the securing of human and civic rights and freedoms and the rights of national minorities. Those are the powers of a federal or confederal arrangement, agreed in outline by both sides. Georgia's claim to govern the Abkhaz does not rest only on the external boundary of the Georgian Soviet republic, and Kaharagia does not treat Abkhaz aspirations as legally irrelevant because of that inheritance.

The doctrine's test for external self-determination asks whether a durable, rights-respecting and freely chosen order remains possible within the existing state. The 1994 outline was never completed. In resolution 1065 (1996) of 12 July 1996 the Security Council expressed its deep concern at the continued deadlock in the efforts to achieve a comprehensive settlement, and noted the continued failure by the parties to resolve their differences owing to the uncompromising position taken by the Abkhaz side. Thirty years later the position is not a deadlock in a live negotiation. It is the absence of one.

What exists in its place does not reach the question. The Geneva International Discussions have met since 15 October 2008 under the co-chairmanship of the United Nations, the European Union and the Organization for Security and Co-operation in Europe, and had held sixty-six rounds by March 2026. They address security and the return of displaced persons. The Secretary-General reported on 4 May 2026 that although all participants in Working Group II agreed that the return of internally displaced persons and refugees should be kept on the agenda, there was neither substantial discussion of nor progress on the matter, and that walkouts by some participants under that agenda item continued. A forum whose participants leave the room when return is raised is not a route to a negotiated status.

Recognition does not require Kaharagia to accept every official Abkhaz historical claim, and it does not bind the Abkhaz to their present course. They must be able to decide whether they seek independence, association, confederation or another

relationship without military coercion from any side.

## 2.1 The 1992–1993 Expulsion and the Electorate That Remained

The 1992–1993 war involved grave violations by more than one party. The principal contemporaneous record before the Secretariat is an investigation published by Human Rights Watch in March 1995, which documents indiscriminate attacks on civilian areas, ethnically motivated violence, hostage-taking and pillage by Georgian and by Abkhaz forces, and finds deliberate efforts by each to force the population of the other party's ethnic group out of strategic areas. Abkhaz civilians experienced killings, pillage and the destruction of cultural institutions during Georgian military operations. Georgian civilians experienced organised terror, killing and mass expulsion as Abkhaz forces prevailed.

The scale is established across the record and by different kinds of body. Human Rights Watch recorded approximately 200,000 people displaced, predominantly Georgians, in a mass exodus at the end of 1993, and their subsequent inability to return unconditionally. The General Assembly, in resolution 62/249 of 15 May 2008, deplored practices of arbitrary forced displacement and recorded its deep concern at the humanitarian situation created by the expulsion of hundreds of thousands of persons from Abkhazia, Georgia. In the same resolution it recalled the conclusions of the Budapest, Lisbon and Istanbul summits of the Organization for Security and Co-operation in Europe, and in particular the reports of ethnic cleansing and other serious violations of international humanitarian law in Abkhazia. Those summit conclusions are political findings of a regional organisation, recalled by a recommendatory organ. They are not adjudication, and this publication does not present them as such.

Forced displacement, population transfer and the exclusion of displaced residents may not produce the population whose vote is then invoked as self-determination. Kaharagia does not argue that a vote among the population that remained proves independence was freely chosen. Present institutions and votes are not treated as self-validating when the electorate was transformed by wartime expulsion. Recognition here rests on the endurance of an Abkhaz political community, on the demonstrated capacity of that community to refuse its patron, and on the absence of any free route back to Georgian rule. It does not rest on the arithmetic of a post-war electorate.

Two consequences follow, both operative. The recognised state inherits obligations to all lawful residents and displaced communities of the territory. And the displaced remain part of the political community of the territory for any future status question. By resolution 80/264, adopted at its 88th plenary meeting on 4 June 2026 by 107 votes to 8 with 55 abstentions, the General Assembly recognised the right of return of all internally displaced persons and refugees and their descendants, regardless of ethnicity, to their homes throughout Georgia, including in Abkhazia; stressed the need to respect their property rights and to refrain from obtaining property in violation of those rights; and reaffirmed the unacceptability of forced demographic changes. A resolution of the General Assembly is a recommendation. Kaharagian recognition is nonetheless subordinate to the right it states and may not be pleaded against it.

The Security Council put the governing rule in a form that binds this publication directly. In resolution 1065 (1996) it reaffirmed the right of all refugees and displaced

persons affected by the conflict to return to their homes in secure conditions, condemned the continued obstruction of that return by the Abkhaz side, and stressed the unacceptability of any linkage of the return of refugees and displaced persons with the question of the political status of Abkhazia. Return is not a concession to be traded for status, and status is not a currency in which return may be paid. Kaharagia holds both halves of that sentence against both parties and against itself.

The obligations Kaharagia attaches to recognition are not Kaharagian inventions, and the Abkhaz side is not being asked to accept a standard written for it by strangers. It signed that standard. The Quadripartite Agreement on voluntary return of refugees and displaced persons, concluded at Moscow on the same day as the 1994 declaration between the Abkhaz and Georgian sides, the Russian Federation and the United Nations High Commissioner for Refugees, provides that displaced persons have the right to return voluntarily to their places of origin or residence irrespective of their ethnic, social or political affiliation, under conditions of complete safety, freedom and dignity; that they shall have the right to return peacefully without risk of arrest, detention, imprisonment or legal criminal proceedings, subject to stated exceptions for serious evidence of war crimes and crimes against humanity, serious non-political crimes, and persons serving in armed formations preparing to fight in Abkhazia; that returnees shall enjoy freedom of movement and the right to return to the areas where they lived; that their expired documents shall be extended and validated for their previous place of residence or their elected place of return; that they shall be protected from harassment, including unauthorised charges or fees and threats to life or property; that they shall recover the movable and immovable property they left behind or, where that is not feasible, receive appropriate compensation through a mechanism established by the quadripartite Commission; and that a mechanism shall be established for family reunification. The parties agreed to begin the repatriation operation with the Gali region.

Return may require security arrangements, local autonomy, international monitoring, property commissions, compensation and phased implementation. It cannot be dismissed as politically difficult, imposed collectively on people who do not want it, or turned into the exclusion of those who stayed. The Secretary-General states the reason in terms Kaharagia adopts: return is both a human right and a humanitarian issue, cannot be directly linked to political questions or to the conclusion of peace agreements, and must be addressed irrespective of any solution to the underlying conflict.

## **2.2 Genuine Sovereignty and the Character of the Effective-Control Finding**

The doctrine asks whether a nominally independent state can govern, choose its alliances, control its security institutions and alter its foreign policy without a patron's permission. Dependency alone does not make a state unreal, and this publication does not dispute that Abkhazia is dependent. What decides the question is whether the freedom to refuse, renegotiate or terminate survives.

The European Court of Human Rights answered the first half of that question in its Grand Chamber judgment of 21 January 2021 in *Georgia v. Russia (II)*, which was final on delivery under Article 44 of the Convention. The Court held that the Russian Fed-

eration exercised effective control over South Ossetia, Abkhazia and the buffer zone during the period from 12 August to 10 October 2008, the date of the official withdrawal of Russian troops, and that after that period the strong Russian presence and the South Ossetian and Abkhazian authorities' dependency on the Russian Federation indicated that there had been continued effective control over South Ossetia and Abkhazia. It held by sixteen votes to one that Georgian nationals prevented from returning to South Ossetia or Abkhazia fell within Russian jurisdiction, and by sixteen votes to one that there had been an administrative practice contrary to Article 2 of Protocol No. 4 as regards the inability of Georgian nationals to return to their homes, a situation still running on 23 May 2018, the date of the hearing on the merits.

The Court has since applied the same attribution to conduct at the boundary itself. In its principal judgment of 9 April 2024 in *Georgia v. Russia (IV)* it found a pattern or system of violations by Russia arising from the hardening of the administrative boundary lines after 2008, comprising excessive use of force, ill-treatment, unlawful detention, unlawful restrictions on access to homes, land and families, unlawful restrictions on day-to-day movement across the boundary line, and denial of the right to education in Georgian. On 14 October 2025 a Chamber of seven judges awarded 253,018,000 euros in respect of non-pecuniary damage suffered by more than 29,000 victims of that pattern, including 5,172,000 euros for the unlawful detention of at least 2,586 ethnic Georgians by Russian or de facto Abkhaz and South Ossetian forces following arrest for a border violation, 224,250,000 euros for restrictions on the access of at least 23,000 ethnic Georgians to their homes, land and families, and 20,000,000 euros for the denial of education in Georgian to at least 4,000 people. The Russian Government took no part in those proceedings, and the Court worked from the material submitted by Georgia after satisfying itself that the claims were substantiated. The Court attributed acts of de facto Abkhaz forces to the Russian Federation, and Kaharagia records the attribution as the Court made it.

That award is not a settled sum. The press release issued by the Registrar records that under Articles 43 and 44 of the Convention a Chamber judgment is not final when it is delivered. Within three months of delivery any party may request that the case be referred to the Grand Chamber; a panel of five judges then considers whether the case deserves further examination; if the referral is granted the Grand Chamber hears the case and delivers the final judgment, and if the request is refused the Chamber judgment becomes final on that day. Nothing before the Secretariat records whether a referral was sought here. The finding of effective control on which this publication rests comes from the Grand Chamber judgment of 2021 and does not depend on the sums awarded in 2025.

A finding of effective control allocates responsibility. It tells the Court whose Convention obligations extended over Abkhazia in the period examined, and it leaves title untouched, because ground taken and held by force does not ripen into sovereignty. The conclusion for the period after 10 October 2008 rests on the two facts the Court named, the strong Russian presence and the dependency of the Abkhazian authorities, so what is established is an inference from presence and dependency rather than a finding that Abkhaz decisions are taken in Moscow.

The same judgment shows how narrowly the Court worked. It held by eleven votes to

six that the events of the active phase of hostilities, from 8 to 12 August 2008, fell outside Russian jurisdiction, because armed confrontation between opposing forces in a context of chaos leaves no party in effective control of the ground, and it declared that part of the application inadmissible while recording that international humanitarian law continued to bind in such conditions. The substance of those five days was therefore never examined under the Convention. What the Court did hold, unanimously, is that Russia bore a procedural obligation to investigate those events as well as the events that followed the ceasefire, and it found by sixteen votes to one a violation of Article 2 in its procedural aspect. Neither judgment is a criminal verdict against any person.

One passage of the 2021 judgment runs directly to the terms on which recognition is extended here. The Court recorded that the de facto South Ossetian and Abkhazian authorities, and the Russian Federation which had effective control over those regions, had a duty under the Convention to enable inhabitants of Georgian origin to return to their respective homes. The violation was then found against Russia, because Russia was the respondent state, and the sums awarded in 2025 fall on Russia even where the detentions were carried out by de facto Abkhaz forces. Execution is supervised by the Committee of Ministers against Russia, which remains bound by Article 46 to implement judgments concerning facts occurring before 16 September 2022, the date on which it ceased to be a signatory. Naming the authority that owes the duty and reaching it are different operations, and Strasbourg has performed only the first. Recognition is what lets Kaharagia state the same duty to the administration that governs Gali, and the reservations below state it.

The treaty architecture is extensive and its content is not in dispute. The Treaty on Alliance and Strategic Partnership between the Russian Federation and Abkhazia was signed at Sochi on 24 November 2014 and covers defence, security, the economy and social and humanitarian affairs. An agreement on a combined group of forces followed, ratified by the Abkhaz assembly on 18 December 2015 by twenty-six votes to one with two abstentions, providing for the formation of that group by the end of 2018. Russian Federation border guards operate on the Abkhaz side of the administrative boundary line, and the Secretary-General and the Office of the High Commissioner for Human Rights record continued surveillance and detentions by them. Abkhazia does not presently enjoy the strategic autonomy expected of a fully sovereign state, and this publication makes no claim that it does.

### 2.3 What Abkhazia Has Refused, and What the Refusal Cost

Effective control shifts the burden to Abkhazia. DM-2026-001 fixes four indicators for testing whether an entity under such control still decides for itself. They were settled before this case was examined and they can produce an unwelcome result.

- **Whether the claim predates the patron.** It does. The Abkhaz side negotiated as a party to a United Nations settlement process in 1994 and signed instruments in its own name, fourteen years before any state recognised Abkhazia and fourteen years before the war that produced the present configuration. The proof of it is a document Georgia itself lodged with the Security Council, and not an Abkhaz account of Abkhaz history.

- **Whether the institutions have refused the patron something the patron wanted.** They have, three times on the record before the Secretariat. In October 2014 Moscow put forward a draft treaty on alliance and integration; it was criticised in Sukhumi, the Abkhaz side put forward its own revised version, and the instrument signed on 24 November 2014 was a treaty on alliance and strategic partnership which reflected most of the Abkhaz proposals. A draft measure on foreign agents introduced in February 2024 was strongly opposed by civil society, was postponed, and has not been reintroduced. On 3 December 2024 the assembly refused to ratify the investment agreement signed with the Russian Federation on 30 October 2024, no member voting in favour.
- **Whether the trajectory runs toward independence or toward incorporation.** No instrument merging Abkhazia into the Russian Federation is before the Secretariat. The comparison that settles the point is with the neighbouring case. South Ossetia signed an Agreement on Alliance and Integration in 2015 and a Treaty on Deepening Allied Interaction on 9 May 2026, the second providing for a single economic space, coordinated foreign, defence and security policy and the gradual unification of energy, transport and telecommunications systems. Abkhazia declined the integration treaty and signed a partnership treaty instead. The names of the two instruments are not decoration; they record what each entity was able to refuse.
- **Whether the argument against the patron can be made and survived.** It can. Mass protests against the investment agreement led to the resignation of the incumbent president in November 2024. The assembly then rejected the agreement. At the presidential election that followed, held on 15 February 2025 with a second round on 1 March 2025, Badra Gunba was elected with 54.73 per cent against 41.54 per cent for the opposition leader Adgur Ardzinba. A president removed by protest, a patron's treaty refused by vote and a runoff in which the opposition took more than two fifths of the poll are not the marks of an administration whose decisions are made for it elsewhere.

The refusal was real and it was expensive, and a publication that reports only the refusal has told half the story. After the vote of 3 December 2024 Russian financial assistance was suspended and electricity supplies were cut. Humanitarian electricity deliveries began late that month at the request of the acting president. Following his visit to Moscow in February 2025, 343 million roubles were transferred to fund public-sector salaries and full electricity supply was restored on 7 February 2025. The candidate who won the election had pledged to revise the agreement's format rather than abandon investment, and in his address to the assembly on 26 December 2025 the president described strategic partnership with the Russian Federation as the cornerstone of national security and foreign policy while renewing calls for a legally binding non-use-of-force agreement with Georgia.

That sequence is what the doctrine describes as dependency operating under effective control, and not as absorption. The institutions refused, bore a cost they proved able to bear, and negotiated afterwards from a position they chose. The burden is discharged far enough to support recognition of a state. It is not discharged far enough to support the exchange of representatives, because the matters on which effective control was

found are the military presence and the administration of the boundary, and neither has passed to Abkhaz decision on any material the Secretariat has seen: Russian border guards still stand on the Abkhaz side of the line, and people are still detained there. Recognition with reservations answers a partly met test: recognise the state, recognise no Russian right of tutelage over it, and withhold the exchange of representatives until Abkhazia can maintain a channel that is not routed through Moscow and can show progress on rights and return. DM-2026-008 records the same gap on the same matters and treats it as a sufficient ground on the merits for withholding recognition of a state. What carries this case past that point is the indicator asking whether the institutions have refused their patron: here the refusals are on the record and were paid for, and no such refusal is recorded in the Cypriot file.

### **3. The Case Against Recognising Abkhazia, Answered**

Abkhazia as it exists is a state whose population is the population that remained after ethnic Georgians were driven out. Recognising it gives legal standing to the result of an expulsion. A doctrine that forbids demographic manufacture in principle and recognises this state in practice has, on that view, surrendered the point and kept the vocabulary.

Recognition is not a grant. Statehood is not a prize bestowed by other governments, and non-recognition does not erase a people. Withholding Kaharagian recognition would not return one displaced family or restore one house. The rule the objection invokes targets a specific fallacy: a vote taken among a population produced by expulsion, invoked as proof of free choice. Kaharagia does not rely on that inference, and the reservations forbid anyone from making it on Kaharagia's behalf.

The objection must also answer for its own consequence. Non-recognition leaves Abkhazia's status to be settled between Tbilisi and Moscow, with the Abkhaz on neither side of that table. A displaced Georgian family has a claim against a state that Kaharagia holds to obligations. It has none at all against a fact that Kaharagia declines to name. More than 45,000 people have already returned to their homes in the Gali district. Their position is governed by an authority whose obligations towards them Kaharagia can now state and test.

Part of the objection survives, and this publication says so. Recognition makes Abkhazia's separation harder to reverse, and for anyone whose remedy was the restoration of Georgian administration that is a real loss. Kaharagia's position is that the remedy available lies in return, property and participation. A government in Tbilisi is reachable only through a war fought on the victims' behalf. That is a judgement about which remedies exist, not a claim that the wrong was smaller than they say.

#### **3.1 Whether Recognition Serves Moscow**

The objection is that recognition places Kaharagia in the same column as the Russian Federation. The answer lies in the content of the act. Kaharagia recognises Abkhazia as an Abkhazian state and declares, in the same instrument, that it recognises no Russian sovereignty, annexation right, exclusive security right or permanent right to direct

Abkhaz foreign policy. That is the position Russian policy exists to prevent, because it makes Abkhaz independence assertable against Moscow as well as against Tbilisi.

The doctrine also warns against the indiscriminate label of puppet state. To call every Abkhaz official or citizen a Russian proxy would be a false statement about people, made for the convenience of a conclusion, and the record refutes it. A population that filled the streets against a treaty its patron wanted, and an assembly that then refused to ratify it while the electricity was going off, is not a population without a will. Kaharagia records that the European Union has reported a Russian grant scheme of 5.5 million euros directed at Abkhaz civil society organisations as alternative funding diminishes, and treats the reduction of independent civic capacity as a matter for the review conditions rather than as a reason to describe Abkhaz society as an instrument.

### **3.2 Where the Abkhaz Record Differs From the Other Cases**

DM-2026-003 defers recognition of South Ossetia. The test is identical; the evidence is not. South Ossetia is more deeply integrated into Russian military, economic, citizenship and administrative systems than Abkhazia, and the integration is still accelerating: the treaty signed on 9 May 2026 and ratified that month provides for a single economic space and the gradual unification of energy, transport and telecommunications. One live Ossetian option is union with North Ossetia within the Russian Federation, and the state that would receive the territory already controls its security environment. A choice cannot be measured when the favoured outcome is administered by the party in possession. Deferral there holds a status process open. Deferral here would open nothing.

DM-2026-004 withholds recognition from Transnistria because official votes carry little evidentiary weight where economic power is concentrated, media restricted and dissent unsafe. The Abkhaz record contains a president removed by protest, a treaty refused by the assembly and an opposition candidate taking more than two fifths of a runoff, which is the opposite kind of evidence. That concerns the demonstrability of an independent political will. It is not a finding that Abkhaz political life meets any particular democratic standard, and none is made here.

DM-2026-008 declines to recognise the Turkish Republic of Northern Cyprus, and the difference is one of legal form as well as fact. There the Security Council considered the 1983 declaration legally invalid and called upon all States not to recognise any Cypriot State other than the Republic of Cyprus, which engages a duty that cannot be cured by attaching reservations. The Council's Abkhaz resolutions reaffirm Georgian sovereignty and territorial integrity and call for the status of Abkhazia to be defined accordingly, and Kaharagia does not conceal that this is the strongest instrument against the position adopted here. They do not call upon States to withhold recognition. A reaffirmation of territorial integrity engages discretion; a call for non-recognition displaces it. Where no such process is live, deferral is not neutrality; it leaves the question to whoever holds the ground.

Kosovo cannot be borrowed in either direction: DM-2026-005 refuses to let it serve as a precedent, and its record of United Nations administration, failed status negotiations and an advisory opinion of the International Court of Justice is not the Abkhaz record. Somaliland is recognised in DM-2026-007 on grounds Abkhazia cannot claim: a

former protectorate boundary and a union it entered voluntarily. Its reservation is territorial; this one concerns people. Western Sahara is the closest parallel. DM-2026-006 refuses to let an influx of settlers manufacture title against a colonised people; this publication refuses to let an expulsion manufacture an electorate.

### **3.3 Atrocity, Accountability and the Character of These Findings**

A principled recognition policy must be able to name both sets of crimes without using one to erase the other. The principal contemporaneous record in these authorities is a non-governmental investigation published in 1995, documenting violations of the laws of war by more than one party. That is evidence, not adjudication. The judgments of the Strasbourg Court are judgments of a human rights court allocating state responsibility under a treaty, and they are not criminal verdicts. No competent criminal court has entered judgment on the conduct of the 1992–1993 war.

The parties themselves settled the principle in 1994. In the declaration of 4 April 1994 the Georgian and Abkhaz sides recorded that there is no statute of limitations applicable to war crimes, and agreed to intensify efforts to investigate war crimes, crimes against humanity and serious criminal offences as defined by international and national law and to bring the perpetrators to justice. That undertaking has not been performed by either side. The Office of the High Commissioner for Human Rights records that no one has been held accountable for the deaths in Abkhazia and South Ossetia of David Basharuli in 2014, Giga Otkhozoria in 2016, Archil Tatunashvili in 2018, Irakli Kvaratskhelia in 2019 and Tamaz Ginturi in 2023. The International Committee of the Red Cross reported that as at December 2025 the remains of 323 persons missing in relation to the armed conflicts of the 1990s and of 2008 had been recovered, identified and returned to their families, and that 1,848 persons remain unaccounted for.

A Diplomatic Memorandum may reach a reasoned governmental conclusion that crimes were committed. It may not present that conclusion as a criminal conviction where no competent court has entered judgment, and it names no individual as responsible. Kaharagia determines that grave violations occurred and that more than one party committed them, and determines nothing about the responsibility of any person. Recognition grants no immunity to leaders or institutions. Kaharagia supports impartial investigation, the work on missing persons, and remedy for victims of every community, and treats that work as owed to families rather than as a bargaining position.

## **4. The Terms on Which Kaharagia Recognises Abkhazia**

An independent Abkhazia cannot be conceived as the exclusive possession of one ethnic group. Abkhaz, Georgians, Armenians, Russians, Greeks and others have legitimate connections to the territory. Recognition is conditioned upon equal citizenship, secure language and education rights, freedom of religion, fair access to public employment, and effective local government in areas with concentrated communities. That requirement is not imported. The General Assembly resolution most adverse to the Abkhaz claim, resolution 62/249, itself emphasised that the rights of the Abkhaz

population living in Abkhazia have to be protected and guaranteed. The rule runs in both directions or it is not a rule.

Documentation is where an abstract guarantee becomes a practical one, and the Abkhaz record on documentation is the clearest reason relations are withheld. Since December 2016 the authorities in control have operated a foreign resident permit, and since 2016 ethnic Georgians residing in the Gali district have been required to register as foreigners in order to obtain one. The Secretary-General records that the permit does not grant its holder the full range of political, housing, land and property rights, that its eligibility requirements exclude a considerable number of people including potential future returnees, and that the grounds for rejection are broad and open to interpretation. Following amendments to the law on citizenship adopted in 2013 and 2018, the majority of ethnic Georgians in Abkhazia no longer meet the criteria for the version of the Abkhaz passport issued since 2016, and holders of passports issued before 2016 have been barred since 1 January 2019 from crossing the administrative boundary line. The Office of the High Commissioner records processing times of approximately six to nine months, and that those who lack the documents, including teachers and students, are barred from crossing. A resident whose status is renewable at an official's discretion is not an equal citizen, whatever the constitution provides.

Citizenship rules must not force residents to choose between basic rights and the abandonment of identity, and the reported practice runs against that limit at both ends. The Government of Georgia informed the Office of the High Commissioner that residents of the Gali district face obstacles in registering property if they decline to relinquish their Georgian citizenship, and that in some cases ethnic Georgians there have had to change their surnames to Abkhaz ones and register their ethnic identity as Abkhaz in order to enjoy the full range of their rights. Those are the assertions of a government with an interest in the question and not the findings of a court, and Kaharagia records them as such. Kaharagia also records that they describe precisely the conduct that recognition is expressly refused as cover for. Russian passportisation cannot substitute for an inclusive Abkhaz citizenship, and neither can the erasure of a name.

Property is the second place where the reservations have work to do. The title to an estimated 40 to 50 per cent of all real estate in Abkhazia is not properly documented, which exposes residents of every community to eviction, secondary occupation and protracted dispute. Against that background, amendments to the Abkhaz civil code adopted on 9 July 2025 extended an existing bar. Persons directly involved in acts deemed to undermine the claimed sovereignty of Abkhazia, including participation in the 1992–1993 conflict, were already barred from inheriting property. The revised provisions extend that bar to the family members of such persons, regardless of nationality or legal status. A rule that disinherits the relatives of the defeated is a rule about ethnicity written in the language of loyalty, and Kaharagia states plainly that this measure is incompatible with the terms on which recognition is extended.

Language and schooling are the third. The phased replacement of Georgian with Russian as the language of instruction in schools in the Gali district was completed in 2021. The Government of Georgia reports that more than 4,000 schoolchildren and approximately 600 kindergarten-aged children are consequently taught in Russian, that around 200 schoolchildren permanently left the Gali district at the end of the

2023/24 school year, and that enrolment in the district's schools fell from 3,348 to 3,169 in the following year. It further reports that ethnic Georgian teachers have faced threats, dismissal and replacement, and that ethnic Georgian principals have already been replaced in at least nine schools, some resigning after threats of accusations of treason. The Strasbourg Court awarded 20,000,000 euros for the denial of the right to education in Georgian to a group of at least 4,000 people along the two boundary lines. Mother-tongue education is a condition of this recognition and not an aspiration attached to it.

Movement, detention and access complete the picture, and one part of it is to Abkhazia's credit. Two crossing points on the boundary with Tbilisi-controlled territory are operational, at the Enguri bridge and at Saberio-Pakhulani; four others remain closed, extending travel times for residents of adjacent villages and particularly affecting older people and those needing medical care. The Government of Georgia reports arbitrary closures and unjustified fees charged for transporting goods or passengers across the Enguri bridge, which is conduct the Abkhaz side undertook in 1994 to prevent. For 2025 the Government of Georgia recorded 40 people detained in Abkhazia, with 7 still deprived of liberty at the end of the year. Against that, the authorities in control in Abkhazia maintained limited access for some United Nations development and humanitarian entities throughout 2025, at a time when no international organisation other than the International Committee of the Red Cross could enter South Ossetia at all. That difference is real, it is to be built upon, and it does not answer the request for access which the Office of the High Commissioner sent on 21 October 2025 and to which no reply was received.

#### **4.1 Recognition Without a Mission in Sukhumi**

Under the Sovereign instrument giving effect to this determination, Kaharagia recognises Abkhazia under its own constitutional name and treats Sukhumi as its seat of government. It treats Abkhazia as a state in its terminology and its legal analysis, and the incumbent authorities as the *de facto* administration for practical purposes. It holds that the Russian Federation possesses no sovereign, annexationist or tutelary right over Abkhazia.

No mission opens and no representative is accredited. Recognition does not settle the acceptance of Abkhaz travel or civil documents, entry, procurement or treaty relations, each of which requires its own decision. It validates no treaty obtained under conditions of dependence, and it determines nothing about boundaries, since effective control over a line is not sovereign title to it. Diplomatic relations remain unestablished until the Abkhaz authorities demonstrate a practical capacity to conduct relations independently and accept a rights framework consistent with this publication. Humanitarian, cultural and technical contact may occur in the meantime, is expressly without prejudice to the questions this publication leaves open, and is not to be represented by any party as more than it is.

#### **4.2 What Recognition Does Not Authorise**

Recognition is addressed to a state. It grants no latitude against anyone living in the territory or displaced from it. It does not authorise:

- The expulsion, denationalisation, dispossession or collective punishment of any community in Abkhazia, including Georgians, Armenians, Russians and Greeks.
- The treatment of residence, documentation, language or schooling in the Gali district as a matter of official discretion or as a lever against a community, or the conditioning of property registration, pension entitlement or civil status on the surrender of another citizenship or the alteration of a name.
- The treatment of displaced persons or their descendants as having forfeited return, property, compensation or participation through the passage of time, or the extension of any disqualification from inheritance to the family members of persons involved in the conflict.
- The acquisition of property in Abkhazia in violation of the rights of returnees, which the General Assembly has called upon Member States to deter among persons under their jurisdiction, and which Kaharagia deters accordingly.
- The use of force by Georgia to restore control, or the absorption, annexation or incorporation of Abkhazia by the Russian Federation.
- Reprisals against Georgians in Abkhazia, or against Abkhaz communities elsewhere, prompted by this decision or by another state's grant or withdrawal of recognition.

### **4.3 Scope and Reservations of Recognition**

Recognition is accompanied by the following declarations:

- Kaharagia recognises Abkhazia as a state and recognises the Abkhaz people's right to an independent political future.
- Kaharagia does not recognise Russian sovereignty, annexation rights, exclusive security rights, or any permanent right to direct Abkhaz foreign policy.
- Recognition is without prejudice to a negotiated boundary with Georgia or to the status of communities whose local affiliation remains disputed.
- Recognition does not extinguish the right of displaced persons and their descendants to return, restitution, compensation, citizenship or residency, and political participation, and may not be pleaded against the obligations the Abkhaz side accepted in the Quadripartite Agreement of 4 April 1994.
- Kaharagia expects constitutional guarantees for Georgian, Armenian, Russian and other communities, including language, education, religion, local government, and equal protection.
- Kaharagia does not establish diplomatic relations by this act. Relations fall to be considered when Abkhazia can maintain an official channel independent of Russian direction and demonstrate progress on rights and return.

## **5. What Would Justify Relations With Sukhumi, and What Would Not**

These are the conditions against which the withheld decision is measured:

- An internationally monitored programme for safe, voluntary and dignified return, restitution and compensation, without imposing collective return or collective exclusion, and the development of the timetable the General Assembly has called for since 2008.
- A documentation regime under which lawful residence, property registration, pension entitlement and freedom of movement do not depend on ethnicity, on the surrender of another citizenship, or on official discretion, and under which the bar on inheritance introduced in July 2025 is repealed.
- Mother-tongue education restored as a right in the Gali district, with teachers and principals protected from dismissal or prosecution on account of their community.
- The reopening of the closed crossing points, the end of arbitrary closures and unauthorised charges, the resumption of the Incident Prevention and Response Mechanism in Gali without preconditions, and unimpeded access for international and regional human rights bodies, including the access sought by the Office of the High Commissioner in October 2025.
- Transparent review of Russian military basing, border administration, security services and treaties, with an Abkhaz right to alter or terminate them.
- Credible elections and media pluralism open to positions favouring independence, association, neutrality or another peaceful status, and an independent civic sector not dependent on a single foreign funder.
- A binding renunciation of annexation by any state and a commitment to settle outstanding questions with Georgia peacefully, of which a legally binding non-use-of-force agreement would be the natural first instrument.

DM-2026-001 forbids conditions that no addressee could meet, so Kaharagia records to whom each is addressed. Documentation, education, inheritance, crossing points, access and the conduct of elections are addressed to the authorities in Sukhumi, and every one of them is within their power. The withdrawal or consensual regulation of foreign forces and the end of detentions at the boundary line are addressed to the Russian Federation. The renunciation of force and the terms of any negotiated settlement are addressed to Georgia. A supervised return programme is addressed to the states and organisations capable of convening one. The list is deliberately weighted toward the first group, because a condition addressed to nobody is a refusal wearing the language of encouragement.

## 5.1 Nauru's 2026 Reversal

On 30 July 2026 the Government of the Republic of Nauru announced that it had withdrawn its recognition of the Republic of South Ossetia and the Republic of Abkhazia as independent States and terminated diplomatic relations with both with immediate effect. The media release supplied no reason. Reporting records that four United Nations member states recognise Abkhazia after that decision, and that the Abkhaz foreign ministry attributed the withdrawal to external pressure. Kaharagia does not adopt that characterisation, which is an assertion by an interested party.

A withdrawal by one state alters no fact on which statehood depends. DM-2026-001

states the rule: recognition is not a poll, and the number of states recognising an entity, the identity of the most recent to do so and any later withdrawal are facts about those states rather than answers to the question the doctrine asks. A small state's recognition policy is credible only when grounded in published principles rather than diplomatic purchase or pressure. That constraint binds Kaharagia in both directions. It forbids recognising Abkhazia because a patron would be pleased, and withholding recognition because withholding is cheaper.

#### ABKHAZIAN PRINCIPLE

*Kaharagia recognises Abkhazia only as an Abkhazian state: independent of Georgia, independent of Russia, and bound to protect every community whose home is in Abkhazia.*

## 6. Review and Reversibility

Review follows DM-2026-001. Reviewability is what holds this recognition to the reservations attached to it, and the doctrine permits recognition to be suspended, qualified or withdrawn where an entity ceases to be independent, is annexed, or was recognised on materially false premises.

Any step towards the incorporation or annexation of Abkhazia by the Russian Federation reopens this determination. So do the transfer of decisive state functions such that the capacity to refuse is no longer exercised, the closure of return, restitution or participation as practical possibilities, the systematic exclusion of Georgian, Armenian, Russian or other communities from equal citizenship, and any freely expressed decision of the Abkhaz people in favour of a different status. The annual report of the Secretary-General on the status of internally displaced persons and refugees, the annual report of the Office of the High Commissioner for Human Rights on cooperation with Georgia, and the rounds of the Geneva International Discussions fix the ordinary occasions for review.

## 7. Operative Declaration

The State of Kaharagia recognises that the Abkhaz people possess the right freely to determine their political status. It recognises the Republic of Abkhazia as a sovereign state, without recognising any claim of the Russian Federation to control, absorb, or direct that state. Such recognition is without prejudice to the rights of refugees and displaced persons, the restoration or compensation of property, the protection of all communities, and the peaceful determination of boundaries. Diplomatic relations are not established by this instrument.

## 8. Publication and Legal Effect

This memorandum is a public statement of the foreign policy of the State of Kaharagia, adopted by the Sovereign and issued through the Secretariat of State, Section II. Under Kaharagian constitutional practice, the recognition or non-recognition of a state, the recognition of a government, the establishment of a diplomatic mission, the imposition of sanctions and the entry into formal diplomatic relations remain decisions

reserved to the Sovereign and implemented through the appropriate instrument. A Diplomatic Memorandum states the grounds, scope, reservations and consequences of a policy; it does not by itself confer accreditation, immunity or privilege.

This memorandum is published in the Diplomatic Memorandum Series by the Office of the Sovereign's Printer. Its serial reference is preserved in every separate or electronic edition. Organs of State conform their terminology, publications, procurement, entry decisions and official contact to the determinations recorded here. Material changes in facts, control, legal proceedings or the formally expressed position of the people concerned trigger review. Every authority listed below was retrieved and read when this edition was prepared, save where the entry states otherwise and says what was done instead.

## Selected Authorities and Official Materials

*Authorities were verified when this edition was prepared, each against the issuing body's own publication except where the entry states otherwise. Titles are followed by the issuing body, the date and a source link. Judgments of human rights courts, resolutions of the General Assembly, decisions of the Security Council, agreements between the parties to the conflict, governmental submissions, non-governmental investigations and press reporting are identified according to their actual character, and none is described as more than it is. Where an address previously held for an authority failed or misdescribed its source, the entry records the failure and gives the address at which the document was obtained.*

1. *Judgment in the case concerning the armed conflict between Georgia and the Russian Federation in August 2008 and its consequences.* European Court of Human Rights, press release ECHR 028 (2021) issued by the Registrar, 21 January 2021; Grand Chamber judgment of the same date, application no. 38263/08, recorded as final under Article 44 of the Convention. Records the holding by eleven votes to six that the events of the active phase of hostilities from 8 to 12 August 2008 did not fall within Russian jurisdiction, because armed confrontation in a context of chaos leaves no effective control over the area, that part of the application being declared inadmissible while international humanitarian law continued to apply; effective control over South Ossetia, Abkhazia and the buffer zone from 12 August to 10 October 2008, the date of the official withdrawal of Russian troops; that thereafter the strong Russian presence and the South Ossetian and Abkhazian authorities' dependency on the Russian Federation indicated continued effective control; that by sixteen votes to one Georgian nationals prevented from returning to South Ossetia or Abkhazia fell within Russian jurisdiction; that by sixteen votes to one there had been an administrative practice contrary to Article 2 of Protocol No. 4 as regards their inability to return, still ongoing on 23 May 2018, the date of the hearing on the merits; that the de facto South Ossetian and Abkhazian authorities, and the Russian Federation which had effective control over those regions, had a duty under the Convention to enable inhabitants of Georgian origin to return to their respective homes; and that Russia bore a procedural obligation under Article 2 to investigate the events of the active phase as well as those following the ceasefire, breached by sixteen votes to one. A judgment of a human rights court, not a criminal verdict. The address previously held for this authority at the Council of Europe returned HTTP 403; the text was obtained from the Court's own press archive.  
[https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-6913071-9285190&filename=Grand+Chamber+judgment+in+the+case+Georgia+v.+Russia+\(II\).pdf](https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-6913071-9285190&filename=Grand+Chamber+judgment+in+the+case+Georgia+v.+Russia+(II).pdf)
2. *Russia must pay Georgia over 253 million euros for breaches of human rights caused by hardening of boundary lines after 2008 conflict.* European Court of Human Rights, press release ECHR 237 (2025) issued by the Registrar, 14 October 2025; Georgia v. Russia (IV), application no. 39611/18, lodged 22 August 2018. Records the principal judgment of 9 April 2024 finding a pattern or system of violations arising from the hardening of the administrative boundary lines with Abkhazia and South Ossetia after the 2008 conflict, comprising excessive use of force, ill-treatment, unlawful detention, unlawful restrictions on movement across the boundary line and on access to homes, land and

families, and denial of the right to education in Georgian; the unanimous award on just satisfaction of 253,018,000 euros for at least 29,746 victims, including 5,172,000 euros for the unlawful detention of at least 2,586 ethnic Georgians by Russian or de facto Abkhaz and South Ossetian forces, 224,250,000 euros for restrictions on access to homes, land and families affecting at least 23,000 people, and 20,000,000 euros for the denial of education in Georgian to at least 4,000 people; that the Russian Government did not participate in the just satisfaction proceedings, so that the Court based its findings on the documents submitted by the Georgian Government after satisfying itself that the claims were substantiated; that the Georgian Government is to set up a mechanism to distribute the sums to individual victims within eighteen months of payment; and that the Committee of Ministers continues to supervise enforcement against Russia, which remains bound under Article 46 to implement judgments concerning facts occurring before 16 September 2022, the date on which it ceased to be a signatory. Given by a Chamber of seven judges; the Registrar records that under Articles 43 and 44 of the Convention a Chamber judgment is not final on delivery, that any party may request referral to the Grand Chamber within three months, that a panel of five judges considers whether the case deserves further examination, and that a refused request makes the Chamber judgment final on that day. The previously held entry described this case as concerning continued effective control; that description was wrong and has been corrected. The title previously given here was taken from the file name of the document rather than from the headline the Registry printed, and has been replaced with that headline, in the form used in DM-2026-003.

[https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-8355578-11797780&filename=Judgment+Georgia+v.+Russia+\(IV\)+--+Russia+must+pay+Georgia+over+253+million+euros+in+just+satisfaction.pdf](https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-8355578-11797780&filename=Judgment+Georgia+v.+Russia+(IV)+--+Russia+must+pay+Georgia+over+253+million+euros+in+just+satisfaction.pdf)

3. *Status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia*. United Nations General Assembly resolution 80/264, adopted at the 88th plenary meeting on 4 June 2026 without reference to a Main Committee on draft A/80/L.73. Paragraph 1 recognises the right of return of all internally displaced persons and refugees and their descendants, regardless of ethnicity, to their homes throughout Georgia, including in Abkhazia; paragraph 2 stresses the need to respect their property rights and to refrain from obtaining property in violation of those rights; paragraph 3 reaffirms the unacceptability of forced demographic changes; paragraph 6 underlines the need for a timetable for return. A recommendation of the General Assembly. The address previously held for this authority served only a session index.  
<https://documents.un.org/api/symbol/access?s=A/RES/80/264&l=E&t=pdf>
4. *General Assembly Adopts Text on Status of Internally Displaced Persons, Refugees from Abkhazia and the Tskhinvali Region/South Ossetia, Georgia*. United Nations Meetings Coverage GA/12763, 4 June 2026. Records adoption by a recorded vote of 107 in favour to 8 against, with 55 abstentions.  
<https://press.un.org/en/2026/ga12763.doc.htm>
5. *Status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia: report of the Secretary-General (A/80/729)*. United Nations, 4 May 2026, covering 1 April 2025 to 31 March 2026. Records 300,439 registered internally displaced persons in Georgia as at January 2026; that more than 45,000 people have previously returned to their homes in the Gali district; that the authorities in control in Abkhazia continue to deny return to areas of origin outside the Gali, Ochamchire and Tkvarcheli districts; the foreign resident permit regime and its limits; that following amendments to the law on citizenship adopted in 2013 and 2018 the majority of ethnic Georgians in Abkhazia no longer meet the criteria for the passport issued since 2016; the bar since 1 January 2019 on crossing with pre-2016 passports; sixty-six rounds of the Geneva International Discussions and the continuing walkouts in Working Group II; that return cannot be directly linked to political questions and must be addressed irrespective of any solution to the underlying conflict; and the requirement since October 2019 that all passports other than those of the Russian Federation be stamped.  
<https://documents.un.org/api/symbol/access?s=A/80/729&l=E&t=pdf>
6. *Cooperation with Georgia: report of the United Nations High Commissioner for Human Rights (A/HRC/62/58)*. United Nations, 27 April 2026, submitted pursuant to Human Rights Council resolution 60/29 and covering 1 January to 31 December 2025. Records the unanswered request for access sent to the authorities in control on 21 October 2025; that those authorities in Abkhazia maintained limited access for some United Nations entities while no organisation other than the International Committee of the Red Cross could enter South Ossetia; two operational crossing points with four others closed;

arbitrary closures and unjustified fees as reported by the Government of Georgia; the foreign residence permit requirement in Gali and processing times of six to nine months; the Government of Georgia's submissions on property registration conditioned on relinquishing Georgian citizenship and on changes of surname and registered ethnicity; that title to an estimated 40 to 50 per cent of real estate in Abkhazia is not properly documented; the civil code amendments of 9 July 2025 extending the bar on inheritance to family members; the completion in 2021 of the replacement of Georgian by Russian as the language of instruction in Gali; school enrolment falling from 3,348 to 3,169 and the replacement of ethnic Georgian principals in at least nine schools; 40 people detained in Abkhazia in 2025 with 7 still held at year end; the postponement of the February 2024 draft measure on foreign agents after civil society opposition; the Russian Federation's grant scheme of 5.5 million euros for Abkhaz civil society organisations, reported by the European Union; the absence of accountability for five named deaths between 2014 and 2023; the suspension of the Incident Prevention and Response Mechanism in Gali since June 2018; and the International Committee of the Red Cross figures of 323 sets of remains returned and 1,848 persons unaccounted for as at December 2025.

<https://documents.un.org/api/symbol/access?s=A/HRC/62/58&l=E&t=pdf>

7. *Status of internally displaced persons and refugees from Abkhazia, Georgia*. United Nations General Assembly resolution 62/249, adopted at the 97th plenary meeting on 15 May 2008. Recalls the conclusions of the Budapest (1994), Lisbon (1996) and Istanbul (1999) summits of the Organization for Security and Co-operation in Europe, in particular the reports of "ethnic cleansing" and other serious violations of international humanitarian law in Abkhazia; records deep concern at the humanitarian situation created by the expulsion of hundreds of thousands of persons from Abkhazia; emphasises that the rights of the Abkhaz population living in Abkhazia have to be protected and guaranteed; recognises the right of return regardless of ethnicity; and calls upon all Member States to deter persons under their jurisdiction from obtaining property within the territory of Abkhazia in violation of the rights of returnees. A recommendation of the General Assembly.  
<https://documents.un.org/api/symbol/access?s=A/RES/62/249&l=E&t=pdf>
8. *Security Council resolution 1065 (1996)*. United Nations Security Council, adopted at the 3680th meeting, 12 July 1996. Reaffirms the commitment to the sovereignty and territorial integrity of Georgia within its internationally recognized borders and the necessity of defining the status of Abkhazia in strict accordance with those principles; expresses deep concern at the continued deadlock in the efforts to achieve a comprehensive settlement; reaffirms the right of return set out in the Quadripartite Agreement at S/1994/397, annex II, condemns the continued obstruction of that return by the Abkhaz side, and stresses the unacceptability of any linkage of return with the question of political status; recalls the conclusions of the Budapest summit and affirms the unacceptability of the demographic changes resulting from the conflict; and condemns ethnically motivated killings. A decision of the Security Council. It contains no call upon States to withhold recognition, and no such instrument concerning Abkhazia is before the Secretariat.  
[https://documents.un.org/api/symbol/access?s=S/RES/1065\(1996\)&l=E&t=pdf](https://documents.un.org/api/symbol/access?s=S/RES/1065(1996)&l=E&t=pdf)
9. *Letter dated 5 April 1994 from the Permanent Representative of Georgia to the United Nations addressed to the President of the Security Council (S/1994/397)*. United Nations, 5 April 1994. Annex I is the Declaration on measures for a political settlement of the Georgian/Abkhaz conflict signed on 4 April 1994, whose paragraph 6 provides that Abkhazia shall have its own constitution, legislation and state symbols, whose paragraph 7 records mutual understanding on joint powers in foreign policy and foreign economic ties, border guard arrangements, customs, energy, transport and communications, ecology, and human and civic rights and the rights of national minorities, and whose paragraph 10 records that no statute of limitations applies to war crimes and that the parties agreed to investigate and bring perpetrators to justice. Annex II is the Quadripartite Agreement on voluntary return of refugees and displaced persons of the same date, between the Abkhaz and Georgian sides, the Russian Federation and the United Nations High Commissioner for Refugees, setting out the rights of return, non-prosecution subject to stated exceptions, freedom of movement, revalidation of documents, protection from harassment and unauthorised fees, restitution or compensation of property, and family reunification, and providing that repatriation would begin with the Gali region.  
<https://documents.un.org/api/symbol/access?s=S/1994/397&l=E&t=pdf>
10. *Charter of the United Nations*. United Nations, 1945; Article 1, paragraph 2 on the principle of equal rights and self-determination of peoples, and Article 2, paragraph 4 on the threat or use of force against the territorial integrity or political independence of any

- state.  
<https://www.un.org/en/about-us/un-charter/full-text>
11. *Georgia/Abkhazia: Violations of the Laws of War and Russia's Role in the Conflict*. Human Rights Watch, March 1995, volume 7 number 7. Non-governmental investigation, not adjudication. Documents indiscriminate attacks, ethnically motivated violence, hostage-taking and pillage by Georgian and by Abkhaz forces, deliberate efforts by each to force out the population of the other party's ethnic group, and approximately 200,000 people displaced, predominantly Georgians, in a mass exodus at the end of 1993.  
<https://www.hrw.org/reports/1995/Georgia2.htm>
  12. *Statement by NATO Secretary General on the so-called treaty between the Abkhazia region of Georgia and Russia*. North Atlantic Treaty Organization, 24 November 2014. States that NATO does not recognise the so-called treaty on alliance and strategic partnership signed between the Georgian region of Abkhazia and Russia on 24 November, and calls on Russia to reverse its recognition of the two regions and to withdraw its forces from Georgia. Cited for the name and date of the treaty and for the position of the alliance; the address previously held for this authority at the Russian Ministry of Foreign Affairs did not resolve on three attempts.  
[https://www.nato.int/cps/en/natohq/news\\_115168.htm](https://www.nato.int/cps/en/natohq/news_115168.htm)
  13. *Moscow, Sokhumi Sign Treaty on 'Alliance and Strategic Partnership'*. Civil Georgia, 24 November 2014. Reporting; records that Russia proposed in October 2014 a draft treaty on "alliance and integration", that the draft was criticised in Sokhumi, that the Abkhaz side put forward its own revised version, and that the text finally approved reflected most of the Abkhaz proposals, while concerns about possible absorption remained within Abkhaz society.  
<https://old.civil.ge/eng/article.php?id=27845>
  14. *Abkhazia parliament ratifies agreement with Russia on combined army group*. TASS, 18 December 2015. Reporting; records ratification by twenty-six votes to one with two abstentions among twenty-nine members present, that the agreement provides for the formation of the combined group by the end of 2018, and that it derives from the Treaty on Alliance and Strategic Partnership signed at Sochi on 24 November 2014.  
<https://tass.com/defense/845265>
  15. *Abkhazian Parliament rejects Russian investment agreement*. OC Media, 3 December 2024. Reporting; records the extraordinary session at which twenty-three members were present, nineteen voting against and three abstaining; that the agreement had been signed in Moscow on 30 October 2024 and would have granted Russian entities eight years of property tax exemptions and relief from value added tax and customs duties; that some twenty proposed amendments had not been incorporated; and that the controversy led to the resignations of the president and prime minister.  
<https://oc-media.org/abkhazian-parliament-rejects-russian-investment-agreement/>
  16. *Abkhazia Votes to Scrap Russian Investment Deal After Mass Protests*. The Moscow Times, 3 December 2024. Reporting; records the vote as 21 to nil with two abstentions and describes the agreement as providing preferential treatment for investments of two billion roubles and above. The vote counts reported by this outlet and by authority 15 differ; the two agree that no member voted in favour, which is the fact relied on in the body.  
<https://www.themoscowtimes.com/2024/12/03/abkhazia-votes-to-scrap-russian-investment-deal-after-mass-protests-a87215>
  17. *Pro-Russian Candidate Declared Winner in Abkhazia's Presidential Race*. The Moscow Times, 2 March 2025. Reporting; records the second round of 1 March 2025 following a first round on 15 February at which no candidate obtained a majority, Badra Gunba winning with 54.73 per cent against 41.54 per cent for Adgur Ardzinba, and that the election followed the November protests which forced the resignation of Aslan Bzhania.  
<https://www.themoscowtimes.com/2025/03/02/pro-russian-candidate-declared-winner-in-abkhazias-presidential-race-a88219>
  18. *Russia strikes new aid deal with Abkhazia*. Meduza, 7 February 2025. Reporting; records the suspension of Russian financial aid after the rejection of the investment agreement, humanitarian electricity deliveries beginning in late December 2024 at the request of the acting president, the transfer of 343 million roubles to fund public sector salaries and the full restoration of electricity supply from 7 February 2025 following his visit to Moscow, and his pledge to reconsider the format of the investment agreement rather than abandon investment.  
<https://meduza.io/en/feature/2025/02/07/russia-strikes-new-aid-deal-with-abkhazia>

19. *Russia's Plans for Abkhazia are Expanding*. Jamestown Foundation, 25 March 2025. Non-governmental analysis; records the resignation of Aslan Bzhania in November 2024 after protests against an agreement exempting Russian entities from property taxes for eight years, that Russia cut electricity supplies in December 2024 after the agreement was blocked, that humanitarian electricity deliveries began in January 2025, and the election of Badra Gunba on 1 March 2025.  
<https://jamestown.org/russias-plans-for-abkhazia-are-expanding/>
20. *President Gunba Addresses Parliament with Broad Reform Programme*. AbkhazWorld, reporting the address of 26 December 2025. Records the description of strategic partnership with the Russian Federation as the cornerstone of national security and foreign policy, Russian financial assistance of 2.919 billion roubles for 2025, humanitarian electricity supplies, and renewed calls for a legally binding non-use-of-force agreement with Georgia. Reporting by an outlet sympathetic to the Abkhaz authorities, cited for the content of a public address.  
<https://abkhazworld.com/aw/current-affairs/3073-president-gunba-addresses-parliament-with-broad-reform-programme>
21. *Government withdraws recognition of South Ossetia and Abkhazia*. Government of the Republic of Nauru, media release, 30 July 2026. Announces withdrawal of recognition of both as independent States and the termination of diplomatic relations with immediate effect, notes that the countries concerned will be formally notified through diplomatic channels, and gives no reason for the decision.  
[https://naoero.gov.nr/government-information-office/media-release/media-release-government-withdraws-recognition-of-south-ossetia-and-abkhazia\\_30jul2026.aspx](https://naoero.gov.nr/government-information-office/media-release/media-release-government-withdraws-recognition-of-south-ossetia-and-abkhazia_30jul2026.aspx)
22. *A nation of 10,000 people just shrank the list of countries recognizing Abkhazia and South Ossetia to four*. Meduza, 30 July 2026. Reporting; records that four United Nations member states recognise the two entities after the Nauruan decision, naming Russia, Nicaragua, Venezuela and Syria, that Nauru had established relations in 2009, and that the Abkhaz foreign ministry attributed the withdrawal to external pressure. The attribution is that of an interested party and is recorded as such in the body.  
<https://meduza.io/en/news/2026/07/30/a-nation-of-10-000-people-just-shrank-the-list-of-countries-recognizing-abkhazia-and-south-ossetia-to-four>
23. *A draft law on ratifying a new treaty with South Ossetia has been submitted to the State Duma*. Caucasian Knot, 10 May 2026. Reporting; records the Treaty on Deepening Allied Interaction between Russia and South Ossetia signed on 9 May 2026, the explanatory note giving its aims as coordinated foreign, defence and security policy, the movement of capital, goods, services and labour, and the gradual unification of energy, gas transport, transport, communications and telecommunications systems, and records that the 2015 Agreement on Alliance and Integration was signed on 18 March 2015 and entered into force on 30 July 2015. Cited only for the contrast drawn with DM-2026-003.  
<https://www.eng.kavkaz-uzel.eu/articles/75134>

# Diplomatic Memorandum on the Status of South Ossetia

*Ossetian self-determination, Russian absorption and the conditions for a free status decision*

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## POSITION OF THE STATE

Kaharagia recognises the Ossetian claim to self-determination; Kaharagia does not at present recognise the Republic of South Ossetia as a sovereign state

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|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| SELF-DETERMINATION   | Recognised. The Ossetian people hold a legitimate claim that is not reducible to Georgian territorial integrity.                             |
| FAMILY OF CLAIM      | Separation from a settled state, the heaviest burden under DM-2026-001.                                                                      |
| EXTERNAL CONTROL     | Absorption. Effective control was found by the Strasbourg Court and is being converted into incorporation.                                   |
| PRINCIPAL OBSTACLE   | Russian effective control and a treaty-driven merger of state functions prevent the present order from proving independent sovereign choice. |
| STATE RECOGNITION    | Withheld pending a free and internationally credible status process. Disposition: deferral.                                                  |
| GOVERNMENT           | No de jure recognition. Humanitarian and practical contact may occur and decides nothing about status.                                       |
| DIPLOMATIC RELATIONS | Not established.                                                                                                                             |

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COMMON DOCTRINAL BASIS

*A people's right to self-determination is not extinguished by an inherited border. Nor is it fulfilled by foreign occupation, coerced integration, ethnic cleansing, demographic engineering, or a nominal independence maintained under another state's effective control. Recognition of a state is separate from endorsement of its government and from the establishment of diplomatic relations.*

## 1. Executive Position

Kaharagia recognises that South Ossetians hold a genuine right to determine their political status, and that their future is not settled by the restoration of Georgia's internationally recognised borders alone. Kaharagia does not at present recognise the Republic of South Ossetia as a sovereign state. The institutional order in the territory is being merged into that of the Russian Federation by treaty, and the ethnic Georgian communities displaced in 2008 are still refused return.

The merger is documented by the parties conducting it. Russia and South Ossetia signed a Treaty on Deepening Allied Interaction in Moscow on 9 May 2026. The State Duma ratified it on 13 May and the Russian President signed the federal law of ratification on 25 May 2026. The Kremlin's own notice of the ratification states that the parties will take further steps towards the creation of a single economic space, the improvement of citizens' well-being and living standards, and a gradual transition to a unified framework for external borrowing and foreign investment. On 22 June 2026 the President of South Ossetia met the Russian President at the Kremlin; the published record of that meeting identifies him by a Russian office, Adviser to the President. He resigned in Tskhinvali the following day.

Deferral is not a denial. Kaharagia does not find that sovereign title vests in Georgia, and it does not find that South Ossetians would refuse independence if they were asked freely. It finds that under present conditions they cannot be asked.

The choices open to the Ossetian people include independence, a guaranteed settlement with Georgia, free association with Russia, and union with North Ossetia inside the Russian Federation. Kaharagia supports a process in which that choice is made without foreign troops, coercion or demographic exclusion. Until such a process exists, no act of the present authorities can be read as the choice.

## 2. A Claim Recognised and a State Deferred

The Ossetian file separates cleanly along the doctrine's lines, and each answer is given here on its own:

- **The right of self-determination.** Recognised. South Ossetians hold a legitimate claim to determine their political status, and Georgian territorial integrity does not answer it.
- **Statehood.** Withheld. Kaharagia does not at present recognise the Republic of South Ossetia as a sovereign state.
- **Government.** No de jure recognition. The authorities in control may be dealt with for humanitarian and practical purposes, and such dealings decide nothing about status.
- **Diplomatic relations.** Not established.

The doctrine also requires each case to be placed in a family of claim before any further test is applied, and provides that classification is a question of history which neither party may choose. No earlier South Ossetian external sovereignty is asserted in the material before the Secretariat, and the claim as pressed is not the restoration of one.

The case therefore falls in the third family, separation from a settled state, which carries the heaviest burden. Classification raises the bar. It does not decide the case, and this deferral does not rest on the remedy test that family imposes.

On the doctrine's scale of dependency, effective control and absorption, the degree found is absorption. The European Court of Human Rights found Russian effective control. What has been built on top of that control since is incorporation: by treaty, by the merger of state functions, by the mass conferral of the patron's citizenship, and by the movement of personnel between the two administrations. The disposition is deferral, and the conditions on which it falls to be reviewed are stated below.

## **2.1 The Ossetian People and the Territorial Question**

South Ossetians form part of the wider Ossetian people, whose communities lie on both sides of the Caucasus range. North Ossetia-Alania is a republic of the Russian Federation, named in Article 65 of its Constitution. The cross-border character of the people is not a Kaharagian construction. On leaving office the outgoing president described the task as overcoming the fate of a divided people and reuniting with North Ossetia and with Great Russia.

The southern community's separate administration is older than the present dispute. The South Ossetian Autonomous Region was constituted inside the Georgian Soviet Socialist Republic in 1922. Fighting between Georgian and South Ossetian forces ended with the Sochi Agreement of 24 June 1992, which established a ceasefire and created a Joint Control Commission and a joint peacekeeping force. Freedom House records that large parts of the territory held de facto independence from the close of that conflict.

South Ossetians are therefore not merely residents of a Georgian administrative district. Their political aspirations and their security fears have a history independent of the 2008 war, and the violence of the final Soviet years and the years after Georgian independence produced a durable rejection of unqualified rule from Tbilisi.

A settlement that restored Georgian administration without consent or guarantees would risk reproducing the conflict. Georgia's territorial integrity is a rule of peace between states, not a title deed over the political future of a people. It therefore does not answer the status question.

A claim to self-determination does not validate every boundary claimed by the de facto authorities, and here the line is contested among Ossetians themselves. Russia recognised the entity in 2008 within its 1990 administrative limits, which enclose slightly less than the 1922 ones, and in 2024 three opposition deputies proposed restoring the 1922 line. Mixed communities, displaced Georgian residents and localities affected by wartime expulsion retain rights whichever line is drawn. The territorial scope of any future state or autonomous entity is to be settled peacefully and with meaningful local participation.

## **2.2 More Than One Ossetian Future**

Ossetian political aspirations have not always pointed to the same destination. A status process must allow independence, union with Russia, free association, and a

guaranteed settlement within Georgia to be argued, and must not treat the present administration as the only authentic voice.

The record of the one occasion on which the question nearly reached a ballot shows why the present administration cannot serve as that voice. On 13 May 2022 the outgoing president signed a decree setting a referendum on joining Russia for 17 July, days after losing the election and before his successor took office. Both the Central Election Commission and the Supreme Court had upheld the validity of the proposal. The Kremlin's spokesman said that no steps had been taken or were planned on the Russian side to admit South Ossetia, and called the initiative legally underdeveloped. The successor suspended the decree before the month was out, citing the inadmissibility of a unilateral decision on a matter affecting the legitimate rights and interests of the Russian Federation, and the uncertainty of the legal consequences.

The same decree recorded that he fully supported the citizens' initiative on further integration, and sent a delegation to Moscow for consultations headed by himself and including the heads of the Central Election Commission and the Supreme Court, the foreign minister and the chair of parliament. The local authority did not decline union. It declined to decide without Moscow.

The question has not since been retired. In its resolution of 8 October 2025, adopted without a vote, the Human Rights Council condemned statements about the intention to hold a referendum in the territory on joining the Russian Federation.

### **3. What the 2008 War Left in South Ossetia**

The war cannot be reduced to a slogan about who fired first. The Strasbourg Court's account, in its Grand Chamber judgment of 21 January 2021, records that on the night of 7 to 8 August 2008, after an extended period of mounting tensions, provocations and incidents, Georgian forces launched an artillery attack on Tskhinvali, and that from 8 August Russian ground forces entered Georgia through Abkhazia and South Ossetia before going on into undisputed Georgian territory. A ceasefire was concluded on 12 August 2008 under European Union auspices, an implementing agreement followed on 8 September, and Russian troops completed their withdrawal from the buffer zone on 10 October 2008, except at Perevi, from which they withdrew on 18 October 2010.

The judgment divides at the ceasefire, and the division governs what it may be quoted for. The Court held by eleven votes to six that events during the active phase of hostilities from 8 to 12 August 2008 did not fall within Russian jurisdiction, because in the chaos of armed confrontation between enemy forces there is no effective control over an area, and it declared that part of the application inadmissible. It held by sixteen votes to one that events after the cessation of hostilities did fall within Russian jurisdiction. Neither holding decides who began the war.

For the period after the ceasefire the Court found an administrative practice contrary to Articles 2, 3 and 8 of the Convention and Article 1 of Protocol No. 1, covering the killing of civilians and the burning and looting of houses in Georgian villages in South Ossetia and the buffer zone, and it found that the victims had been targeted as an ethnic group. It found unanimously an administrative practice contrary to Article 3 as to the conditions in which some 160 Georgian civilians, most of them elderly and

a third of them women, were held in the basement of the internal affairs building in Tskhinvali between about 10 and 27 August 2008, and contrary to Article 5 as to their arbitrary detention. It found by sixteen votes to one an administrative practice contrary to Article 3 as regards acts of torture inflicted on Georgian prisoners of war.

On return the Court was equally exact. It found by sixteen votes to one an administrative practice contrary to Article 2 of Protocol No. 4 as regards the inability of Georgian nationals to return to their homes, a violation still running on 23 May 2018. It found a violation of Article 2 in its procedural aspect, the Russian investigations having failed the standard. It found that Russia had fallen short of its obligation under Article 38 to furnish the Court with the facilities needed to establish the facts, having refused to produce combat reports on grounds of state secrecy. On the complaint about the looting and destruction of schools and libraries it found no violation of the right to education, holding that it lacked sufficient evidence.

The Grand Chamber reserved the question of compensation and answered it on 28 April 2023. It held unanimously that it kept jurisdiction under Article 58 of the Convention although Russia had ceased to be a member of the Council of Europe on 16 March 2022 and a Party to the Convention on 16 September 2022, because a state which ceases to be a Party is not released from its obligations for acts performed before that date. Of the five heads it allowed, the largest was 115,000,000 euros for the non-pecuniary damage of a group of at least 23,000 victims of the practice of preventing the return of Georgian nationals to their homes in South Ossetia and Abkhazia. The refusal of return is not only documented. It has been priced.

A separate case addresses what the boundary lines have done since. In *Georgia v. Russia (IV)* the Court found on 9 April 2024 a pattern or system of violations arising from the hardening of the lines, a process that began in 2009. On 14 October 2025 it awarded 253,018,000 euros for at least 29,746 victims. That second decision was a Chamber judgment on just satisfaction rather than a Grand Chamber judgment, and under Articles 43 and 44 of the Convention a Chamber judgment is not final when it is delivered.

One route closed without any decision on the merits. Georgia instituted proceedings against Russia at the International Court of Justice on 12 August 2008 under the Convention on the Elimination of All Forms of Racial Discrimination, and on 15 October 2008 the Court indicated provisional measures requiring both parties to refrain from racial discrimination within South Ossetia, Abkhazia and adjacent areas and to protect the property of displaced persons and refugees. On 1 April 2011 the Court upheld Russia's second preliminary objection, holding that the procedural conditions in Article 22 of that Convention had not been satisfied, and the case could not proceed to the merits. The provisional measures ceased to be operative that day. No international court has ruled on the merits of the racial discrimination alleged.

Criminal accountability is separately in train and separately characterised. A Pre-Trial Chamber of the International Criminal Court authorised an investigation on the Prosecutor's own motion on 27 January 2016, into crimes committed in and around South Ossetia in the context of an international armed conflict between 1 July and 10 October 2008, noting that representations received on behalf of 6,335 victims spoke overwhelmingly in favour of opening it. On 24 June 2022 the Chamber issued warrants

of arrest against Mikhail Mindzaev, Gamlet Guchmazov and David Sanakoev, who at the time of the charged conduct held, respectively, the internal affairs portfolio, the headship of a detention facility and the office of representative for human rights in the de facto administration. The Court announced the warrants on 30 June 2022.

The alleged war crimes are unlawful confinement, torture and inhuman treatment, outrages upon personal dignity, hostage-taking and the unlawful transfer of civilians. The Prosecutor's application concerned the confinement of at least 171 actual or perceived Georgian civilians in August 2008, their mistreatment in captivity, and their transfer out of occupied territory in what was called an exchange for persons held by the Georgian authorities. The Prosecutor closed the investigation phase on 16 December 2022 and undertook to open no new lines of inquiry absent a significant change of circumstances. The Office of the United Nations High Commissioner for Human Rights reported in April 2026 that the warrants remain active and that the three remain at large.

A warrant records that a chamber found reasonable grounds to believe. It is not a conviction, the Court holds no trial in the absence of the accused, and Kaharagia expresses no view on the guilt of any person. A judgment of the Strasbourg Court is not a criminal verdict either; it decides which state answers under the Convention for acts within a territory. Recognition policy preserves both, and no settlement of status retires the question of who is answerable.

Russia's own account of the war is on its own record, and it is a party's account. On 26 August 2008 the Russian President signed decrees recognising the independence of South Ossetia and Abkhazia and establishing diplomatic relations with them, and stated that Russia had until then been invariably guided by the recognition of Georgia's territorial integrity. The same statement alleged that the Georgian leadership had opted for genocide. That is an allegation by a government. No court has found it, the International Court of Justice never reached the merits of the discrimination claim before it, and the Strasbourg Court held that the active phase of the fighting fell outside Russian jurisdiction and did not examine it. Kaharagia records the allegation and does not adopt it.

### **3.1 Effective Control, Integration and the Course Toward Absorption**

The Court held that Russia exercised effective control over South Ossetia, Abkhazia and the buffer zone from 12 August to 10 October 2008, and that after that date the strong Russian presence and the dependency of the South Ossetian and Abkhazian authorities on the Russian Federation indicated continued effective control. Effective control allocates responsibility for human rights within a territory. It confers no sovereign title, and it rules out no local political will.

Under DM-2026-001 a finding of effective control shifts the burden rather than answering the question. What decides this case is what has been built on top of that control. The Agreement on Alliance and Integration, signed on 18 March 2015 for twenty-five years with ten-year extensions and in force from 30 July 2015, established a common defence and security space, opened the boundary with Russia to free movement, integrated the customs services, tied the interior ministries together, simplified the acquisition of Russian citizenship and reached pensions. The Kremlin described

that instrument as acting to preserve South Ossetia's state sovereignty, and it was reported at the time as securing the territory without its joining Russia.

The 2026 treaty states a different object. Beyond the single economic space and the unified framework for external borrowing and foreign investment recorded in the ratification notice, the explanatory note accompanying the bill gives the aims as coordinated foreign, defence and security policy, the gradual unification of energy, gas transport, transport, communications and telecommunications, and conditions favourable to the free movement of capital, goods, services and labour. A Georgian research institute reading the text records that the parties may not assume international commitments contradicting the agreement, that citizens of each may hold posts in the state and municipal bodies of the other, and that residency requirements are in effect abolished for the ownership and disposal of private property.

That provision on office has already been used. On 23 June 2026 the President of South Ossetia resigned to take a post in the Russian presidential administration, the day after his meeting at the Kremlin. The Prime Minister of one week's standing became acting president. He is a Russian citizen who worked in the Russian government and held leadership positions at the Kurchatov Institute National Research Centre from 2014 until 2026, was nominated on 8 June and was confirmed by the local parliament on 16 June. On 10 August 2026 he was at Government House in Moscow, discussing the state programme for South Ossetia's socioeconomic development, the social gasification of its districts and the reliability of its electricity grid with a Russian deputy prime minister. That programme, running from 2026 to 2030, was drafted through an intergovernmental commission whose twenty-third meeting the same deputy prime minister co-chaired in May 2025, and which then also reviewed the integration process in the customs and taxation spheres.

The election called to fill the vacancy tests the same point. The local constitution requires a candidate for president to be a citizen of South Ossetia over the age of thirty-five, fluent in Ossetian and Russian, and permanently resident in the territory for the ten years preceding registration. Five people submitted documents by 13 August 2026 for the poll of 18 September, among them the acting president, and the Central Election Commission has ten days to verify that each package complies with the electoral law. Kaharagia draws no conclusion from a question a local commission has yet to answer. It records that who may stand is being settled inside the arrangement whose freedom is in issue.

The European Union reads the same record the same way. Its statement of 29 April 2026 condemns continued steps aimed at the incorporation of the territory into Russia's political, military, economic, judicial and social spheres, including through dual citizenship arrangements and the transfer of strategic assets, and it condemns the Russian military presence and the continuing process of boundary hardening.

Citizenship is the instrument that carries the rest. A Russian decree of 17 July 2025 permits internal Russian passports to be issued on the territory itself until 1 August 2028, excluding those who acquired Russian citizenship after 26 August 2008, the date of recognition. The Human Rights Council condemned the decisions simplifying the grant of Russian citizenship to residents and the issue of Russian passports directly in the regions. The European Union has drawn the consequence in its own law: un-

der Decision (EU) 2022/2512 of 14 December 2022, no travel document of the Russian Federation issued in, or to a person resident in, the breakaway territories in Georgia is accepted as valid for a visa or for crossing the external borders.

DM-2026-001 asks whether a people and its institutions retain a meaningful freedom to refuse, renegotiate or terminate the relationship with a patron. Assistance alone is not the measure, and many recognised states depend heavily on allies. A ratified treaty deepening the relationship shows its content, not consent to it. This is the third degree on the doctrine's scale. An entity travelling toward absorption cannot demonstrate a free choice of independence, because the choice is being taken out of its hands.

A population may freely choose close alliance, or even lawful integration with another state. That choice must be measured under conditions in which the favoured state does not already control the territory's security environment, its budget and its political survival. A declaration of independence followed by progressive incorporation is not conclusive evidence of sovereign self-determination.

### **3.2 Where Refusal Is Permitted and Where It Is Not**

The territory is not politically silent, and this publication does not pretend otherwise. At the parliamentary election of June 2024 the opposition party United Ossetia took 31.5 per cent of the proportional vote against 30.6 for the president's party, Nykhas, and won one of the seventeen single-member constituencies against Nykhas's four. Almost twenty-two thousand people voted. United Ossetia disputed the count, boycotted the chamber and took its seats in October.

The dispute was partly vindicated and went nowhere. The prosecutor's office opened a criminal case on 6 August 2024 for falsifying results by tampering with ballots, and confirmed that at two polling stations the pens issued to voters had been loaded with disappearing ink, invalidating 695 papers. It then identified the ruling party as the aggrieved party, on the view that most of the spoiled ballots had been cast for it.

The limit appears where the argument turns toward Moscow. In February 2024 three members of the local assembly were stripped of their Russian citizenship by the Federal Security Service and barred from entering Russia until 18 March 2049, after they proposed restoring the boundary with Georgia to its 1922 form. The stated ground was conduct aggravating the military and political situation near the Russian state border. Their challenges in the Russian courts were rejected. The three led the For Justice party, which was among the parties refused registration for the election four months later.

The same limit reaches people who hold no office. Tamar Mearakishvili, an ethnic Georgian civil society activist in the Akhalkgori district who had been reporting allegations of human rights violations to the international community, was detained by the authorities in control on 22 December 2025 on a charge of espionage. She went on hunger strike, was hospitalised on 30 December as her health deteriorated, was subjected to forced feeding, and was released and expelled to Tbilisi-controlled territory on 31 December 2025.

That is the answer to the doctrine's fourth indicator, and it is not the answer a claimant would want. Freedom House rates the territory Not Free at twelve points of a hundred, assesses it as almost entirely dependent on Moscow, which exerts a decisive influ-

ence over its politics and governance, and scores at zero both the freedom of political choices from domination by external forces and the capacity of the elected executive and legislature to determine policy. A politics may be lively and still be fenced. Where the patron can withdraw the citizenship on which travel and ordinary life depend, from legislators who advanced a proposal it disliked, and their party is then kept off the next ballot, the case against the relationship cannot be made and survived on the same terms as the case for it.

### 3.3 Displacement and the Definition of the Electorate

The General Assembly returned to the question on 4 June 2026. By resolution 80/264, adopted by 107 votes to 8 with 55 abstentions, it recognised the right of return of all internally displaced persons and refugees and their descendants, regardless of ethnicity, to their homes throughout Georgia, including in Abkhazia and the Tskhinvali region and South Ossetia; stressed the need to respect their property rights and to refrain from obtaining property in violation of them; reaffirmed the unacceptability of forced demographic changes; and underlined the need for a timetable for return. The Russian Federation was among the eight states voting against.

The refusal of return is documented rather than alleged. The Secretary-General reported on 4 May 2026 that the authorities in control in South Ossetia continue to deny the return of ethnic Georgians displaced by the conflict, that there was no sustainable return in the year to 31 March 2026, and that no timetable has been developed because some participants in the Geneva International Discussions will not discuss the matter and walk out of the agenda item. Sixty-six rounds of those discussions have been held since they were launched on 15 October 2008, three of them in the reporting year. Georgia's own agency registered 300,439 internally displaced people as at January 2026, a total that rose by 1,267 across 2025, mainly through births.

The Strasbourg Court has attached a figure to the same refusal, and Kaharagia does not treat the figure as the measure of the wrong. Its award of 115,000,000 euros in April 2023 was made for a group of at least 23,000 victims of the practice of preventing return to South Ossetia and Abkhazia. Human Rights Watch, which found that South Ossetian forces had attempted to cleanse Georgian villages of their inhabitants after Georgian forces withdrew on 10 August 2008, put the number driven from their homes at nearly twenty thousand.

Nor can the position be independently checked. Apart from the International Committee of the Red Cross, the United Nations and other international organisations were unable to enter South Ossetia during 2025, and the United Nations has had no operational access since August 2008 beyond a single humanitarian assessment mission in August 2016. The Office of the High Commissioner wrote to the authorities in control on 21 October 2025 seeking access and received no reply within the reporting period. The European Union's monitoring mission, deployed on 15 September 2008 with a mandate covering the whole territory of Georgia, has been refused entry to the territory throughout. The Red Cross reports that as at December 2025 the remains of 323 people had been recovered, identified and returned to their families, and that 1,848 remain unaccounted for.

Conditions for those who stayed run in the same direction. Georgia reports the ad-

ministrative boundary closed since September 2019, following the opening of a police post at Chorchana on the territory it controls, and the Office of the High Commissioner records that since August 2022 the crossings open only during the last eleven days of each month. In 2025 the Georgian government recorded fifty-five instances of fencing, boundary signs, trenches and dividing lines on the South Ossetian line, against three on the Abkhaz line. Thirty-four people were detained in South Ossetia during 2025 on the Georgian government's count, and eleven were still held at the end of the year on the count of Georgia's Public Defender.

Georgian has been removed as a language of instruction. Georgia's Public Defender records five schools still open in the Akhalkgori district, none of them teaching in Georgian, with Georgian offered as a subject in the eleventh grade in four of them, thirty-eight pupils enrolled and eighty teachers employed in 2025. Schools in five depopulated villages have closed altogether. In October 2025 the Strasbourg Court awarded twenty million euros for the denial of education in Georgian to a group of at least 4,000 ethnic Georgians along the two boundary lines, part of a total award of 253,018,000 euros for a pattern of violations affecting at least 29,746 people.

Two further measures bear on whether return remains possible at all. The authorities in control in both territories have adopted instruments providing for the issue of documents to the population, and in particular to ethnic Georgians, who are thereby defined as foreign or stateless. The Human Rights Council has recorded the continued demolition of the ruins of houses belonging to displaced people in the territory. Nobody returns to a house that has been levelled, and a returnee registered as a foreigner is not a member of any electorate.

This is not only a humanitarian reservation. It decides whether a future vote could count. DM-2026-001 forbids the use of forced displacement to manufacture the electorate whose vote is then invoked as self-determination, and it requires eligibility and the framing of the question to be settled before a process begins, by a body not interested party controls. Freedom House records that the ethnic Georgians who remain have been denied the ability to take part in elections, and applies to the territory its penalty for the deliberate alteration of ethnic composition. A ballot held among the population left by expulsion, from which the Georgians still living there are also excluded, is evidence of the war and not of consent.

The relevant electorate is to include habitual residents and displaced persons with a demonstrable connection to the territory, under agreed registration and security rules. Participation must not be conditioned upon acceptance of Russian citizenship, of the present administration or of a predetermined outcome. Nor may the citizenship a resident already holds be used to strike that resident from the roll.

Security guarantees must protect both Ossetians who fear renewed Georgian rule and Georgians who were expelled or remain vulnerable. International peacekeeping acceptable to the communities, demilitarised zones, local police recruitment, language rights and constitutional guarantees may be required before a credible vote can occur.

## 4. The Objections to Deferring South Ossetia

The sharpest objection comes from within the series. DM-2026-002 recognises Abkhazia as a state, subject to express reservations, and withholds diplomatic relations. The two territories emerged from wars against the same parent state, depend on the same patron, and fall under the same judicial finding of effective control. A reader may fairly ask why the answers differ.

They differ on the second question the doctrine asks and on the evidence for it. Effective control shifts the burden onto the entity to show that the will it expresses is its own. DM-2026-002 finds that burden discharged far enough to support recognition of a state, on a claim that predates the patron, on institutions that have endured for more than three decades, and on refusal of the patron demonstrated on the record. In December 2024 the Abkhaz assembly voted twenty-one to nil, with two abstentions, to reject an investment agreement signed with Russia on 30 October that year, which would have given preferential treatment to investments of two billion roubles and above and which the opposition argued would let wealthy Russians buy up local property. Protests had preceded the vote and the Abkhaz leader had stepped down during them. Refusal of that kind is what a distinct external will looks like while a patron is present.

The comparison is exact rather than approximate. What the Abkhaz assembly threw out, South Ossetia has conceded by treaty. The 2026 agreement is read as abolishing residency requirements for the ownership and disposal of private property. It was signed on 9 May 2026, ratified by the State Duma on 13 May and confirmed by federal law on 25 May, and nothing before the Secretariat records a local assembly standing in its way.

The South Ossetian record runs the other way on each count. A referendum on joining Russia was suspended because a unilateral decision would affect the legitimate rights and interests of the Russian Federation. Legislators who proposed a boundary initiative Moscow disliked lost the patron's citizenship and their access to its territory for twenty-five years, and the party they led was kept off the next ballot. The head of the executive left for a post in the patron's presidential administration and was replaced by a citizen of the patron state.

The cases differ again in what recognition would accomplish. Recognising Abkhazia asserts a state against both capitals. Recognising South Ossetia, where union within the Russian Federation is one of the destinations in play and is the one its outgoing president named, could supply the intermediate legal step by which a territory passes from one sovereign to another. Article 65 of the Russian Constitution provides that the admission of a new subject is carried out under a federal constitutional law, so the last act of a union would be Russia's own; what such an act would want first is a state to admit. DM-2026-001 forbids Kaharagia to lend recognition to acquisition by force. A recognition capable of being spent that way is worth withholding until the choice can be measured.

The distinction rests on evidence and on consequence, not on the comparative worth of two peoples. If the evidence changes the answer changes, and the conditions below state when.

#### 4.1 Occupation, Patronage and the Neighbouring Cases

A second objection runs the other way. DM-2026-010 recognises the State of Palestine in full and holds that sovereignty is not suspended by occupation. If foreign control does not defeat statehood there, why should it defeat it here? Because control by an adverse power and control by a sponsoring power do different work. Where the controlling state denies the entity's independence, its control suppresses a choice and cannot be allowed to decide the question. Where it is the author and beneficiary of the claimed independence, its control is the reason the choice cannot yet be read.

The other neighbouring cases turn on features absent here. Kosovo, in DM-2026-005, rests on an extended United Nations administration, on status negotiations that failed, and on an advisory opinion of the International Court of Justice addressed to its declaration of independence. An advisory opinion is not a judgment, and DM-2026-005 does not treat it as one. That case sits at the first degree of external control, dependency. Somaliland, in DM-2026-007, is placed in the second family of claim, restored statehood, and rests on a separate international personality held before a union and on institutions sustained for more than three decades. Northern Cyprus, in DM-2026-008, closes on non-recognition required, a duty engaged by Security Council resolutions addressed to the declaration itself. No comparable call is addressed to this case, and this deferral is not a duty of non-recognition. It rests on the conditions under which a choice could be made.

Transnistria, in DM-2026-004, reaches the same disposition on the same ground. Deferral there rests on the conditions in which a choice would be made and not on the entitlement of the people who would make it, and that publication leaves the remedial question expressly undecided. Neither case treats the parent state's border as the endpoint. DM-2026-004 supports a settlement within Moldova's recognised borders as the immediate lawful basis for negotiation while declining to declare that no other outcome could ever be legitimate, and Kaharagia does not accept that reintegration into Georgia is the only lawful endpoint here.

The records differ, and DM-2026-004 states where. No instrument merging that territory into the Russian Federation is before the Secretariat, and the mechanism of incorporation identified there operates through the distribution of passports rather than the transfer of state functions by treaty. Here the transfer is on the face of a ratified treaty, and the degree found is absorption rather than effective control. The claims also differ in character. The Transnistrian claim is civic and rests on the attachment of the people living in the territory now; the Ossetian claim is that of a people. That difference affects how each claim can be proved and not what either deferral rests on.

#### 4.2 The Objection That Deferral Is Refusal

A third objection is practical. Deferral, it may be said, is non-recognition with better manners, and its immediate effect is the one Tbilisi wants. But the denials run in both directions. To Georgia it denies that territorial integrity settles the matter, that an inherited administrative boundary carries consent, and that there is any warrant for reincorporation by force. To Russia it denies that the outcome of 2008 or any treaty concluded since creates title, that ratification proves consent, and that annexation would be recognised.

Kaharagia also records what runs against its own first limb. On 8 October 2025 the Human Rights Council reaffirmed, without a vote, its commitment to the sovereignty, independence and territorial integrity of Georgia within its internationally recognised borders. The General Assembly's resolution of 4 June 2026 carried 107 votes. Recognition of the Ossetian claim to self-determination is a minority position, and this publication states it as one rather than as the settled view of the international community.

The two available errors are also not symmetrical. Recognition, once given, is withdrawn only in the exceptional circumstances DM-2026-001 identifies, and others may use it while it stands. Deferral is built to be revisited. Where a choice cannot yet be read, the reversible error is the one to prefer.

The cost of that preference falls on South Ossetians. It leaves them in a marginal position they did not design and cannot end by themselves. The conditions below are therefore written as a route out, and the part of them addressed to the people of the territory is small by design.

### 4.3 Nauru's 2026 Reversal

On 30 July 2026 the Government of the Republic of Nauru announced that it had withdrawn its recognition of the Republic of South Ossetia and the Republic of Abkhazia as independent States, that diplomatic relations with both were terminated with immediate effect, and that the countries concerned would be formally notified through diplomatic channels. Its cabinet took the decision on 21 July. It had established those relations in 2009. Four United Nations member states are reported to recognise South Ossetia after the decision: the Russian Federation, Nicaragua, Venezuela and Syria.

A withdrawal of recognition is a decision about one government's own relations. It is not an adjudication, and it neither creates nor extinguishes the facts on the ground. This deferral rests on the present inability to demonstrate independent sovereign choice, not on the number or wealth of states extending recognition.

Calls not to recognise have been made in this case and are not the same thing as a duty. The extraordinary European Council of 1 September 2008 strongly condemned Russia's unilateral decision to recognise the independence of Abkhazia and South Ossetia and urged other countries not to recognise their independence. That is a political call by a regional body. No instrument of the Security Council is addressed to this declaration, and nothing in this publication rests on a duty of non-recognition.

#### OSSETIAN PRINCIPLE

*The Ossetian people have a right to choose among genuine political futures. A choice made while the territory's state functions are being merged into Russia's is not yet a sufficiently free basis for Kaharagian recognition.*

## 5. Conditions for a Future Recognition Decision

Kaharagia reconsiders recognition when the following conditions are substantially met. They are also the standard by which it judges any status process:

- Russian forces and security institutions no longer determine the political environment. During the decisive phase of the process the foreign military presence is verifiably withdrawn or substantially neutralised, or operates only under a genuinely consensual and internationally supervised mandate, with an international security guarantee.
- Political parties, media and civic organisations may advocate independence, union or association with Russia, autonomy or association within Georgia, confederation, or another peaceful status, without intimidation and without the loss of citizenship, residence, registration or livelihood.
- Displaced persons receive a credible route to return, to property remedy and to participation, with safeguards against renewed violence and enforceable remedies for property loss, unlawful detention and forced transfer. The destruction of the dwellings of displaced people ceases.
- International and regional human rights bodies and humanitarian organisations obtain access to the territory, the European Union's monitoring mission is admitted to the ground its mandate already covers, and the boundary crossings operate without seasonal or discretionary closure.
- An internationally supervised process presents clear status options and a defined electorate that does not reward forced displacement, with independent electoral administration, international observation, unrestricted media and no compulsory Russian or Georgian political loyalty.
- Any choice involving integration with another state is implemented through lawful agreement and not by unilateral annexation.
- A negotiated transition governs borders, pensions, currency, citizenship, public debt, military service and cross-border family life.

DM-2026-001 forbids conditions that no addressee could meet. Kaharagia therefore records to whom each is addressed. The withdrawal or consensual regulation of foreign forces, the restoration of access, and the end of citizenship as an instrument of discipline are addressed to the Russian Federation. The renunciation of force and the terms of any guaranteed settlement are addressed to Georgia. The supervised process is addressed to the states and organisations capable of convening one. What the people of South Ossetia can reach by their own conduct is none of this, and the engagement offered below is owed to them regardless.

A forum in which several of these already sit on the agenda exists, and Kaharagia does not ask for one to be invented. The Human Rights Council recognises the Geneva International Discussions, established on the basis of the Ceasefire Agreement of 12 August 2008, as the instrument for addressing that agreement's implementation, the withdrawal of Russian forces from Georgian territories, international security arrangements and the return of displaced people. What is missing is not the table but movement at it.

## 6. Kaharagian Policy Until the Choice Can Be Read

Kaharagia recognises the Ossetian people's self-determination claim and withholds recognition from the present Republic of South Ossetia. Humanitarian, cultural and unofficial contact may occur without treating the administration as a sovereign government. Kaharagia opposes both forcible reincorporation by Georgia and annexation by Russia. This position carries the following consequences:

- No instrument of recognition issues, the authorities are not recognised as a sovereign government, and no diplomatic relations are established.
- No accreditation, immunity or privilege arises from any contact that does occur, and such contact is recorded as without prejudice to recognition.
- Kaharagia states publicly that Georgia's territorial integrity does not by itself determine the status of South Ossetia.
- Kaharagia recognises no title derived from forcible reincorporation or from annexation, including an incorporation implemented through treaty, the transfer of state functions or the appointment of the patron's citizens to local office.
- Documents issued by or for the authorities in control, and travel documents of the Russian Federation issued in the territory or to its residents, are not accepted as evidence of status. That rule does not deny any person's identity; it does not apply to a person who was already a Russian citizen when such documents began to be issued there, or to that person's descendants, or to a person who was a minor when the document was issued; and it does not affect any application for international protection.
- Organs of State conform their terminology, publications, procurement, entry decisions and official contact to the determinations recorded here.
- The position is reviewed on the conditions stated above and on any material change in control, legal proceedings, or the formally expressed position of the people concerned. The extraordinary presidential election called for 18 September 2026 is an occasion for review and not, by itself, a status process.

### 6.1 The Rights That Survive This Deferral

A deferral is a refusal to conclude. It confers no permission:

- It does not authorise treating South Ossetians as a population without rights, or as agents of a foreign state.
- It does not authorise coercion, blockade or collective punishment directed by any state at the residents of the territory.
- It does not make any person's rights conditional on the citizenship held, the documents accepted, or the political preference expressed.
- It does not diminish the claims of displaced Georgians, which stand whatever status the territory eventually holds.
- It does not affect accountability for the conduct addressed in the proceedings at the International Criminal Court, or the execution of the judgments of the European Court of Human Rights, which the Russian Federation remains bound under

Article 46 of the Convention to implement in respect of facts occurring before 16 September 2022.

- It does not permit the withholding of humanitarian access, family contact, work on missing persons or the technical business of ordinary life as pressure upon any authority.

## 7. Operative Declaration

The State of Kaharagia recognises the Ossetian people's right freely to determine their political status and rejects any settlement imposed solely by Georgia or the Russian Federation. It withholds recognition of the present Republic of South Ossetia as a sovereign state, because conditions of foreign effective control, the treaty-driven merger of state functions and unresolved displacement do not permit a conclusive free determination. Kaharagia recognises no title arising from annexation, whether declared or achieved by incorporation in stages. This position is reviewed following demilitarisation, political opening, rights guarantees, restored access and an internationally credible status process.

## 8. Publication and Legal Effect

This memorandum is a public statement of the foreign policy of the State of Kaharagia, adopted by the Sovereign and issued through the Secretariat of State, Section II. Under Kaharagian constitutional practice, the recognition or non-recognition of a state, the recognition of a government, the establishment of a diplomatic mission, the imposition of sanctions and the entry into formal diplomatic relations are decisions reserved to the Sovereign and implemented through the appropriate instrument. A Diplomatic Memorandum states the grounds, scope, reservations and consequences of a policy; it does not by itself confer accreditation, immunity or privilege.

This memorandum is published in the Diplomatic Memorandum Series by the Office of the Sovereign's Printer. Its serial reference is preserved in every separate or electronic edition. Material changes in facts, control, legal proceedings or the formally expressed position of the people concerned trigger review. Every authority listed below was retrieved and read when this edition was prepared. Where an address previously held by the Secretariat refused retrieval, the entry gives the address at which the same material was obtained and says why the earlier one failed.

### Selected Authorities and Official Materials

*Every authority listed was retrieved and read by the Secretariat of State when this edition was prepared, each against the issuing body's own publication except where the entry states otherwise. Titles are followed by the issuing body, the date and a source link. Judgments, judgments on just satisfaction, rulings on jurisdiction, advisory proceedings, warrants of arrest, resolutions of the General Assembly and of the Human Rights Council, binding acts of Union law, treaties, governmental records and press reporting are identified according to their actual character, and none is described as more than it is. Where a source could not be retrieved at the address previously held, the entry gives the address at which the same material was obtained and records why the earlier address failed.*

1. *Grand Chamber judgment in the case concerning the armed conflict between Georgia and the Russian Federation in August 2008 and its consequences*. European Court of Human Rights, press release ECHR 028 (2021) issued by the Registrar, 21 January 2021; Georgia v. Russia (II), application no. 38263/08. Records the vote of eleven to six that the active phase of hostilities fell outside Russian jurisdiction and that this part of the application was inadmissible, the vote of sixteen to one on the occupation phase, effective control over South Ossetia, Abkhazia and the buffer zone from 12 August to 10 October 2008 and its continuation thereafter, the administrative practices found under Articles 2, 3, 5 and 8, Article 1 of Protocol No. 1 and Article 2 of Protocol No. 4, the finding of no violation of Article 2 of Protocol No. 1, and the Article 38 finding on the refusal to produce combat reports. A judgment, final under Article 44, not a criminal verdict.  
[https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-6913071-9285190&filename=Grand+Chamber+judgment+in+the+case+Georgia+v.+Russia+\(II\).pdf](https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-6913071-9285190&filename=Grand+Chamber+judgment+in+the+case+Georgia+v.+Russia+(II).pdf)
2. *Grand Chamber judgment in the case of Georgia v. Russia (II) concerning just satisfaction*. European Court of Human Rights, press release ECHR 125 (2023), 28 April 2023; application no. 38263/08. Records the unanimous holding that the Court kept jurisdiction under Article 58 although Russia ceased to be a member of the Council of Europe on 16 March 2022 and a Party to the Convention on 16 September 2022, and the award of 115,000,000 euros for at least 23,000 victims of the administrative practice of preventing the return of Georgian nationals to their homes in South Ossetia and Abkhazia, alongside four smaller heads and the dismissal of the remainder by nine votes to eight. A Grand Chamber judgment on just satisfaction, final under Article 44.  
[https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-7635942-10515392&filename=Grand+Chamber+judgment+Georgia+v.+Russia+\(II\)+--+just+satisfaction.pdf](https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-7635942-10515392&filename=Grand+Chamber+judgment+Georgia+v.+Russia+(II)+--+just+satisfaction.pdf)
3. *Russia must pay Georgia over 253 million euros for breaches of human rights caused by hardening of boundary lines after 2008 conflict*. European Court of Human Rights, press release ECHR 237 (2025), 14 October 2025; Georgia v. Russia (IV), application no. 39611/18. Chamber judgment on just satisfaction following the merits judgment of 9 April 2024 on the borderisation process begun in 2009; records the award of 253,018,000 euros for at least 29,746 ethnic Georgian victims, including 20,000,000 euros for the denial of education in Georgian to a group of at least 4,000, and records that under Articles 43 and 44 a Chamber judgment is not final on delivery. Also records that Russia remains bound under Article 46 to implement judgments concerning facts occurring before 16 September 2022.  
[https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-8355578-11797780&filename=Judgment+Georgia+v.+Russia+\(IV\)+--+Russia+must+pay+Georgia+over+253+million+euros+in+just+satisfaction.pdf](https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-8355578-11797780&filename=Judgment+Georgia+v.+Russia+(IV)+--+Russia+must+pay+Georgia+over+253+million+euros+in+just+satisfaction.pdf)
4. *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation)*. International Court of Justice, overview of the case; Application filed 12 August 2008, Order indicating provisional measures 15 October 2008, Judgment on preliminary objections 1 April 2011. Records that the Court upheld Russia's second preliminary objection because the procedural conditions in Article 22 of the Convention had not been satisfied, that the case could not proceed to the merits, and that the provisional measures ceased to be operative on delivery of the judgment. A judgment on jurisdiction, not a ruling on the merits of the racial discrimination alleged.  
<https://www.icj-cij.org/case/140>
5. *Situation in Georgia, ICC-01/15*. International Criminal Court, situation page. Records the authorisation of a proprio motu investigation by Pre-Trial Chamber I on 27 January 2016 covering an international armed conflict in and around South Ossetia between 1 July and 10 October 2008; the representations received on 4 December 2015 on behalf of 6,335 victims; the Prosecutor's application of 10 March 2022; the issue of warrants of arrest on 24 June 2022 against Mikhail Mindzaev, Gamlet Guchmazov and David Sanakoev and the offices they held; the alleged confinement of at least 171 actual or perceived Georgian civilians and their unlawful transfer in a so-called exchange; and the closure of the investigation phase on 16 December 2022, with the warrants pending execution. Warrants of arrest, not convictions. The Court's news release of 30 June 2022 at [icc-cpi.int/news](https://www.icc-cpi.int/news) refuses automated retrieval; this situation page, which the Office of the High Commissioner cites for the same facts, was retrieved in full.  
<https://www.icc-cpi.int/georgia>
6. *Georgia: First ICC Arrest Warrants*. Human Rights Watch, 30 June 2022. Non-governmental reporting; records the announcement of the warrants on 30 June 2022, the three suspects' positions in the de facto administration, the charges, the deceased Russian major general named in the Prosecutor's application, the bar on trials in absentia at the

Court, and the organisation's own finding that South Ossetian forces attempted to cleanse Georgian villages after Georgian forces withdrew on 10 August 2008, forcing nearly 20,000 ethnic Georgians from their homes.

<https://www.hrw.org/news/2022/06/30/georgia-first-icc-arrest-warrants>

7. *Status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia*. United Nations General Assembly resolution 80/264, adopted 4 June 2026 at the 88th plenary meeting on draft A/80/L.73, agenda item 32. Operative paragraph 1 recognises the right of return of all internally displaced persons and refugees and their descendants, regardless of ethnicity, to their homes throughout Georgia, including in Abkhazia and the Tskhinvali region/South Ossetia; paragraph 2 stresses property rights; paragraph 3 reaffirms the unacceptability of forced demographic changes; paragraph 6 underlines the need for a timetable for return. A recommendation of the General Assembly. Official United Nations text retrieved from the document server; the docs.un.org reader page served no text to automated retrieval. <https://documents.un.org/api/symbol/access?s=A/RES/80/264&l=E&t=pdf>
8. *General Assembly Adopts Text on Status of Internally Displaced Persons, Refugees from Abkhazia and the Tskhinvali Region/South Ossetia, Georgia*. United Nations Meetings Coverage GA/12763, 4 June 2026. Records adoption by a recorded vote of 107 in favour to 8 against, with 55 abstentions, names the eight states voting against including the Russian Federation, and records the explanations given by Georgia and the Russian Federation. <https://press.un.org/en/2026/ga12763.doc.htm>
9. *Status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia: report of the Secretary-General (A/80/729)*. United Nations, 4 May 2026, covering 1 April 2025 to 31 March 2026. Records 300,439 registered internally displaced persons in Georgia as at January 2026 and an increase of 1,267 across 2025 mainly through births; the continued denial of return by the authorities in control in South Ossetia; the absence of sustainable return in the reporting period; the walkouts by some participants under the return agenda item; the sixty-six rounds of the Geneva International Discussions launched on 15 October 2008; the Sochi Agreement of 24 June 1992 and the bodies it created; the absence of United Nations operational access since August 2008 apart from a UNHCR assessment mission in August 2016; and the adoption in both territories of instruments issuing documents that define the population, in particular ethnic Georgians, as foreign or stateless. Official United Nations text retrieved from the document server. <https://documents.un.org/api/symbol/access?s=A/80/729&l=E&t=pdf>
10. *Cooperation with Georgia: report of the United Nations High Commissioner for Human Rights (A/HRC/62/58)*. United Nations, 27 April 2026, submitted pursuant to Human Rights Council resolution 60/29 and covering 1 January to 31 December 2025. Records the unanswered request for access of 21 October 2025; the inability of the United Nations and other international organisations, save the International Committee of the Red Cross, to enter South Ossetia; the closure of the administrative boundary line since September 2019 following the opening of a police post at Chorchana and the opening of crossings only during the last eleven days of each month since August 2022; 55 recorded instances of boundary hardening on the South Ossetian line in 2025 against 3 on the Abkhaz line; the 2025 detention figures; the five schools in Akhagori with 38 pupils and 80 teachers and no instruction in Georgian; the closure of schools in five depopulated villages; the detention, hunger strike, forced feeding and expulsion of Tamar Mearakishvili between 22 and 31 December 2025; the ICRC figures of 323 sets of remains returned and 1,848 people unaccounted for as at December 2025; and that the International Criminal Court warrants remain active with the suspects at large. Official United Nations text retrieved from the document server. <https://documents.un.org/api/symbol/access?s=A/HRC/62/58&l=E&t=pdf>
11. *Cooperation with Georgia*. United Nations Human Rights Council resolution 60/29, adopted without a vote at the 45th meeting, 8 October 2025. Reaffirms the Council's commitment to the sovereignty, independence and territorial integrity of Georgia within its internationally recognised borders; condemns the decisions simplifying the grant of Russian citizenship to residents and the issue of Russian passports directly in the regions, and statements about the intention to hold a referendum in the Tskhinvali region/South Ossetia on joining the Russian Federation; records concern at the continued demolition of the ruins of houses belonging to internally displaced persons in that territory; recognises the Geneva International Discussions as the instrument for addressing implementation of the Ceasefire Agreement of 12 August 2008, the withdrawal of Russian forces and international security arrangements; and at operative

paragraph 1 demands immediate and unimpeded access for the Office of the High Commissioner and other human rights mechanisms. A resolution of the Human Rights Council, adopted by consensus.

<https://documents.un.org/api/symbol/access?s=A/HRC/RES/60/29&l=E&t=pdf>

12. *President Dmitry Medvedev made a statement on recognizing the independence of South Ossetia and Abkhazia.* Official website of the President of Russia, 26 August 2008. Records that the head of state signed decrees recognising the independence of South Ossetia and of Abkhazia and establishing diplomatic relations with them.  
<http://en.kremlin.ru/events/president/news/1223>
13. *Statement by President of Russia Dmitry Medvedev.* Official website of the President of Russia, 26 August 2008, 15:43. The Russian account of the August 2008 war given on the day of recognition; records the assertion that Russia had until then been invariably guided by the recognition of Georgia's territorial integrity, and the allegation that the Georgian leadership opted for genocide. An allegation by a government, not a finding of any court.  
<http://en.kremlin.ru/events/president/transcripts/1222>
14. *Meeting with President of South Ossetia Leonid Tibilov.* Official website of the President of Russia, 18 March 2015, the Kremlin, Moscow. Records the signature of the Agreement between the Russian Federation and the Republic of South Ossetia on Alliance and Integration, concluded for twenty-five years with ten-year extensions, providing for a common defence and security space, free movement across the boundary, integrated customs services, cooperation between interior ministries, simplified acquisition of Russian citizenship and pension arrangements, and describing the instrument as acting to preserve South Ossetia's state sovereignty.  
<http://en.kremlin.ru/events/president/news/47873>
15. *Treaty on Deepening Allied Interaction between Russia and South Ossetia ratified.* Official website of the President of Russia, 25 May 2026. Records that the President signed the Federal Law on Ratification, that the Agreement was signed in Moscow on 9 May 2026, and that it provides for further steps towards the creation of a single economic space, the improvement of citizens' well-being and living standards, and a gradual transition to a unified framework for external borrowing and foreign investment.  
<http://en.kremlin.ru/acts/news/79846>
16. *Meeting with President of South Ossetia Alan Gagloyev.* Official website of the President of Russia, 22 June 2026, 14:30, the Kremlin, Moscow. The published record identifies Mr Gagloyev as Adviser to the President and refers to the bilateral agreement signed on 9 May.  
<http://en.kremlin.ru/events/president/news/80079>
17. *Alexander Novak chairs a meeting of the Intergovernmental Commission on Socio-Economic Cooperation between Russia and South Ossetia.* Government of the Russian Federation, 26 May 2025. The twenty-third meeting of the commission, co-chaired by the Russian Deputy Prime Minister on the sidelines of the second Caucasus Investment Forum at Mineralnye Vody and attended by the President of South Ossetia; records the draft state programme for the socio-economic development of South Ossetia in 2026 to 2030, the volumes of financial support required, and review of the integration process in the customs and taxation spheres.  
<http://government.ru/en/news/55135/>
18. *Alexander Novak's meeting with Acting President of South Ossetia Marat Kambolov.* Government of the Russian Federation, 10 August 2026, 17:05, Government House, Moscow. Records discussion of the state programme for the socioeconomic development of South Ossetia, the social gasification of the republic's regions, the programme to improve the reliability of the electric grid and the plan for optimising its electricity supply.  
<http://government.ru/en/news/59566/>
19. *Constitution of the Russian Federation, Chapter 3, Articles 65 and 66.* Official text published at [constitution.ru](http://constitution.ru). Article 65, paragraph 1 lists the Republic of North Ossetia–Alania among the subjects of the Russian Federation; Article 65, paragraph 2 provides that the admission to the Russian Federation and the creation in it of a new subject are carried out according to the rules established by federal constitutional law.  
<http://www.constitution.ru/en/10003000-04.htm>
20. *EU Statement on the Secretary General's thirty-third consolidated report on the conflict in Georgia.* European External Action Service, Delegation to the Council of Europe, Strasbourg, 29 April 2026. Condemns the Russian military presence, the continuing

- process of borderisation, and steps aimed at the incorporation of the regions into Russia's political, military, economic, judicial and social spheres, including through dual citizenship arrangements and the transfer of strategic assets; notes the judgments of the European Court of Human Rights and the arrest warrants of the International Criminal Court; and calls for immediate and unimpeded access for international and regional human rights mechanisms. A statement by a regional organisation.  
[https://www.eeas.europa.eu/delegations/council-europe/eu-statement-secretary-general%E2%80%99s-thirty-third-consolidated-report-conflict-georgia\\_en](https://www.eeas.europa.eu/delegations/council-europe/eu-statement-secretary-general%E2%80%99s-thirty-third-consolidated-report-conflict-georgia_en)
21. *Decision (EU) 2022/2512 of the European Parliament and of the Council of 14 December 2022 on the non-acceptance of travel documents of the Russian Federation issued in Ukraine and Georgia.* Official Journal of the European Union L 326/1, 21 December 2022. Recital 4 records that the extraordinary European Council of 1 September 2008 strongly condemned Russia's unilateral decision to recognise the independence of Abkhazia and South Ossetia and urged other countries not to recognise their independence; recital 8 provides that no Russian travel document issued in, or to a person resident in, the breakaway territories in Georgia is to be accepted as valid for issuing a visa or crossing the external borders, with derogations for persons who were already Russian citizens when such documents began to be issued there, for their descendants and for minors; recital 13 preserves the right to apply for international protection. A binding act of Union law.  
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022D2512>
  22. *About us and Our Mandate.* European Union Monitoring Mission in Georgia. Records that the Mission is an unarmed civilian monitoring mission established by the European Union on 15 September 2008, that it began monitoring on 1 October 2008 with oversight of the withdrawal of Russian forces from areas adjacent to South Ossetia and Abkhazia, that its mandate covers the whole territory of Georgia within the country's internationally recognised borders, and that the de facto authorities in Abkhazia and South Ossetia have denied it access to the territories under their control.  
[https://eumm.eu/en/about\\_eumm](https://eumm.eu/en/about_eumm)
  23. *Government withdraws recognition of South Ossetia and Abkhazia.* Government of the Republic of Naoero, Government Information Office media release, Thursday 30 July 2026. Announces withdrawal of recognition of both as independent States, the termination of diplomatic relations with immediate effect, and formal notification through the appropriate diplomatic channels.  
[https://naoero.gov.nr/government-information-office/media-release/media-release-government-withdraws-recognition-of-south-ossetia-and-abkhazia\\_30jul2026.aspx](https://naoero.gov.nr/government-information-office/media-release/media-release-government-withdraws-recognition-of-south-ossetia-and-abkhazia_30jul2026.aspx)
  24. *A nation of 10,000 people just shrank the list of countries recognizing Abkhazia and South Ossetia to four.* Meduza, 30 July 2026, page timestamped 29 July 2026, sourcing the Ministry of Foreign Affairs of Georgia. Reporting; records that the Naoero cabinet took the decision on 21 July 2026, that the relations had been established in 2009, and that the four United Nations member states still recognising the two entities are Russia, Nicaragua, Venezuela and Syria.  
<https://meduza.io/en/news/2026/07/30/a-nation-of-10-000-people-just-shrank-the-list-of-countries-recognizing-abkhazia-and-south-ossetia-to-four>
  25. *A draft law on ratifying a new treaty with South Ossetia has been submitted to the State Duma.* Caucasian Knot, 10 May 2026. Reporting; records that the 2015 alliance and integration treaty was signed on 18 March 2015 and entered into force on 30 July 2015 and was understood as securing South Ossetia without its joining Russia, and summarises the explanatory note to the 2026 bill on coordinated foreign, defence and security policy, the gradual unification of energy, gas transport, transport, communications and telecommunications systems, and conditions favourable to the free movement of capital, goods, services and labour.  
<https://www.eng.kavkaz-uzel.eu/articles/75134>
  26. *The New Agreement Between Russia and the de facto South Ossetia is Assessed as Formalising Annexation.* Democracy Research Institute, Tbilisi, 21 May 2026. Non-governmental analysis of the treaty text; records the harmonisation of legal norms, the single economic space, free movement of capital, goods, services and labour, the entitlement of each party's citizens to hold posts in the other's state and municipal bodies, the effective abolition of residency requirements for the ownership and disposal of private property, the bar on international commitments contradicting the agreement, and ratification by the State Duma on 13 May 2026. Cited as an organisation whose submissions are relied on in A/HRC/62/58.  
<https://www.democracyresearch.org/eng/1727/>

27. *Putin Allows Issuance of Russian Passports in Abkhazia and South Ossetia*. Caucasian Knot, 18 July 2025. Reporting; records the Russian decree of 17 July 2025 permitting internal Russian passports to be issued on the territory of both entities until 1 August 2028 inclusive, excluding persons who acquired Russian citizenship after 26 August 2008.  
<https://www.eng.kavkaz-uzel.eu/articles/66613>
28. *South Ossetia's president resigns and joins Putin's presidential staff, reviving questions about Russian annexation*. Meduza, 23 June 2026. Reporting; records the resignation, the Kremlin decree appointing him adviser, the State Duma's ratification of the treaty in mid-May, the treaty provision allowing Russian citizens to hold government positions in the republic and the reverse, the nomination of Marat Kambolov on 8 June and his confirmation as prime minister on 16 June, that he is a Russian citizen who worked in the Russian government and held leadership positions at the Kurchatov Institute National Research Centre from 2014 to 2026, and that under local law the head of government becomes acting president on the president's resignation.  
<https://meduza.io/en/feature/2026/06/23/south-ossetia-s-president-resigns-and-joins-putin-s-presidential-staff-reviving-questions-about-russian-annexation>
29. *South Ossetian President Alan Gagloev resigns*. OC Media, June 2026. Reporting; records his statement on leaving office that the task is to overcome the fate of a divided people and reunite with North Ossetia and with Great Russia, his description of the 9 May agreement as the beginning of the reunification of the Ossetian people, the transfer of acting presidential duties to the prime minister appointed a week earlier, and his own arrival in office in 2022 as a moderate opposition candidate.  
<https://oc-media.org/south-ossetian-president-alan-gagloev-resigns/>
30. *South Ossetia cancels referendum on joining Russia*. OC Media, May 2022. Reporting; records the decree of 13 May 2022 setting a referendum for 17 July, the endorsement of its validity by the Central Election Commission and the Supreme Court, the Kremlin spokesman's statement that no steps had been taken or were planned to admit South Ossetia and that the initiative was legally underdeveloped, and the suspending decree citing the inadmissibility of a unilateral decision on a question affecting the legitimate rights and interests of the Russian Federation, supporting further integration and sending a delegation to Moscow.  
<https://oc-media.org/south-ossetia-cancels-referendum-on-joining-russia/>
31. *South Ossetian deputies blame 'Georgian lobby' for loss of Russian citizenship*. JAMnews, 30 March 2024. Reporting; records that three deputies were deprived of Russian citizenship in early February 2024 by decision of the Federal Security Service and barred from entering Russia until 18 March 2049 after proposing the restoration of the boundary with Georgia to its 1922 form, that their challenges in the Russian courts were rejected, that the South Ossetian Autonomous Region was established within the Georgian Soviet Socialist Republic in 1922, and that Russia recognised South Ossetia in 2008 within its 1990 lines, which enclose slightly less territory than the 1922 ones.  
<https://jam-news.net/south-ossetian-deputies-lose-russian-citizenship/>
32. *South Ossetia: Freedom in the World 2025*. Freedom House, 2025 edition. Non-governmental assessment; rates the territory Not Free at 12 of 100, with 3 of 40 for political rights and 9 of 60 for civil liberties; records that large parts held de facto independence after the civil conflict ended in 1992, that the 2008 war resulted in the expulsion of most ethnic Georgian civilians, that the territory is almost entirely dependant on Moscow, which exerts a decisive influence over its politics and governance, that local media and civil society are largely controlled or monitored; scores at zero both the freedom of political choices from external domination and the capacity of the elected executive and legislature to determine policy; applies its discretionary deduction for the deliberate alteration of ethnic composition; and records that remaining ethnic Georgian residents have been denied the ability to participate in elections.  
<https://freedomhouse.org/country/south-ossetia/freedom-world/2025>
33. *President's Nykhas party wins South Ossetia parliamentary election*. OC Media, June 2024. Reporting; records that United Ossetia took 31.5 per cent of the proportional vote against 30.6 for Nykhas, that United Ossetia won one of the seventeen single-member constituencies against Nykhas's four in a chamber of thirty-four, that almost twenty-two thousand people voted, that several parties and candidates were denied registration by the central election commission, and that the most prominent of them was For Justice, whose three leading members were the deputies stripped of Russian citizenship in February 2024.  
<https://oc-media.org/presidents-nykhas-party-wins-south-ossetia-parliamentary-election/>
34. *After a five-month boycott, the sole opposition party in South Ossetia returns to parliament*.

- JAMnews, 26 October 2024. Reporting; records the boycott by United Ossetia over alleged falsification, the criminal case opened by the prosecutor's office on 6 August 2024 for falsifying election results by tampering with ballots, the finding that disappearing ink at two polling stations invalidated 695 ballots, the identification of the ruling party as the aggrieved party, and the party's return to the chamber.  
<https://jam-news.net/after-a-five-month-boycott-the-sole-opposition-party-in-south-ossetia-returns-to-parliament/>
35. *Abkhazia Votes to Scrap Russian Investment Deal After Mass Protests*. The Moscow Times, 3 December 2024. Reporting; records the vote of 21 to nil with two abstentions to reject the investment agreement signed on 30 October 2024 by the Russian and Abkhazian economy ministers, the preferential treatment it would have given to investments of two billion roubles and above, the opposition's objection that it would allow wealthy Russians to buy up local property, the protests that preceded the vote, and the resignation of the Abkhaz leader during the unrest. Cited for the contrast drawn with DM-2026-002.  
<https://www.themoscowtimes.com/2024/12/03/abkhazia-votes-to-scrap-russian-investment-deal-after-mass-protests-a87215>
36. *South Ossetia's de facto presidential election set for September 18*. Georgia Today, 1 July 2026. Reporting; records that the local legislature set an extraordinary presidential election for 18 September 2026 within the ninety-day constitutional period, that the acting president is a Russian citizen, and that the local constitution requires a presidential candidate to be a citizen of South Ossetia over thirty-five, fluent in Ossetian and Russian, and permanently resident in the territory for the ten years preceding registration.  
<https://georgiatoday.ge/south-ossetias-de-facto-presidential-election-set-for-september-18/>
37. *The acceptance of documents for the registration of candidates for the presidency of South Ossetia has been completed*. Caucasian Knot, 13 August 2026. Reporting; records that five candidates submitted documents for the election of 18 September 2026, among them the acting president, that the Central Election Commission has a ten-day statutory period in which to check compliance with the electoral legislation before deciding on registration or refusal, and that four candidates' authorised representatives had been registered on 3 August.  
<https://www.eng.kavkaz-uzel.eu/articles/77713>



DM-2026-004

# Diplomatic Memorandum on the Status of Transnistria

*A distinct civic community, Moldovan sovereignty and the requirement of freedom from Russian control*

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## POSITION OF THE STATE

Kaharagia does not at present recognise the Pridnestrovian Moldavian Republic as a sovereign state; Kaharagia recognises the inhabitants of Transnistria as a distinct political community entitled to meaningful self-government and to a free status process

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|----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SELF-DETERMINATION   | Recognised. The inhabitants form a distinct political community entitled to internal self-government and to advocate peacefully for alternative final statuses.                                                                   |
| FAMILY OF CLAIM      | Separation from a settled state. The restoration argument built on the Moldavian Autonomous Soviet Socialist Republic is examined and not accepted.                                                                               |
| EXTERNAL CONTROL     | Effective control, found by the European Court of Human Rights in 2004, 2011, 2012, 2016, 2024 and 2026, on facts occurring before 16 September 2022. One marker the doctrine associates with absorption appeared on 15 May 2026. |
| STATE RECOGNITION    | Withheld. Kaharagia does not at present recognise the Pridnestrovian Moldavian Republic as a sovereign state.                                                                                                                     |
| DISPOSITION          | Deferral. The claim is not rejected. The conditions in which a free choice could be read are absent, and this publication records what must change.                                                                               |
| GOVERNMENT           | No recognition of the Pridnestrovian authorities as a sovereign government.                                                                                                                                                       |
| DIPLOMATIC RELATIONS | Not established.                                                                                                                                                                                                                  |
| FUTURE OPTIONS       | Special status within Moldova, federation, free association or independence are all legitimate outcomes if freely chosen. Kaharagia prefers none of them in advance.                                                              |

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## COMMON DOCTRINAL BASIS

*A people's right to self-determination is not extinguished by an inherited border. Nor is it fulfilled by foreign occupation, coerced integration, ethnic cleansing, demographic engineering, or a nominal independence maintained under another state's effective control. Recognition of a state is separate from endorsement of its government and from the establishment of diplomatic relations.*

## 1. Executive Position

Kaharagia does not at present recognise the Pridnestrovian Moldavian Republic, commonly called Transnistria, as a sovereign state. The Grand Chamber of the European Court of Human Rights held in *Mozer v. the Republic of Moldova and Russia*, on 23 February 2016, that the entity is only able to continue to exist, and to resist Moldovan and international efforts to resolve the conflict and bring democracy and the rule of law to the region, because of Russia's military, economic and political support. Political competition inside the region is too narrow to establish that the present authorities freely represent the population's final wishes. A Committee of the Fifth Section of the same court held on 19 February 2026, in *Zubco and Others v. the Republic of Moldova and Russia*, that the Russian Federation had violated Articles 10 and 11 of the Convention in respect of applicants barred from entering the region because of their human-rights work and applicants fined and arrested for taking part in a political meeting the local authorities had not authorised.

This conclusion is not contempt for Transnistrians. The inhabitants of the region are not instruments of Moscow. A distinct Transnistrian civic identity exists, and some advocates of independence seek a state independent of both Chişinău and Russian control. Kaharagia protects the legitimacy of that position and refuses to mistake the present dependent regime for its necessary or final expression.

DM-2026-001 requires two questions to be answered before any recognition. Whether a people is entitled to choose its political future. Whether the institutions claiming to embody that choice are themselves free, representative and genuinely sovereign. Here the first answer is yes. The second is no. The second answer is a finding about the conditions in which a choice would be made, not a verdict on the people who would make it.

### 1.1 Self-Determination Recognised, Statehood Deferred

DM-2026-001 keeps four decisions apart that ordinary speech collapses into one word. Each takes a different answer here.

- **Right of self-determination.** Recognised. The inhabitants of Transnistria form a distinct political community entitled to internal self-government and to argue peacefully for a different final status.
- **Statehood.** Withheld. The entity presenting itself for recognition cannot at present demonstrate the free and genuinely sovereign character the doctrine requires.
- **Government.** Not recognised. The Pridnestrovian authorities are not accepted as a sovereign government, and contact with them for humanitarian or technical purposes does not become such acceptance by repetition.
- **Diplomatic relations.** Not established, and none proposed.

Only the second and third answers are negative. A reader who runs the four answers together will take this publication for a judgment on Transnistrians. It is not one.

## 1.2 The Disposition, the Family and the Degree

DM-2026-001 requires each publication in this series to name its family of claim, the degree of external control found, its disposition among the five, and the conditions on which it falls to be reviewed. Kaharagia names them here rather than leaving them to be inferred from the reasoning.

- **Family of claim.** Separation from a settled state, which carries the heaviest burden in the doctrine. The competing classification, restoration of a status held before a union, is argued in the next section and not accepted.
- **Degree of external control.** Effective control, in the doctrine's middle term. Effective control does not defeat the claim. It shifts the burden onto the entity to show that the will it expresses is its own, and that burden is not discharged on the present record.
- **Disposition.** Deferral. The claim is not rejected, and Kaharagia records what would have to change. Deferral is not denial, and this publication says so in terms so that its subject is not described as having lost.

The choice of deferral rather than non-recognition on the merits is deliberate and carries a consequence. Kaharagia has not weighed the Transnistrian claim and found it wanting. It has found that the claim cannot presently be read, which is a different finding and a reversible one.

## 1.3 The Remedial Question Is Left Undecided

A claim can fail in the doctrine by two different routes, and the difference matters to anyone reading this paper as a precedent. One route runs through entitlement. DM-2026-001 treats independence as a remedy that may become legitimate where a people has been systematically excluded, violently repressed, denied meaningful internal self-determination, or left without a credible constitutional remedy inside the existing state. The Secretariat does not reach that question here. Nothing in this publication should be cited as an answer to it, in either direction.

The case is decided on the other route. Even a community whose remedial claim was fully made out could not obtain recognition for institutions unable to show that the choice they announce is the population's own. That is the failure identified here. It is a failure of present conditions, not of entitlement. That is why recognition is withheld and not refused.

If the conditions described below were met and the population then chose a status, Kaharagia would not need to reopen the question whether Transnistrians had suffered enough to deserve a choice. The choice itself would be the evidence.

## 2. A Civic Claim in a Closed Political Environment

Transnistria is not an ethnically homogeneous national homeland. The Grand Chamber recorded in *Catan and Others v. Moldova and Russia* that the Soviet census of 1989 assessed the population of the region at 679,000, composed ethnically and linguistically of 40 per cent Moldovan, 28 per cent Ukrainian, 24 per cent Russian and 8 per

cent others. A census carried out in 2004 by the authorities in the area under their control found a population of 555,347, of whom approximately 32 per cent came from the Moldovan community, 30 per cent were Russian and 29 per cent were Ukrainian, with small percentages of other national and ethnic groups. Its separatist institutions emerged from late-Soviet conflict over language and authority, not from a timeless national boundary.

The sequence is on the judicial record. In August and September 1989 the Moldavian Supreme Soviet enacted two laws introducing the Latin alphabet for written Romanian and making that language the country's first official language in place of Russian. The Moldavian Republic of Transdniestria was proclaimed on 2 September 1990. Its Supreme Council adopted a declaration of independence on 25 August 1991, two days before the Moldovan parliament adopted the Declaration of Independence of the Republic of Moldova.

A distinct Transnistrian civic identity has nevertheless developed over more than three decades. Separate institutions, social networks, symbols and political habits are real, and a settlement must not require every resident to adopt a single national narrative in order to be safe.

The character of the claim affects how it can be proved. An ethno-national claim can point to a language, a homeland attachment and a political demand that existed before the present dispute and before any patron arrived. A civic claim of this kind rests on the political attachment of the people who live in the territory now. That is precisely the thing a closed political environment makes impossible to read. The claim advanced for Transnistria is therefore more dependent on open conditions than a national claim would be, and it is worse served by their absence.

Some residents favour union with Russia. Some favour a negotiated place within Moldova. Others favour genuinely independent Transnistrian statehood and reject domination by both Chişinău and Moscow. Kaharagia recognises the right of residents to advocate special autonomy, federation, confederation, free association, independence or reintegration, and a preference for close relations with Russia may be democratically expressed like any other. Kaharagia preserves space for that third position.

## **2.1 Why the Restoration Argument Does Not Hold**

The strongest legal argument for placing this case in the second family deserves to be stated at its full strength. On that argument the left bank of the Dniester was never Bessarabian, was joined to Moldova only by a Soviet act of 1940, and resumed in 1990 a separate constitution it had held before. If it succeeded, the claim would draw no new frontier and would escape the heavy burden the third family imposes.

The Court recorded the underlying history in *Catan and Others*. The eastern region had since 1924, together with a number of territories which are now part of Ukraine, been part of the Moldavian Autonomous Soviet Socialist Republic. That is the whole of what the record supports, and it is not enough. An autonomous republic inside a union is not a separate sovereignty, and its boundary is an internal administrative line rather than an international one.

The comparison inside this series settles it. DM-2026-007 recognises Somaliland partly because the claim asks for the external limits the territory actually held at independence, and those limits can be identified. No such line exists here. The 1924 unit took in land now lying inside Ukraine, so restoring it would redraw an international frontier rather than resume one. Classification is a question of history which neither party may choose, and this case falls in the third family.

## 2.2 A Preference and a Measured Preference

No preference is genuinely measured while a foreign military presence and an externally sustained security apparatus shape the available political space. It concerns measurement, not sincerity. A resident who supports the present order may hold that view honestly, on reflection and for their own reasons. Nothing here doubts it, and no Kaharagian decision treats that person as deceived.

What cannot be established is whether the same view would prevail if the alternatives could compete. The official results relied on by the authorities were produced in conditions no external body was permitted to examine. The OSCE recorded in its annual report for 2006 that the independence referendum of 17 September and the presidential elections of 10 December that year were neither recognised nor monitored by the organisation. Freedom House assessed in its Freedom in the World 2026 edition that truly independent candidacies were not permitted in the Supreme Council elections of November 2025 and that every winning candidate was affiliated with the ruling Renewal party.

Where rival positions cannot organise, publish, campaign and lose without cost, an official result records the conditions at least as much as the preference. This is why Kaharagia declines to treat referendums and elections held under the present order as conclusive, and why it also declines to call them fraudulent. Neither description is available on what can be observed.

### MEASUREMENT

*A resident's preference may be entirely genuine and still be impossible to measure. Recognition turns on whether the alternatives could have competed, not on whether the announced result is popular.*

## 2.3 Institutions That Cannot Be Examined

The existence of long-running institutions does not establish that political consent is free. The Strasbourg Court reached the point directly in *Mozer* when it asked whether the local courts formed part of a judicial system operating on a constitutional and legal basis reflecting a judicial tradition compatible with the Convention. It held that the burden of showing this lies on the state exercising effective control, that Russia had submitted no information on the organisation of those courts, and that the scarcity of official sources of information concerning the legal and court system made it difficult to obtain a clear picture of the applicable laws. The Court was accordingly not in a position to verify whether those courts met the requirement.

The Russian Federation later attempted the showing and did not succeed. In *Lypovchenko and Halabudenco v. the Republic of Moldova and Russia*, decided by a

Chamber on 20 February 2024, the Russian Government put before the Court an overview of laws and amendments enacted in the region between 1993 and 2021, together with excerpts from three judgments offered as examples of local judges applying the Convention. The Court recorded that it had not been supplied with the content of those laws or with any assessment of them. It held that the material did not enable it to determine whether the provisions applied to the applicant were compatible with Articles 5 and 6, and was still less a basis for assuming that the legal system as a whole reflected a judicial tradition compatible with the Convention. It found that the de facto courts did not constitute a tribunal established by law.

That is a finding about a court system rather than about an electorate, and Kaha-ragia does not stretch it. Its bearing here is narrower and still decisive. Where the institutions of a territory cannot be examined by the bodies entitled to examine them, an announced result from those institutions cannot carry the evidential weight recognition requires.

Freedom House assessed the territory as Not Free in 2026, with an aggregate score of 16 out of 100, awarding zero of four points both for the presence of free and independent media and for the existence of a realistic opportunity for the opposition to gain power, and recording that political competition is tightly restricted and that the ruling political group is aligned with powerful local business interests. That assessment is the work of a non-governmental organisation and not of a court or a government, and Kaharagia relies on it as such.

The closure is documented outside the courts as well. The United Nations Special Rapporteur on the situation of human rights defenders, Michel Forst, reported to the Human Rights Council after visiting Moldova from 25 to 29 June 2018 that civil society organisations in the region work under severe restrictions on freedom of expression, association and assembly, that authorisations for public protests are rarely granted and carry restrictions when they are, and that all non-governmental activity must be coordinated with the local authorities on pain of reprisal. He recorded that a section added to the law on non-governmental organisations in 2017 places organisations receiving funds from abroad on a register of foreign agents and bars them from activity perceived as political, and that the Promo-LEX Association, the only human-rights organisation working consistently in the region, was prohibited from working there in 2016. That is a special-procedures report to a United Nations body, not a judgment.

Economic control over employment, broadcasting, retail and public revenue can distort political choice even without overt military coercion. A voter who expects to lose work, custom or a licence for supporting the wrong position is not voting under the conditions the doctrine requires, and no observer mission can correct that by counting the ballots accurately.

The record is not uniformly closed, and a publication that reported only the adverse findings would be describing a different place. The United Nations Human Rights Senior Expert, Thomas Hammarberg, presented a follow-up report on 5 February 2019, after a visit to the region in 2018, which noted a growing human rights awareness and more and stronger voices of civil society improving public dialogue, while recording that ambiguous legal provisions on the political activities of non-governmental organisations need review so as not to intimidate, and that high rates of arrest and

imprisonment and conditions of detention remain an area of concern. Local agency exists. It has not yet been given room to decide anything about status.

## 2.4 Dependency, Effective Control and the Four Indicators

DM-2026-001 refuses the easy version of the argument against recognition. Dependency alone does not make a state unreal. Many widely recognised states rely heavily on allies for security and money, and Kaharagia does not propose to withdraw recognition from them. The doctrine also directs that the label of puppet state be avoided, because it erases the identity and agency of an entire population.

The degree found in this case is effective control. In *Ilaşcu and Others v. Moldova and Russia* the Grand Chamber held on 8 July 2004 that the entity, set up in 1991 and 1992 with the support of the Russian Federation and vested with organs of power and its own administration, remains under the effective authority, or at the very least under the decisive influence, of the Russian Federation, and in any event survives by virtue of the military, economic, financial and political support given to it by that state. A Chamber applied the same reasoning in *Ivanțoc and Others* on 15 November 2011, and the Grand Chamber maintained it in *Catan and Others* in 2012 and again in *Mozier* in 2016. A Chamber reached the same conclusion in *Lypovchenko and Halabudenco* in 2024, and a Committee in *Zubco and Others* in 2026, in each case for facts arising before 16 September 2022. Effective control does not by itself defeat a claim. It shifts the burden, and the doctrine supplies four indicators by which the entity's discharge of that burden is tested.

- **Whether the claim predates the patron.** It does not, or not separably. The Court found the entity to have been set up in 1991 and 1992 with Russian support, and the Soviet 14th Army was on the ground throughout, with one of the largest ammunition stores in Europe at Kolbasna. The grievance over the language laws of 1989 predates the patron. The institutions advanced for recognition do not. This indicator tells against the entity, and it is the point on which the case parts company with DM-2026-002.
- **Whether the institutions have refused the patron something the patron wanted.** No instance is before the Secretariat in which the authorities refused Russia on a question Russia is shown by material the Secretariat has examined to have pressed. The gap tells against the entity, because the burden has shifted to it. It remains a gap in the record rather than a finding that no such refusal has occurred, and Kaharagia does not convert the one into the other.
- **Whether the trajectory runs toward independence or toward incorporation.** It runs toward the patron. In *Catan and Others* the Court found that the language policy applied to the Latin-script schools was intended to enforce the Russification of the language and culture of the Moldovan community living in the region, in accordance with the entity's overall political objectives of uniting with Russia and separating from Moldova. That is a judicial characterisation of the entity's own objectives, made in 2012. A news report reproduced in *Mozier* records the entity's leader stating in November 2006 that each of its ministries was working on harmonising local legislation with that of Russia. The decree of 15 May 2026 runs the same way.

- **Whether the argument against the patron can be made and survived.** No evidence before the Secretariat shows that it can. Freedom House recorded that no truly independent candidacy was permitted at the most recent Supreme Council elections and that free and independent media are absent. A court has now made a finding about assembly. In *Zubco and Others* the applicants were fined and arrested for taking part in a political meeting the authorities had not authorised, and others were barred from entering the region on account of their human-rights activities; the Court held that the Russian Federation had violated Articles 10 and 11 and that Moldova had not. A politics in which the relationship with the patron cannot be contested cannot produce a measurable answer about that relationship.

Three indicators run against the entity and the fourth is a gap it was open to the entity or its patron to fill. The burden is not discharged. *Kaharagia* states the ground narrowly. The objection is not that the institutions are ineffective, and not that Transnistrians lack political agency. It is that no route exists by which the population could presently show that the announced choice is its own.

The economic picture is genuinely mixed. In *Catan and Others* the Russian Government accepted that it spends millions of United States dollars every year in the form of humanitarian aid to the population, including the payment of old age pensions and financial assistance to schools, hospitals and prisons, and the Court noted an undisputed figure that only approximately 20 per cent of the population was economically active. The applicants in the same case claimed that some 120,000 individuals living in the region had been granted Russian citizenship, a submission by a party rather than a finding of the Court. This supports neither the fiction that the region is simply ordinary Moldovan territory nor the claim that it is already an autonomous sovereign state.

The gas arrangement shows how the dependency worked and how fast it can be withdrawn. In *Catan and Others* the Court recorded that the Russian Government did not deny that the public corporation Gazprom supplied gas to the region and that the entity paid for only a tiny fraction of what was consumed, by households and by the large industrial complexes alike. The Moldovan Government told the Court in *Mozer* that gas worth 505 million United States dollars was consumed in 2010, that about 20 million was paid to Gazprom, and that the local population paid the authorities some 163 million for it, a sum which remained largely at those authorities' disposal. Those are one party's figures recorded by the Court, not findings of it. Then the supply stopped. The European Commission stated on 27 January 2025 that Gazprom had not honoured its contractual obligation to channel gas to the region since 1 January, and proposed 30 million euros of emergency assistance to finance the purchase and transport of gas so that electricity and heating could be restored for the region's more than 350,000 inhabitants until 10 February 2025. An economy a patron can switch off in a day, and that a third party then pays to restart, is not the material base of a sovereign state.

## TRANSNISTRIAN PRINCIPLE

*Transnistrian identity and local political agency are real. They do not make Russian troops, passportisation, economic dependency or a closed political system into evidence of free sovereignty.*

## 2.5 Passportisation and the Definition of a Constituency

Citizenship choice is an individual right. A resident who takes a Russian passport is making a personal decision, often about work, pension, travel or family, and nothing in this publication treats that person as disloyal or as an instrument of another state.

Mass distribution of passports by the controlling foreign power is a different object of analysis. It moves nobody. It changes the legal attachment of people already in place, and it supplies material for later claims that the region's population is owed protection by the state that issued the documents. On 15 May 2026 the President of Russia signed a decree opening a simplified route to Russian citizenship for foreign citizens and stateless persons who permanently reside in the region, exempting applicants from the requirements set out in the first three points of article 15(1) of Federal Law No. 138-FZ of 28 April 2023 on citizenship of the Russian Federation.

The legal character of that instrument must be stated exactly, because it will be quoted for more than it holds. A decree is an act of Russian domestic law. It governs who may hold Russian nationality and alters nothing about borders, title or lawful authority to govern. Its significance here is evidential. DM-2026-001 lists the mass conferral of the patron's citizenship among the marks of absorption, and this is the first such marker in this case. It has not been accompanied by the transfer or merger of state functions by treaty, which is why the degree found remains effective control and not absorption. That is a finding about today, and it is the finding most likely to change.

DM-2026-001 prohibits the manufacture of an electorate by displacement, settlement or the exclusion of the displaced. The same reasoning reaches a constituency assembled by naturalisation as well as one assembled by movement, because in both cases the controlling power is choosing who counts. Two consequences follow for any future process. The electorate must be defined by negotiation, and the documents residents happen to hold on the day do not define it. Participation must not be conditioned on holding, or on refusing, any particular citizenship, since the doctrine protects the rights of residents irrespective of citizenship.

## 3. What the Authorities Establish, and What They Do Not

European human-rights jurisprudence has treated Russia as exercising effective control or decisive influence in the region across six judgments between 2004 and 2026, and has treated the separatist administration as surviving through Russian military, economic and political support for purposes of state responsibility. Those findings decide which state answers for violations of the Convention there. That is their subject. Effective control is a test of responsibility, and responsibility is not title. The findings do not make Russia the sovereign of the region and do not transfer the region to it.

That line of authority is also closed at a date, and a publication resting on it says so. The

Russian Federation ceased to be a party to the Convention on 16 September 2022. In the Transnistrian cases decided since, the Court has held that it has jurisdiction over the Russian Federation only so far as the facts complained of took place before that day, and it has said so in the operative provisions of both the 2024 and the 2026 judgments. Those judgments therefore describe conduct up to 2022 and no later. Kaharagia does not read the absence of judgments about the years since as evidence that the control has ended, and does not read the existing judgments as covering years they expressly do not reach.

The converse is equally strict. Moldova's recognised title is not evidence of Moldovan administration. A state may hold title to territory it does not govern, and DM-2026-001 accepts that a state survives the loss of ordinary authority over part of its territory. Neither proposition settles what the people living there may choose.

The United Nations General Assembly adopted resolution 72/282 on 22 June 2018, at its 98th plenary meeting, by 64 votes to 15 with 83 abstentions. The resolution urges the Russian Federation to complete, unconditionally and without further delay, the orderly withdrawal of the Operational Group of Russian Forces and its armaments from the territory of the Republic of Moldova. A resolution of the Assembly states a considered institutional position. It is not a judgment and it is not a decision of the Security Council, and this one addresses the presence of foreign forces rather than the status of the region. Kaharagia relies on it for what it decides and not for more, and notes that eighty-three states declined to take a position on it.

The same resolution draws a distinction that any precise statement of this case requires. It records that the Operational Group of Russian Forces is not part of the military component of the Joint Control Commission established under the 1992 ceasefire agreement, which also includes a rotating Russian contingent, and that the Operational Group has not been entrusted with any peacekeeping or other legal mandate. Two Russian military presences therefore exist in the region on different footings, and Kaharagia does not treat them as one.

The mandate of the OSCE Mission to Moldova frames a settlement consolidating the independence, sovereignty and territorial integrity of the Republic of Moldova within its internationally recognised borders, with a special status for Transdniestria that fully guarantees the human, political, economic and social rights of its population, and includes ensuring the transparency of the removal and destruction of Russian ammunition and armaments. A mandate states what a mission is authorised to do and the framework within which participating States have agreed to work. It is not a final-status award, and it should not be quoted as one by any party.

The commitment to withdraw is a political undertaking rather than a treaty obligation, and it is old. At the Istanbul summit on 19 November 1999 the participating States welcomed the commitment by the Russian Federation to complete withdrawal of the Russian forces from the territory of Moldova by the end of 2002, and recalled that an international assessment mission stood ready to be dispatched without delay to explore removal and destruction of Russian ammunition and armaments. The deadline passed. The ammunition remained.

The scale of what remains has never been independently verified, and Kaharagia de-

clines to supply a figure of its own. The Court recorded in Ilaşcu that the official Russian figure put to the Council of Europe in 1999 was 42,000 tonnes, which the Moldovan authorities said could not be checked because an international assessment mission was refused. The OSCE reported that more than 21,000 tons remained in 2006 and that no withdrawals took place in that year, and that a group of thirty heads of delegation gained access to the Colbasna depot on 13 November 2006 for the first time since March 2004. The Moldovan Government told the Court that almost twenty thousand tonnes were still stored in the territory. The figures differ. The pattern of refused access does not.

Three further items require accurate labels. The statement objecting to the passport decree was delivered by the Delegation of Ukraine at the 1565th meeting of the Permanent Council on 21 May 2026 and circulated four days later by the OSCE Secretariat, which bears no responsibility for its content. It is the position of one participating State and not a legal determination, and the concern this publication records about passportisation rests on its own reasoning. The Deputy Prime Minister for Reintegration of Moldova, Valeriu Chiveri, addressed the same Permanent Council on 21 May 2026 and set out demilitarisation and democratisation of the region as a key prerequisite for a comprehensive settlement with full respect for the sovereignty and territorial integrity of the Republic of Moldova. That is the stated position of one party to the dispute. Kaharagia adopts demilitarisation and democratisation as requirements because DM-2026-001 produces them, not because a party has proposed them.

### **3.1 Moldovan Sovereignty and a Legitimate Settlement**

The present international framework seeks a peaceful settlement within Moldova's internationally recognised borders, with a special status guaranteeing the rights of the Transnistrian population. Kaharagia supports this framework as the immediate lawful basis for negotiation, while declining to declare that no other outcome could ever be legitimate.

This determination does not rest on Moldova's title. Were it otherwise, this paper would breach the doctrine it applies, because DM-2026-001 denies a parent state an unlimited veto over the political status of a people within its borders. Moldova's borders explain where negotiation begins. They do not decide where it ends.

The Moldovan constitutional order already contains the opening. Article 110(2) of the Constitution provides that places on the left bank of the Dniester river may be assigned special forms and conditions of autonomy, according to the special statutory provisions adopted by organic law. The same Constitution proclaims permanent neutrality in Article 11 and provides that the Republic of Moldova does not admit the stationing of any foreign military troops on its territory. Chişinău therefore has both a constitutional route to autonomy and a constitutional objection to the foreign presence, and neither is a concession it must be persuaded to make.

The route is not hypothetical, because the same Constitution already runs one. Article 111 establishes Găgăuzia as an autonomous territorial unit with a special statute, describes it as a form of self-determination of the Găgăuz people and an integrant and inalienable part of the Republic, guarantees the rights and freedoms of the Constitution on its territory, provides it with representative and executive bodies and a budget

of its own, and requires three fifths of the elected members of Parliament to amend the organic law governing its statute. Article 13 acknowledges and protects the right to preserve, develop and use Russian and the other languages spoken in the country. Whether the Găgăuz arrangement works well is a separate argument. Its existence answers the claim that Moldovan constitutional law has no vocabulary for a region that will not be governed like the rest.

Territorial integrity is strongest where the state offers equal citizenship, meaningful regional self-government, language and cultural guarantees, local economic protection and participation in national institutions. These are the substance of a settlement offer and not decoration on it. An offer that treats reintegration as legally inevitable, and therefore as requiring no guarantees, does not answer the security fears this publication records. Moldova is encouraged to make reintegration attractive and safe rather than merely unavoidable.

Chişinău's own practice is examined by bodies its counterpart does not admit, and the examination is not uniformly favourable. Residents of the left bank who hold Moldovan citizenship vote in Moldovan elections at polling stations opened for them on the right bank. In its final report of 18 February 2026 on the parliamentary elections of 28 September 2025, the OSCE Office for Democratic Institutions and Human Rights recorded that the Central Electoral Commission established twelve such stations, against thirty at the presidential election of 2024, and approved 23,500 ballots for them, against 90,000 in 2024; that two of the twelve ran out of ballots on the day and their voters were redirected elsewhere; that five were moved on the recommendation of the security services to urban areas at least thirty kilometres from the security zone, with the addresses announced two days before the vote; and that 12,274 voters resident in the region took part. The mission recommended that the arrangements be reviewed so that security concerns are addressed while those voters can effectively exercise their suffrage. Kaharagia records that recommendation and expects it to be acted on. A franchise that exists on paper and contracts in administration is a weak answer to a population being offered passports by somebody else.

The obligation on the other side is stated with equal force. Transnistrian leaders are not to use Russian protection to avoid democratic accountability or human-rights obligations. Protection from consequences is not a status claim, and an administration that requires it is arguing against its own recognition.

#### **4. Why Transnistria Is Not Abkhazia, and Why the Test Is Not Alignment**

DM-2026-001 requires each case to be assessed on its facts rather than by analogy. A reader is still entitled to ask why the series answers similar-looking questions differently.

- **Abkhazia (DM-2026-002).** Recognition was extended there, with express reservations, in a case where a court has likewise found Russian effective control. The Abkhaz claim was found to rest on a people whose language, identity and attachment to the territory long predate the patron's involvement, and whose refusal

of rule from Tbilisi was plainly demonstrated. The claim here has a different author. The Strasbourg Court found the Transnistrian entity to have been set up in 1991 and 1992 with Russian support. The position that would justify recognition on the Abkhaz reasoning, a Transnistrian state independent of both Chişinău and Moscow, is held by some residents. It is not embodied in the entity now presented for recognition.

- **South Ossetia (DM-2026-003).** Recognition was deferred there, and the disposition is the same as the one adopted here. The records differ. That case turns on a ratified instrument of institutional deepening, on displacement from identifiable villages, and on criminal proceedings arising from a war. No comparable instrument of merger is before the Secretariat in this case, and the mechanism of incorporation identified here operates through the distribution of passports rather than the transfer of state functions by treaty.
- **Kosovo (DM-2026-005).** Recognition was extended in full. That case rests on the dismantling of a prior autonomy, armed conflict, a prolonged international administration established by the Security Council, failed final-status negotiations, and an advisory opinion of the International Court of Justice. None of that record is present here. The international framework applied to this region points the other way, toward a negotiated special status within Moldova. Kosovo's history settled the remedial question there. This publication leaves it undecided here.
- **Somaliland (DM-2026-007).** Recognition was extended on the strength of a prior separate colonial boundary, a union voluntarily entered, and institutions that are the population's own. Both points separate the cases. The boundary claimed there is an external limit the territory actually held, while the 1924 unit invoked here took in land now inside Ukraine. And the objection here is not that Transnistria's institutions are ineffective. It is that, on the present record, they cannot be shown to be the population's to alter.
- **Northern Cyprus (DM-2026-008).** Recognition is refused there as well, partly for the shared reason of foreign effective control found by the same court. That case closes on non-recognition required, because the Security Council called upon all States not to recognise any Cypriot State other than the Republic of Cyprus. No competent organ has issued a comparable call in this case, which is why the disposition here is deferral and remains within Kaharagian discretion. That case also adds a founding constitutional settlement between two constituent communities, and it records a community that voted for a United Nations settlement plan in 2004. Neither element appears here. Transnistrians are not a constituent community of a bicomunal founding constitution, and the claim advanced on their behalf is territorial and civic.

#### 4.1 Answering the Case for Recognition

Three objections deserve an answer in their own terms.

*The conditions cannot be met by the people they are addressed to.* Transnistrians do not command the Russian forces in the region and did not write the rules that limit their politics. A test that withholds a conclusion until those facts change appears to place Transnistrian self-determination in the gift of the Russian Federation, which is the

outcome DM-2026-001 exists to prevent.

The conditions govern a conclusion, not a right. Nothing in this publication waits on Moscow. The right of the inhabitants to internal self-government is recognised now. Their right to argue for independence is recognised now, together with an undertaking that the argument will not be treated as evidence of foreign loyalty. What is withheld is a Kaharagian statement that a sovereign choice has already been made, and it is withheld because that statement would not be true, not because it is being held back as a bargaining counter. The conditions are also addressed to those able to meet them. Demilitarisation is asked of the state whose forces and ammunition are present. Political opening is asked of the authorities who restrict it. A settlement worth accepting is asked of Moldova. None of the three is asked of an ordinary resident.

*Three decades of separate government must count for something.* If institutions that have administered a territory and its public revenue for that long establish nothing, effectiveness never matters and recognition becomes a matter of preference among governments.

Effectiveness does count. DM-2026-001 treats institutions capable of public government as one of the indicia of statehood, while warning that the indicia are not applied mechanically. It also states that no single factor is conclusive, and that foreign effective control may prevent present authorities from demonstrating that a claim is freely expressed. Duration proves that an order has persisted. It does not show that it was chosen. The second question decides this case, and duration is not evidence on it.

*The test would not be applied this way to a friend.* A doctrine that produces non-recognition wherever Russia is present is an alignment wearing the clothes of a principle.

The series answers this from its own record. The same test extended recognition to Abkhazia, in a case where Russian effective control is also found, because the claim there could be traced to an author independent of the patron. The same test refused to let a patron's recognition supply the ground for recognising Somaliland, where the patron was not Russia. DM-2026-001 forbids recognition bought, traded or granted to reward a patron, and the prohibition runs in both directions. Recognition may not be purchased, and it may not be withheld to punish the wrong sponsor.

## 5. What Must Change Before a Status Question Can Be Put

The following conditions are not demands on Transnistrians. Each is addressed to whoever is able to meet it, and each exists to make an answer readable, not to produce a particular answer.

- Withdrawal, neutralisation or internationally agreed transformation of the Operational Group of Russian Forces, which the General Assembly has recorded as holding no peacekeeping or other legal mandate, together with transparent removal or securing of the ammunition at Colbasna. Ensuring the transparency of that removal already falls within the mandate of the OSCE Mission, and it serves the people living nearest the store before it serves any status. Arrangements for the separate peacekeeping contingent established by the 1992 agreement are a

matter for the parties to that agreement. The Delegation of Ukraine told the Permanent Council in May 2026 that there is no access to the depot at all, which is the assertion of one participating State rather than a verified finding.

- A pluralistic constitutional environment allowing pro-Moldovan, pro-independence, pro-Russian, pro-Ukrainian and other positions to organise and campaign, tested by whether a candidacy the authorities oppose can stand and be counted.
- Independent media, civil society access, freedom of movement, and credible human-rights monitoring, with the access to institutions and legal materials whose absence the Strasbourg Court recorded in 2016 and whose insufficiency it recorded again in 2024. Readmission of the human-rights organisations excluded from the region, and repeal of the foreign-agents provision the United Nations Special Rapporteur described, are the first measurable steps.
- Legal guarantees for Russian, Romanian and Moldovan, and Ukrainian language education, media and public administration throughout the region. The Court found in 2012 that the closure of and harassment against Latin-script schools violated the right to education, and the European Union listed persons responsible for that campaign in 2010. Reversal of that policy is the concrete measure by which the guarantee is judged.
- An amnesty and vetting framework distinguishing ordinary public service from serious human-rights abuses, corruption or violent crime.

The last condition protects people on both sides of any transition. A teacher, a nurse or a clerk who kept a school or a hospital running is not a wrongdoer for having done so, and no settlement should treat ordinary public service as an offence. Equally, no settlement should launder serious abuse by calling it administration. No individual is accused in this publication. A vetting framework is an administrative process about fitness for office rather than a criminal trial, and it must proceed case by case, on evidence, with notice and a remedy. A Kaharagian foreign-policy finding establishes no person's guilt of anything.

## 5.1 What the Process Itself Must Contain

Conditions make a question askable. The process determines whether the answer is worth anything.

- A negotiated definition of the electorate, with safeguards for all linguistic and national communities and participation rules covering residents and displaced persons.
- A constituent process offering meaningful options: special status within Moldova on the footing Article 110(2) of the Moldovan Constitution already permits, federation, free association, independence, or another mutually lawful arrangement.
- A status vote or constitutional settlement conducted with international supervision, independent media, civil-society access and judicial remedies.
- Accepted procedures for property, security, currency, borders and citizenship, agreed before the vote rather than improvised after it.

The options must be real options. A process that presents one outcome as inevitable and the others as gestures reproduces the defect it was designed to cure, and it does

so whichever party designs it. Any option involving incorporation into another state would have to be reached by lawful agreement, since DM-2026-001 denies that invasion, annexation, occupation or the implantation of dependent authorities can create sovereign title.

Persons displaced from the region retain the claims the doctrine protects: return, property, restitution, compensation, family unity and political participation. Their number is not stated in this publication and should not be assumed by anyone applying it. The rules for their participation belong in the negotiation, not in a unilateral register.

## 6. What This Deferral Does and Does Not Do

The determination is to be read for exactly what it changes on the day it takes effect.

- Kaharagia does not recognise the entity as a state and does not accept its authorities as a sovereign government. No accreditation, immunity or privilege follows from any contact with them.
- Diplomatic relations are not established, and none are proposed.
- No sanction, trade restriction or designation of any person or organisation is imposed. Other actors have taken such measures, the European Union having adopted travel restrictions against named persons in 2010 and having extended them on 27 October 2025 until 31 October 2026, but those are separate decisions and in Kaharagia they are reserved to the Sovereign.
- Humanitarian, technical, cultural, municipal and civil-society contact may continue, expressly without prejudice to recognition.
- Advocacy of a genuinely independent Transnistria is not to be equated with loyalty to Moscow, in Kaharagian public language or in any Kaharagian decision.

Deferral is a conclusion about an entity and authorises nothing against a person. It is not a ground for treating residents of the region as unlawfully present anywhere, for withholding humanitarian assistance, for refusing anyone a hearing on the merits, or for treating the holder of a passport as an agent of the state that issued it.

It authorises nothing against Moldova's obligations either. This publication opposes forced assimilation and coercion as plainly as it opposes external control, and a settlement offer resting on either would not become acceptable merely because the entity opposing it is unrecognised.

Every linguistic and national community in the region holds the same rights on the day this publication takes effect as on the day before it. Moldovan and Romanian speakers, Russian speakers, Ukrainians, Bulgarians and Gagauz are covered by the same guarantees. A settlement that secured one community by exposing another would fail the doctrine it claimed to serve, and Kaharagia will say so at the time.

### 6.1 Conditions of Review

Review follows DM-2026-001. It carries particular weight here, because the conclusion rests on conditions. Any of the following prompts it.

- The conditions above, wholly or substantially met, or a material change in the security apparatus sustained from outside.
- The opening or conclusion of a status process meeting the requirements set out above.
- A material change in the four indicators, and in particular any evidence that a position opposing the relationship with the patron can be advanced in the region and survive.
- Any further step of the kind the doctrine associates with absorption, including the transfer or merger of state functions, which would move this case out of effective control and engage a stronger prohibition.
- Any step toward incorporation of the region into another state, which would be assessed against the prohibition on acquiring territory by force and would not be cured by consent obtained under the conditions described here.
- A material change in Moldova's settlement offer, in either direction.

Review may confirm this conclusion, qualify it or reverse it. It is neither a promise of recognition nor a threat of permanent refusal.

## 6.2 Engagement Without Recognition

Kaharagia may engage Transnistrian civil society, cultural institutions, municipal actors and de facto officials where necessary for humanitarian or technical purposes. Such contact is expressly without prejudice to recognition. It seeks to strengthen local agency independent of both Russian control and Moldovan coercion.

Engagement of this kind is the operative part of this determination for most of the people it concerns, and Kaharagia treats it as an obligation it has taken on rather than a courtesy to be withdrawn when relations with another state make it inconvenient. The technical channels remain open in practice. The OSCE Mission reported that the Moldovan and Transnistrian chief negotiators, Valeriu Chiveri and Vitaly Ignatiev, met in person on 26 February 2026 for the first time since November 2024, and that the working group on economic questions met in person on 5 May 2026 for the first time since 2022. The Delegation of Ukraine told the Permanent Council that the wider five plus two format remains non-functional. That format seats Moldova and Transdnistria as the sides, the OSCE, the Russian Federation and Ukraine as mediators, and the European Union and the United States as observers. Kaharagia supports the working level and does not mistake it for a settlement.

The position remains deferral. A future independent Transnistria could still be legitimate. What is absent under current conditions is a sufficiently free and institutionally independent act of self-determination.

## 7. Operative Declaration

The State of Kaharagia withholds recognition from the present Transnistrian entity as a sovereign state. It recognises the inhabitants of Transnistria as a distinct political community entitled to meaningful self-government and to advocate peacefully for independence or another final status. Kaharagia supports the withdrawal of foreign

military forces, democratisation, human-rights guarantees, and a negotiated process in which the people may choose without Russian coercion or forced Moldovan assimilation. Advocacy of a genuinely independent Transnistria shall not be equated automatically with loyalty to Moscow.

## 8. Publication and Legal Effect

This memorandum is a public statement of the foreign policy of the State of Kaharagia, published by authority of the Sovereign. Under Kaharagian constitutional practice, the recognition or non-recognition of a state, the recognition of a government, the establishment of a diplomatic mission, the imposition of sanctions and the entry into formal diplomatic relations remain decisions reserved to the Sovereign and implemented through the appropriate instrument. A Diplomatic Memorandum states the grounds, scope, reservations and consequences of a policy; it does not by itself confer accreditation, immunity or privilege.

This memorandum is published in the Diplomatic Memorandum Series by the Office of the Sovereign's Printer. Its serial reference shall be preserved in every separate or electronic edition. Organs of State shall conform their terminology, publications, procurement, entry decisions and official contact to the determinations recorded here. Material changes in facts, control, legal proceedings or the formally expressed position of the people concerned shall trigger review.

## Selected Authorities and Official Materials

*Every authority listed was retrieved and read by the Secretariat of State in the week of publication. Titles are followed by the issuing body, the date and a source link. Judgments of the European Court of Human Rights are identified by the formation that gave them, and resolutions of the General Assembly, reports of United Nations special procedures, observation reports of OSCE institutions, national statements, acts of the Council of the European Union, decrees of foreign law and assessments by non-governmental organisations are each identified according to their actual legal character. Where a source could not be retrieved at the address previously held, the entry gives the address at which the same document was obtained.*

1. *Complete and unconditional withdrawal of foreign military forces from the territory of the Republic of Moldova.* United Nations General Assembly resolution 72/282, seventy-second session, agenda item 35, adopted on 22 June 2018 at the 98th plenary meeting. Operative paragraph 2 urges the Russian Federation to complete, unconditionally and without further delay, the orderly withdrawal of the Operational Group of Russian Forces and its armaments; the preamble stresses that the Operational Group is not a part of the military component of the Joint Control Commission established under the 1992 ceasefire agreement, which also includes a rotating Russian contingent, and has not been entrusted with any peacekeeping or other legal mandate. A recommendation of the General Assembly, not a decision of the Security Council.  
<https://documents.un.org/api/symbol/access?s=A/RES/72/282&l=E&t=pdf>
2. *Official records of the General Assembly, seventy-second session, 98th plenary meeting (A/72/PV.98).* United Nations, 22 June 2018; the record of the meeting states that the draft resolution was adopted by 64 votes to 15, with 83 abstentions.  
<https://documents.un.org/api/symbol/access?s=A/72/PV.98&l=E&t=pdf>
3. *Visit to the Republic of Moldova: report of the Special Rapporteur on the situation of human rights defenders (A/HRC/40/60/Add.3).* United Nations Human Rights Council, fortieth session, dated 15 January 2019, reporting the visit of Michel Forst from 25 to 29 June 2018. Paragraphs 70 to 73 record severe restrictions on freedom of expression, association and

assembly in the Transnistrian region, that authorisations for public protests are rarely granted and carry restrictions when granted, that all non-governmental activity must be coordinated with the de facto authorities on pain of reprisal, that a section added to the law on non-governmental organisations in 2017 places organisations receiving funds from abroad on a register of foreign agents and bars them from activity perceived as political, and that the Promo-LEX Association was prohibited from working in the region in 2016. A special-procedures report, not a judgment.

<https://documents.un.org/api/symbol/access?s=A/HRC/40/60/Add.3&l=E&t=pdf>

4. *Follow-up report on human rights in the Transnistrian region*. Thomas Hammarberg, United Nations Human Rights Senior Expert, presented 5 February 2019 following a visit to the region in 2018; notes growing human rights awareness and stronger voices of civil society improving the quality of public dialogue, while recording that ambiguous legal provisions on the political activities of non-governmental organisations need review so as not to intimidate, and that high rates of arrest and imprisonment and conditions of detention remain an area of concern. An expert report, not a judgment.  
<https://moldova.un.org/en/14666-un-human-rights-senior-expert-thomas-hammarberg-presents-his-follow-report-human-rights>
5. *Mandate of the OSCE Mission to Moldova*. Organization for Security and Co-operation in Europe; Mission established in 1993 by the Committee of Senior Officials. Mandate to facilitate a comprehensive and lasting political settlement consolidating the independence, sovereignty and territorial integrity of the Republic of Moldova within its internationally recognised borders, with a special status for Transdniestria that fully guarantees the human, political, economic and social rights of its population, expanded in 1999 to ensure the transparency of the removal and destruction of Russian ammunition and armaments and the co-ordination of financial and technical assistance. Renewed every year by all 57 participating States. A mandate, not a final-status award.  
<https://moldova.osce.org/mission-to-moldova/mandate>
6. *OSCE Mission to Moldova: current activity*. Organization for Security and Co-operation in Europe, 2026; records that the Mission facilitated the first in-person meeting of the Moldovan and Transdniestrian chief negotiators, Valeriu Chiveri and Vitaly Ignatiev, on 26 February 2026, the previous such meeting having been held in November 2024, and that the Economy Working Group met in person at the Mission's Chişinău office on 5 May 2026, the first in-person working group meeting since 2022.  
<https://moldova.osce.org/>
7. *Conflict prevention and resolution*. OSCE Mission to Moldova; states that the five plus two format comprises the Republic of Moldova and Transdniestria as the Sides, the OSCE, the Russian Federation and Ukraine as the Mediators, and the European Union and the United States as the Observers, and records the Mission's participation in the Joint Control Commission since 1994 and its reporting on the situation in the Security Zone to all delegations to the Commission and to the 57 participating States.  
<https://moldova.osce.org/mission-to-moldova/104529>
8. *Istanbul Summit Declaration, Istanbul Document 1999*. Organization for Security and Co-operation in Europe, summit held from 17 to 19 November 1999; paragraph 18 on the settlement of the Trans-Dniestrian problem, and paragraph 19 welcoming the commitment by the Russian Federation to complete withdrawal of the Russian forces from the territory of Moldova by the end of 2002 and recalling that an international assessment mission is ready to be dispatched without delay to explore removal and destruction of Russian ammunition and armaments. A political commitment of participating States, not a treaty obligation. Retrieved from the OSCE content server; the address previously held at [www.osce.org](http://www.osce.org) returns a cross-host redirect.  
<https://cdn.osce.org/sites/default/files/f/documents/6/5/39569.pdf>
9. *Republic of Moldova, Parliamentary Elections, 28 September 2025: ODIHR Election Observation Mission Final Report*. OSCE Office for Democratic Institutions and Human Rights, Warsaw, 18 February 2026; records that the Central Electoral Commission established 12 polling stations for voters residing on the left bank of the Nistru, against 30 at the 2024 presidential election, approved 23,500 ballots for them against 90,000 in 2024, that two of those stations ran out of ballots on election day and their voters were redirected, that 5 of the 12 were relocated on the recommendation of the security services to urban areas at least 30 kilometres from the security zone with the addresses announced two days before the vote, and that 12,274 voters residing in Transnistria participated. Recommendation 7 invites review of those arrangements so that security considerations are addressed while enabling those voters to exercise their suffrage effectively. An observation report of an OSCE institution, not a judicial finding.

[https://odhr.osce.org/sites/default/files/documents/official\\_documents/2026/02/MLD%20Parliamentary%202025%20Final%20Report\\_18.02.2025\\_ENG.pdf](https://odhr.osce.org/sites/default/files/documents/official_documents/2026/02/MLD%20Parliamentary%202025%20Final%20Report_18.02.2025_ENG.pdf)

10. *Statement by the Delegation of Ukraine, 1565th meeting of the OSCE Permanent Council (PC.DEL/498/26)*. Delivered by Ambassador Yurii Vitrenko on 21 May 2026, circulated 25 May 2026; objects to the decree of 15 May 2026 creating a fast-track procedure for granting Russian citizenship to residents of the Transdnistrian region, states that the five plus two format remains non-functional, and asserts a lack of any access to the Cobasna ammunition depot. A national statement circulated by the OSCE Secretariat, which bears no responsibility for its content; the position of one participating State and not a legal determination.  
[https://www.osce.org/sites/default/files/documents/official\\_documents/2026/05/pcdel0498%20ukraine%201565pc.pdf](https://www.osce.org/sites/default/files/documents/official_documents/2026/05/pcdel0498%20ukraine%201565pc.pdf)
11. *Ilașcu and Others v. Moldova and Russia*. European Court of Human Rights, Grand Chamber, application no. 48787/99, judgment of 8 July 2004; paragraph 392 holds that the entity, set up in 1991 and 1992 with the support of the Russian Federation and vested with organs of power and its own administration, remains under the effective authority or at the very least under the decisive influence of the Russian Federation and in any event survives by virtue of its military, economic, financial and political support. Paragraphs 28 to 34 record the 1989 ethnic composition, the language laws of August and September 1989, the proclamation of 2 September 1990, the declaration of 25 August 1991, the Moldovan Declaration of Independence of 27 August 1991, the 14th Army and one of the largest ammunition stores in Europe at Kolbasna; paragraph 87 and paragraph 292 record and reproduce the ceasefire agreement of 21 July 1992, including the security zone and the control commission composed of representatives of the three parties; paragraph 125 records the official Russian figure of 42,000 tonnes put to the Parliamentary Assembly of the Council of Europe in 1999, which the Moldovan Government said could not be verified because both the Russian authorities and the Transdnistrian separatists refused an international assessment mission.  
<https://hudoc.echr.coe.int/eng?i=001-61886>
12. *Ivanțoc and Others v. Moldova and Russia*. European Court of Human Rights, Former Fourth Section, application no. 23687/05, judgment of 15 November 2011, final on 4 June 2012. A Chamber judgment, not a Grand Chamber judgment, applying the Ilașcu findings on Russian control to the continuing detention of the applicants; violations of Articles 3, 5, 8 and 13 by the Russian Federation and no breach by the Republic of Moldova.  
<https://hudoc.echr.coe.int/eng?i=001-107480>
13. *Catan and Others v. Moldova and Russia*. European Court of Human Rights, Grand Chamber, applications nos. 43370/04, 8252/05 and 18454/06, judgment of 19 October 2012; violation of Article 2 of Protocol No. 1 by the Russian Federation and no violation by the Republic of Moldova. Paragraph 8 records the 1989 census figure of 679,000 with 40 per cent Moldovan, 28 per cent Ukrainian, 24 per cent Russian and 8 per cent others, and the Moldavian Autonomous Soviet Socialist Republic from 1924 together with a number of territories which are now part of Ukraine; paragraph 42 the 2004 census figure of 555,347 and the applicants' claim of some 120,000 grants of Russian citizenship; paragraphs 43 to 45 the requirement of Cyrillic script, the prohibition of the Latin script in schools of 18 August 1994 and the steps taken from 14 July 2004 to close the remaining Latin-script schools; paragraph 120 the Russian Government's acceptance that it spends millions of United States dollars every year in humanitarian aid including old age pensions and assistance to schools, hospitals and prisons, the undisputed figure that only approximately 20 per cent of the population is economically active, and that the Russian Government did not deny that Gazprom supplied gas for which the entity paid only a tiny fraction; paragraph 144 the finding that the language policy was intended to enforce Russification in accordance with the entity's overall political objectives of uniting with Russia and separating from Moldova.  
<https://hudoc.echr.coe.int/eng?i=001-114082>
14. *Mozer v. the Republic of Moldova and Russia*. European Court of Human Rights, Grand Chamber, application no. 11138/10, judgment of 23 February 2016, final; paragraph 110 maintains the findings in Ilașcu, Ivanțoc and Catan that the entity is only able to continue to exist, and to resist Moldovan and international efforts to resolve the conflict and bring democracy and the rule of law to the region, because of Russia's military, economic and political support, and that Russia continues to exercise effective control and a decisive influence. Paragraphs 145 to 150 hold that the burden of showing that the local courts form part of a judicial system operating on a constitutional and legal basis reflecting a judicial tradition compatible with the Convention lies on the State exercising

effective control, that Russia submitted no information on the organisation of those courts, and that the scarcity of official sources made it difficult to obtain a clear picture of the applicable laws, so that the Court was not in a position to verify the matter. Paragraph 56 reproduces a news agency report of 23 November 2006 that each of the entity's ministries was harmonising its legislation with that of Russia; paragraph 57 records the Moldovan Government's statement that almost twenty thousand tonnes of ammunition and military equipment are still stored in the territory; paragraph 60 records the Moldovan Government's figures that gas worth 505 million United States dollars was consumed in 2010, that about 20 million was paid to Gazprom and that the local population paid the authorities approximately 163 million which remained largely at their disposal. The OSCE annual reports reproduced in the judgment record that the independence referendum of 17 September 2006 and the presidential elections of 10 December 2006 were neither recognised nor monitored by the organisation, that more than 21,000 tons of ammunition remained and no withdrawals took place in 2006, and that a group of 30 heads of delegation gained access to the Colbasna depot on 13 November 2006 for the first time since March 2004. Violations by the Russian Federation of Articles 3, 5 § 1, 8, 9 and 13; no violation by the Republic of Moldova.

<https://hudoc.echr.coe.int/eng?i=001-161055>

15. *Lypovchenko and Halabudenco v. the Republic of Moldova and Russia*. European Court of Human Rights, Second Section, applications nos. 40926/16 and 73942/17, judgment of 20 February 2024. A Chamber judgment. Paragraphs 86 and 87 take note of the ongoing military presence of the Russian Federation contrary to the will of the Moldovan Government and of its economic and political support for the regime, and find no ground to depart from *Ilaşcu, Catan and Mozer* on jurisdiction; paragraphs 126 to 129 examine the Russian Government's account of laws and amendments enacted in the region between 1993 and 2021 and three specimen judgments, record that the content of those laws and any assessment of them were not supplied, and hold that the material does not enable the Court to determine compatibility with Articles 5 and 6 and is still less a basis for assuming that the legal system as a whole reflects a judicial tradition compatible with the Convention, the de facto courts accordingly not constituting a tribunal established by law. The operative provisions hold that the facts fall within the jurisdiction of the Russian Federation so far as they took place before 16 September 2022, and find violations of Articles 3, 5 § 1 and 6 and of Article 1 of Protocol No. 1 by the Russian Federation and none by the Republic of Moldova.  
<https://hudoc.echr.coe.int/eng?i=001-231078>
16. *Zubco and Others v. the Republic of Moldova and Russia*. European Court of Human Rights, Fifth Section sitting as a Committee, applications nos. 49508/15 and 2 others, judgment of 19 February 2026, final. The case concerns a ban on entering the region on account of human-rights activities and the imposition of fines and the carrying out of arrests for participating in an unauthorised political meeting, with events occurring between 2013 and 2018. The Court finds no legal basis for the interference and holds that there has been a violation of Articles 10 and 11 of the Convention by the Russian Federation and no violation by the Republic of Moldova, together with violations of Articles 3 and 5 by the Russian Federation; the operative provisions confine the jurisdiction of the Court over the Russian Federation to facts that took place before 16 September 2022, the date on which the Russian Federation ceased to be a Party to the Convention. A Committee judgment, the Court's smallest formation, not a Chamber or Grand Chamber judgment.  
<https://hudoc.echr.coe.int/eng?i=001-248594>
17. *Constitution of the Republic of Moldova, adopted on 27 July 1994*. Official English text published by the Constitutional Court of the Republic of Moldova; Article 11 proclaims permanent neutrality and provides that the Republic of Moldova does not admit the stationing of any foreign military troops on its territory; Article 13(2) provides that the State shall acknowledge and protect the right to the preservation, development and use of the Russian language and other languages spoken within the territory of the State; Article 110(2) provides that places on the left bank of the Dniester River may be assigned special forms and conditions of autonomy according to the special statutory provisions adopted by organic law; Article 111 establishes Găgăuzia as an autonomous territorial unit having a special statute and representing a form of self-determination of the Găgăuzian people, guarantees the rights and freedoms of the Constitution on its territory, provides for its own representative and executive bodies and its own budget, and requires three fifths of the elected members of Parliament to amend the organic law governing its statute.  
[https://constcourt.md/public/files/file/Actele%20Curtii/acte\\_en/MDA\\_Constitution\\_EN.pdf](https://constcourt.md/public/files/file/Actele%20Curtii/acte_en/MDA_Constitution_EN.pdf)
18. *Participation of the Deputy Prime Minister for Reintegration in the OSCE Permanent Council*.

- Government of the Republic of Moldova, 22 May 2026, reporting the address of Valeriu Chiveri to the Permanent Council on 21 May 2026; the need for the demilitarisation and democratisation of the region is underlined as a key prerequisite for a comprehensive settlement, with full respect for the sovereignty and territorial integrity of the Republic of Moldova within its internationally recognised borders. A statement of position by one party to the dispute.  
<https://gov.md/en/communicate-de-presa-bpr/participation-deputy-prime-minister-reintegration-osce-permanent-council>
19. *Residents of Transnistria may obtain Russian citizenship under a simplified procedure.* RIA Novosti, 15 May 2026; reporting a decree signed by the President of Russia on 15 May 2026 which exempts applicants aged eighteen or over, fully capable and permanently resident in the region from the requirements in points 1 to 3 of part 1 of article 15 of Federal Law No. 138-FZ of 28 April 2023 on citizenship of the Russian Federation, relying on part 9 of article 16 of the same law. Reporting by a Russian state news agency, identified as such; the existence and effect of the decree are separately recorded in the Ukrainian statement at authority 10.  
<https://ria.ru/20260515/pridnestrove-2092798813.html>
  20. *Freedom in the World 2026: Transnistria.* Freedom House, 2026; status Not Free, aggregate score 16 of 100, political rights 4 of 40 and civil liberties 12 of 60, zero of four both for free and independent media and for a realistic opportunity for the opposition to gain power, and the finding that truly independent candidacies were not permitted in the November 2025 Supreme Council elections and that all winning candidates were affiliated with the ruling Renewal party. An assessment by a non-governmental organisation, not a court or a government.  
<https://freedomhouse.org/country/transnistria/freedom-world/2026>
  21. *Council Decision 2010/573/CFSP concerning restrictive measures against the leadership of the Transnistrian region of the Republic of Moldova.* Council of the European Union, 27 September 2010; travel restrictions on persons listed in Annex I as responsible for preventing progress towards a political settlement, and on persons listed in Annex II as responsible for the design and implementation of the campaign of intimidation and closure against Latin-script Moldovan schools in the region. A political and administrative measure by a group of states, not a judicial finding.  
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32010D0573>
  22. *Council Decision (CFSP) 2025/2211 amending Decision 2010/573/CFSP.* Council of the European Union, 27 October 2025; replaces the date in Article 4(2) of the 2010 Decision so that the restrictive measures apply until 31 October 2026. Recorded to show that the 2010 measures remain in force and are not a historical listing.  
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32025D2211>
  23. *The EU offers emergency support to tackle the energy crisis in Moldova.* European Commission, Directorate-General for Enlargement and Eastern Neighbourhood, 27 January 2025; proposes a 30 million euro emergency assistance package and states that since 1 January 2025 Gazprom has not honoured its contractual obligation to channel gas to the region, the package standing ready to finance the purchase and transport of natural gas to the Transnistrian region to help restore electricity and heating for the region's more than 350,000 inhabitants until 10 February 2025. A statement and funding proposal of an executive body of a group of states.  
[https://enlargement.ec.europa.eu/news/eu-offers-emergency-support-tackle-energy-crisis-moldova-2025-01-27\\_en](https://enlargement.ec.europa.eu/news/eu-offers-emergency-support-tackle-energy-crisis-moldova-2025-01-27_en)



# Diplomatic Memorandum on the Recognition of the Republic of Kosovo

*Statehood, international administration and the protection of non-Albanian communities*

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## POSITION OF THE STATE

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Kaharagia recognises the Republic of Kosovo as a sovereign and independent state

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|----------------------|----------------------------------------------------------------------------------------------------------------------|
| SELF-DETERMINATION   | The people of Kosovo hold a sustained and valid claim to independent statehood.                                      |
| FAMILY OF CLAIM      | Separation from a settled state, on the exhausted-remedy route of DM-2026-001.                                       |
| EXTERNAL CONTROL     | Dependency. Neither effective control nor absorption is found.                                                       |
| STATE RECOGNITION    | Extended in full. Disposition: recognition.                                                                          |
| GOVERNMENT           | Kosovo's constitutional institutions are recognised as entitled to act for the state. No administration is endorsed. |
| DIPLOMATIC RELATIONS | Not established by this instrument. Reserved to a separate decision.                                                 |
| TERRITORY            | Kosovo within its existing constitutional boundaries, subject to any peaceful agreement with Serbia.                 |

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## COMMON DOCTRINAL BASIS

*A people's right to self-determination is not extinguished by an inherited border. Nor is it fulfilled by foreign occupation, coerced integration, ethnic cleansing, demographic engineering, or a nominal independence maintained under another state's effective control. Recognition of a state is separate from endorsement of its government and from the establishment of diplomatic relations.*

## 1. Executive Position

Kaharagia recognises the Republic of Kosovo as a sovereign and independent state. Kosovo's case combines a long-standing political claim, grave conflict and repression, an extended period of United Nations administration, failed status negotiations, a declaration of independence, functioning institutions and extensive foreign relations. The International Court of Justice, in an advisory opinion delivered on 22 July 2010, held by ten votes to four that the declaration of independence adopted on 17 February 2008 did not violate international law.

Recognition is extended with a firm insistence that Kosovo remain a multi-ethnic state. Independence is not an ethnic title held solely by Kosovo Albanians. Kosovo's own Constitution declares the Republic a multi-ethnic society consisting of Albanian and other communities, makes Albanian and Serbian official languages of the state, and guarantees twenty of the Assembly's one hundred and twenty seats to communities that are not in the majority, ten of them to the Serb community. Kaharagia measures Kosovo against those provisions because they are Kosovo's own.

### 1.1 Three Decisions Taken Here, One Reserved

Kosovo is settled on four separate questions: whether a people holds a legitimate claim to determine its status, whether an entity is a state, whether particular institutions may act for it, and whether Kaharagia exchanges representatives with it. Kosovo satisfies the first two. The third recognises constitutional institutions and endorses no administration, because a state's legal personality does not follow the conduct of those holding office in it. The fourth is not taken here at all.

## 2. The Tests Applied: Dismantled Autonomy, Sustained Statehood

DM-2026-001 treats internal self-determination as the ordinary form: equal citizenship, participation, language and cultural rights, meaningful local government, and a lawful route to constitutional change. External self-determination becomes a remedy only where a people has been excluded, repressed and left without a credible constitutional path. The question is whether a rights-respecting order remained possible inside the existing state.

Kosovo held substantial autonomy within socialist Yugoslavia. It was dismantled under Serbian rule. Kosovo Albanians were excluded from institutions and organised parallel civic structures because the official ones were shut to them. Armed conflict and mass displacement followed. The OSCE Office for Democratic Institutions and Human Rights published its analysis of the human rights findings of the Kosovo Verification Mission for October 1998 to June 1999 on 5 November 1999.

What happened in those months is a judicial finding, not a Kaharagian characterisation. On 26 February 2009 the International Criminal Tribunal for the former Yugoslavia convicted five senior Yugoslav and Serbian officials of crimes in Kosovo and acquitted one. The Chamber found a broad campaign of violence directed against the Kosovo Albanian civilian population by army and interior ministry police forces be-

tween March and June 1999, including mass expulsions, killings, sexual assault and the intentional destruction of mosques, and found that at least 700,000 Kosovo Albanians left Kosovo in that period.

Security Council resolution 1244 (1999), adopted under Chapter VII at the Council's 4011th meeting on 10 June 1999, replaced the collapsed relationship with international civil and security presences. It provided for an interim administration under which the people of Kosovo could enjoy substantial autonomy within the Federal Republic of Yugoslavia, reaffirmed in its preamble the commitment of Member States to that state's sovereignty and territorial integrity, and required the facilitation of a political process designed to determine Kosovo's future status. That process was attempted and failed. On 26 March 2007 the Secretary-General transmitted the report of his Special Envoy to the Council as document S/2007/168. The Council adopted nothing on it.

Each element is met, and met in sequence. The internal remedy was removed by the state that owed it, and the declaration came after that removal, the intervening administration and the failure of negotiations, not instead of them. Kosovo then took the settlement proposals into its own law rather than receiving them as an imposition. Its Constitution carries an article on the Comprehensive Proposal for the Kosovo Status Settlement, and its Assembly enacted Law No. 03/L-039 on Special Protective Zones on 4 June 2008 to protect Serbian Orthodox monasteries, churches and other religious, historical and cultural sites. The Comprehensive Proposal was a proposal and never a binding instrument. Its weight here comes from Kosovo's adoption of it.

## **2.1 The Eleven Seats Left Empty on 17 February 2008**

DM-2026-001 puts one question ahead of consent. Before asking what a people has chosen, Kaharagia asks who was permitted to choose. Kosovo's answer sits on the face of the record and has to be stated before the declaration is weighed.

The declaration was adopted at a meeting held on 17 February 2008 by 109 of the 120 members of the Assembly of Kosovo, together with the Prime Minister and the President of Kosovo, who was not a member of the Assembly. The ten members representing the Kosovo Serb community and the one member representing the Kosovo Gorani community decided not to attend. The text was read out, voted upon and signed by the representatives present.

Those eleven seats were held, and their holders kept them. Declining to attend a sitting is not the same as being shut out of one. The constituency rule in DM-2026-001 bars the disqualification of residents on grounds of origin, ethnicity, religion or date of arrival, and bars the removal of displaced people from a status process. It does not oblige an assembly to obtain the votes of members who stay away.

The part of the rule about populations introduced by a controlling power does not engage here. That part exists to stop an electorate created by settlement from converting control into sovereignty. The controlling power in Kosovo was Serbia, and the conduct the Tribunal found was expulsion rather than importation. An electorate reduced by force is not an electorate manufactured by settlement.

The part about displacement does engage, and it runs against any assumption that absence settles anything. Resolution 1244 made assuring the safe and unimpeded return

of all refugees and displaced persons to their homes in Kosovo a responsibility of the civil presence, and made the establishment of a secure environment for that return a task of the security presence. Where a status process is held, DM-2026-001 requires that people displaced from the territory not be shut out of it because return has not yet been achieved. Kosovo took on that requirement together with the independence it declared.

The declaration claims more for itself than the arithmetic of one sitting. Its operative text opens, “We, the democratically-elected leaders of our people, hereby declare Kosovo to be an independent and sovereign state”, and states that the declaration “reflects the will of our people”. Kaharagia reads that as a claim of representation advanced by an elected assembly, and not as the recorded verdict of the whole population.

Principle IX of the annex to resolution 1541 (XV) is the procedural measure DM-2026-001 borrows for such claims. It required that wishes be expressed “through informed and democratic processes, impartially conducted and based on universal adult suffrage”, and provided that the United Nations could supervise those processes when it deemed supervision necessary. The standard was written for integration with an independent state, the least contested transition of the decolonisation era. Kaharagia does not present 17 February 2008 as satisfying it. Recognition here rests on the removal of the internal remedy, and the constituency question is answered by who was free to take a seat.

## 2.2 Statehood, External Relations and the Patron Question

The indicia in DM-2026-001 are a permanent population, an identifiable territory, institutions capable of public government, and capacity to conduct external relations, weighed together with legality and legitimacy. The Kosovo Agency of Statistics recorded a resident population of 1,602,515 at the census taken in the field between 5 April and 24 May 2024. Kosovo has constitutional institutions, a functioning public order and extensive foreign relations, and its Ministry of Foreign Affairs states that 117 countries have recognised it. Under DM-2026-001 that count is a fact about those states and not an answer to the question asked here.

Kosovo exercised external capacity where it counts, engaging directly under European Union facilitation in the negotiations that produced the Agreement on the Path to Normalisation of 27 February 2023 and the Implementation Annex agreed at Ohrid on 18 March 2023.

The harder question is the patron question. Dependency alone does not make a state unreal. What matters is whether institutions retain a meaningful freedom to refuse, renegotiate or terminate the relationship they depend on. Kosovo’s separate administration was established under a Security Council mandate, not by a neighbouring state pressing a claim of its own through it. An entity sustained by such a neighbour cannot show that its independence is its own choice. Kosovo’s administration was not established that way, though the intervention made neither every military act lawful nor every legal question settled.

The presences that remain are multilateral and answer to no single interested neighbour. The Kosovo Force operates under resolution 1244 and, on NATO’s account pub-

lished on 10 August 2026, numbers approximately 4,600 troops from thirty-one allied and partner countries. The United Nations Interim Administration Mission in Kosovo continues under the same resolution. On the scale in DM-2026-001, Kaharagia places Kosovo at the first degree, dependency, and not at effective control or absorption.

### **3. The Advisory Opinion and Resolution 1244: What Neither Settles**

The General Assembly, by resolution 63/3 of 8 October 2008, asked the Court whether the declaration was in accordance with international law. A request from the General Assembly is not a request from the Security Council, and the answer to it is an advisory opinion and not a judgment. The Court found unanimously that it had jurisdiction, decided by nine votes to five to comply with the request, and held by ten votes to four that the declaration adopted on 17 February 2008 did not violate international law. That is the whole of the holding, and its character matters as much as its content.

The Court decided the question put and no other. It declined to say whether international law confers a positive entitlement to declare independence, and it addressed neither the legal consequences of the declaration nor whether Kosovo had thereby become a state. Its route to the answer was narrow. State practice disclosed no rule of general international law prohibiting declarations of independence. The Court further found that resolution 1244 did not bar the authors of the declaration from issuing it, and that those authors acted as representatives of the people of Kosovo outside the framework of the interim administration rather than as a Provisional Institution of Self-Government.

The Court announced no general right of unilateral secession, and Kaharagia claims none on Kosovo's behalf. Resolution 1244 did not authorise Kosovo's separation from Serbia, and this publication does not pretend otherwise. Neither can 1244 require the indefinite restoration of Serbian rule regardless of all that followed. It continues to frame the international presences and the unresolved relationship between the two.

Kaharagia's recognition of Kosovo is a decision of policy with legal consequences. It is not a judicial finding about any state or any person.

### **4. The Objections: Serbia's Border, the Precedent and the Crimes on Both Sides**

The strongest objection is Serbia's and is stated here at full strength. Territorial integrity is a rule of the international order, not a technicality. Kosovo separated without Serbian consent, and no organ competent to transfer sovereignty authorised it. If a province may leave whenever its grievance is grave enough, the rule protects nothing, and the weakest states suffer first.

DM-2026-001 does not treat territorial integrity as defeated by grievance, but as defeated by the parent state's own destruction of the internal remedy, and only then. Serbia's claim is not answered by Kosovo Albanian unhappiness. It is answered by the dismantled autonomy, the exclusion, the repression found by the Tribunal and the

failed negotiations. A state that removes every internal route to a peaceful settlement of status cannot then invoke the rule protecting settled internal orders.

#### **4.1 Kosovo Beside Abkhazia, Cyprus and Somaliland**

The second objection is that recognising Kosovo binds Kaharagia everywhere, a reading useful to opposed parties for opposed reasons. The Assessment Framework requires each case to be decided on its facts, and that can be checked. The same doctrine produced hedged recognition for Abkhazia, deferral for South Ossetia, deferral for Transnistria, and non-recognition required for the present Turkish Republic of Northern Cyprus. Kosovo is a precedent for the method, not the outcome.

A reader of DM-2026-008 will ask why a declaration following intercommunal conflict, foreign intervention and division is recognised here and refused there. Two things separate them. The Court found Kosovo's declaration not contrary to international law, whereas DM-2026-008 records that the Security Council treated the 1983 declaration as legally invalid and called on states not to recognise it. That memorandum also rests on findings of Turkish effective overall control, for which the Kosovo record holds no equivalent. Turkish Cypriot rights affirmed there are untouched here.

Abkhazia, South Ossetia and Transnistria turn on the test Kosovo passes: whether authorities claiming to embody a people's choice are free to make it. Kosovo differs on one further rule. In Abkhazia, Kaharagia held that a post-war population cannot settle every question where the electorate was transformed by wartime expulsion. Kosovo's claim was not built by removing the community that opposed it. The rule binds Kosovo in the other direction too. No person displaced from Kosovo, of any community, loses a claim to return, property, restitution or compensation because independence succeeded.

Western Sahara is unfinished decolonisation, and Kaharagia does not borrow that vocabulary here. Somaliland is the closer case, and the difference is the reservation. DM-2026-007 reserves the status of contested eastern territories because communities there reject Hargeisa's authority. No equivalent appears here, and not because northern Kosovo is uncontested. The reservations differ in kind. Somaliland's leaves open which state an area belongs to. Kosovo's fixes the boundary as it stands and leaves open only how it may change: by peaceful agreement with Serbia and no other route.

#### **4.2 Crimes, Proceedings and Reciprocal Accountability**

The convictions entered against Serbian and Yugoslav officials are specific, and the sentences that stand are those entered on appeal. At trial on 26 February 2009 Nikola Sainovic, Nebojsa Pavkovic and Sreten Lukic were convicted of deportation, forcible transfer, murder and persecution as crimes against humanity and each sentenced to twenty-two years, and Dragoljub Ojdanic and Vladimir Lazarevic were convicted of aiding and abetting deportation and forcible transfer and each sentenced to fifteen years. On 23 January 2014 the Appeals Chamber reduced Sainovic to eighteen years, Lukic to twenty and Lazarevic to fourteen, and affirmed Pavkovic's twenty-two years. Ojdanic withdrew his appeal and was granted early release in July 2013. Those are the terms that stand. Milan Milutinovic was acquitted on all counts, and an acquittal is as

much a part of the record as a conviction. On 27 January 2014 the Appeals Chamber confirmed Vlastimir Dordevic's responsibility for crimes in Kosovo as a participant in a joint criminal enterprise directed at changing the ethnic composition of the territory, and reduced his sentence from twenty-seven years to eighteen.

Violations after the withdrawal are on the record as well. The OSCE Mission in Kosovo published a companion volume on 5 November 1999 covering 14 June to 31 October 1999, the first months under the international presences.

Members of the Kosovo Liberation Army and other Albanian actors have faced criminal proceedings. The Kosovo Specialist Chambers and Specialist Prosecutor's Office sit in The Hague, apply Kosovo law, and have jurisdiction over crimes commenced or committed in Kosovo between 1 January 1998 and 31 December 2000. Salih Mustafa was convicted of war crimes and his sentence fixed at fifteen years. Pjeter Shala was convicted of arbitrary detention, torture and murder, his sentence reduced on appeal to thirteen years. Hysni Gucati and Nasim Haradinaj were convicted of offences against the administration of justice.

The principal case is not decided. Evidence in the proceedings against Hashim Thaci, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi closed on 18 December 2025 after 134 witnesses, closing statements ran from 9 to 18 February 2026, and the Chambers announced on 1 July 2026 that trial judgment would be pronounced on 16 September 2026. Kaharagia holds no view on the outcome and will publish none before it is delivered.

An allegation is an assertion not yet tested. A decision to bring a case is not a finding of guilt. A proceeding is not a judgment, only a judgment convicts, and a trial judgment subject to appeal is not the end of the matter. Kaharagia treats no person as guilty because a case was brought, and no community as answerable for a case at all. Individual criminal responsibility and the legal personality of the state are separate questions.

Kaharagia supports impartial war-crimes proceedings, missing-person identification, archives access, witness protection, reparations and memorialisation. The International Committee of the Red Cross reported in April 2023 that more than 1,600 people who went missing during the conflict were still unaccounted for. Justice mechanisms must meet fair-trial standards and resist political interference from both Pristina and Belgrade. The OSCE Mission in Kosovo published a trial monitoring report on the adjudication of war crimes cases on 8 July 2026, drawn from seven years of observation of proceedings before the Special Department of the Basic Court of Prishtine/Pristina, and such monitoring is worth more than either government's account of the same hearing.

## **5. A Multi-Ethnic Kosovo, an Undivided Territory and a Settlement with Serbia**

Kosovo's legitimacy depends on how it treats the communities that opposed independence. Kosovo Serbs require more than a general guarantee of equality. They need practical security, Serbian-language education and administration, local competence over community services, sustainable links with Serbia, and a protected channel of

participation in central institutions. These arrangements are to be strong without becoming a parallel sovereign authority capable of partitioning the state.

Language is where the guarantee is tested first, because it is where a resident meets the state daily. Albanian and Serbian are official languages under Article 5 of the Constitution, with Turkish, Bosnian and Roma official at municipal level. The OSCE Mission in Kosovo published an advocacy brief on 24 July 2026, *Language Rights in Practice: Why Joint Action Cannot Wait*, setting out gaps in the protection of language rights and priority areas for support. The High Commissioner on National Minorities, Christophe Kamp, visited from 23 to 27 March 2026 and raised compliance with the language law and consultation with non-majority communities on laws and policies affecting them directly. Implementation, not enactment, is the measure.

Serbian Orthodox churches, monasteries, cemeteries and archives are not negotiating currency. They belong to the living heritage of Kosovo, of the Serbian Orthodox Church and of the Serbian people, and their protection is an obligation of the Kosovo state. It is also already an obligation of Kosovo law. Law No. 03/L-039 creates Special Protective Zones around named sites including Decan, the Patriarchate of Peja and Gračanica, prohibits industrial development, mineral extraction and construction causing deforestation or pollution inside them, and requires the agreement of the Church before specified commercial development and other activities proceed. Attacks, appropriation, historical erasure or restrictions on worship are attacks on Kosovo's own constitutional order, because the principle they violate is the one on which Kosovo's independence rests.

Roma, Ashkali, Egyptian, Bosniak, Turkish and Gorani communities are not parties to the quarrel between Pristina and Belgrade, and their protection cannot wait on either capital taking up their case. The 2024 census recorded a Serb share of 3.31 per cent and, alongside it, Bosniak 1.69, Turkish 1.21, Ashkali 1.01, Egyptian 0.66, Gorani 0.57 and Roma 0.54 per cent. Reporting on the enumeration records that Serbs in the four northern municipalities largely did not take part and that the statistics agency worked from estimates there, so the recorded Serb share is a floor and not a count. Guarantees of language, education, documentation, local government and equal access apply to every one of these communities on identical terms.

#### KOSOVO PRINCIPLE

*Recognition of Kosovo rests on sustained statehood and the failure of the former constitutional order, but it carries continuing duties toward Serbs, Roma, Bosniaks, Turks, Gorani and every other community.*

## 5.1 Territory, the North and Opposition to Partition

Kaharagia recognises Kosovo within its existing constitutional boundaries. It does not endorse unilateral partition or the annexation of northern Kosovo by Serbia, nor the compulsory union of Kosovo with Albania. Boundary changes and forms of association are legitimate only where peacefully negotiated and accepted by the states and affected communities. Territorial exchange would endanger communities outside the exchanged areas, reward coercive demographic strategies and generate wider regional claims.

Self-management for Serb-majority municipalities is an outstanding obligation and not a Kaharagian invention. Serbia's Office for Kosovo and Metohija publishes the agreed General Principles and Main Elements of the Association or Community, together with a running count of the time elapsed since the obligation was assumed. Article 7 of the 2023 Agreement requires an appropriate level of self-management for the Serbian community in Kosovo, permits financial support from Serbia, and requires the status of the Serbian Orthodox Church to be formalised and its heritage sites protected. The Implementation Annex requires Kosovo to launch those negotiations immediately under European Union facilitation.

An association of that kind can be compatible with Kosovo's sovereignty, provided it does not become a foreign-controlled state within the state and equivalent human-rights standards apply throughout the country. It must not become a vehicle for permanent outside control or armed obstruction. The predominantly Serb north is entitled to meaningful local self-government and cross-border access on those terms.

The politics of the north changed at the ballot box in 2025, and that change is to be respected rather than resented. Kosovo held local elections on 12 October 2025, at which the Serb List won nine of the ten mayoralties in Serb-majority municipalities and returned to the four northern municipalities. Those four had been led since 2023 by mayors elected in extraordinary elections on a turnout below ten per cent after a boycott. Kosovo's authorities are to avoid abrupt unilateral measures that close essential services or exclude residents from decisions directly affecting them.

Violence in the north is a criminal matter and is treated as one. On 24 April 2026 the Basic Court in Pristina convicted three men of terrorism over the armed attack at Banjska on 24 September 2023, in which a Kosovo police officer and three gunmen were killed, sentencing two to life imprisonment and one to thirty years. Milan Radoicic, who was among those charged and who publicly stated that he organised the attack, was not tried in those proceedings. Kaharagia records the convictions as first-instance judgments of a Kosovo court and draws no conclusion from them about any community.

## **5.2 Relations with Serbia and Normalisation**

Recognition requires no hostility toward Serbia and no denial of Serbian historical and cultural attachment. Kaharagia supports normalisation, mutual recognition or an equivalent conclusive settlement, and supports the framework facilitated by the European Union.

That framework is exact about what each side owes. Article 1 of the 2023 Agreement requires the parties to develop normal neighbourly relations and to recognise each other's documents and national symbols, including passports, diplomas, licence plates and customs stamps. Article 3 requires disputes to be settled exclusively by peaceful means and the threat or use of force to be avoided. Article 4 provides that neither party represents the other internationally and that Serbia will not object to Kosovo's membership in any international organisation. The Implementation Annex places the Agreement inside both European Union accession processes, calls for a declaration on missing persons as a matter of urgency, and required a Joint Monitoring Committee within thirty days. That committee was established on 18 April 2023 under

European Union chairmanship.

The framework is less exact about how it binds. The High Representative recorded on 27 February 2023 only that the parties agreed no further discussion of the proposal was needed and were ready to proceed with implementation. Kaharagia therefore treats the Agreement and its Annex as political commitments of the parties and as benchmarks in their accession processes, and not as a treaty. Nothing in Kaharagian recognition depends on their fulfilment.

What recognition denies Serbia is one thing: a continuing sovereign veto over whether Kosovo exists. Serbia keeps every other position. It may withhold recognition, argue its case in any forum open to it, maintain lawful and transparent ties with Kosovo Serbs, and negotiate for the terms it prefers.

## 6. What Changes for Kosovo on the Day of Recognition

Under the Sovereign's instrument, Kosovo is a state for Kaharagian purposes. Its legal personality, its capacity to conclude treaties and its standing before Kaharagian bodies follow. Its constitutional institutions are those entitled to act for it.

No mission opens and no accreditation, immunity or privilege is conferred. No administration in Pristina is endorsed. No boundary is settled beyond the existing constitutional boundaries. No criminal proceeding is prejudged. No party's historical account becomes Kaharagia's. Recognition further does not authorise:

- Coercive measures against Serb-majority municipalities, the closure of essential services, or policing conducted as a demonstration of sovereignty.
- Treating Kosovo Serbs who reject independence as disloyal. Peaceful opposition to a state's existence is a political position, not an offence.
- The use of Kosovo Serbs by Serbia or any other state as an instrument, or the making of their security conditional on their politics.
- Collective blame in either direction, whether against Albanians for proceedings brought against individuals or against Serbs for the acts of a former state's forces.
- Refusal of documents, residence or civil status to anyone in Kosovo or displaced from it, on grounds of community or political opinion.

### 6.1 Conditional Support, Unconditional Statehood

The Operative Declaration conditions Kaharagian support upon equal citizenship, minority protection, local self-government, religious and cultural preservation, and peaceful normalisation. Recognition of Kosovo's statehood is not itself conditional and does not lapse where a condition is unmet. What is conditioned is the support Kaharagia extends: its advocacy, its willingness to open relations, and the terms of any cooperation. These are conditions the State has set and by which it will be held.

Review follows DM-2026-001. This publication falls to be reviewed if control, borders or democratic conditions materially change, if the formally expressed position of the people concerned changes, or if a settlement alters the boundary or the constitutional relationship. A deterioration in minority protection engages Kaharagian

support, official contact and public criticism. It does not, by itself, unmake a state. The trial judgment due on 16 September 2026 will be read as what it is, a judgment at first instance about named individuals, and it bears on no question of statehood.

## 7. Operative Declaration

The State of Kaharagia recognises the Republic of Kosovo as a sovereign and independent state within its existing constitutional boundaries, subject to any peaceful and mutually agreed territorial settlement. It recognises Kosovo's constitutional institutions as entitled to act for the state, while conditioning Kaharagian support upon equal citizenship, minority protection, local self-government, religious and cultural preservation, and peaceful normalisation with Serbia. Diplomatic relations are not established by this instrument and remain reserved to a separate decision.

## 8. Publication and Legal Effect

This memorandum is a public statement of the foreign policy of the State of Kaharagia, adopted by the Sovereign and issued through the Secretariat of State, Section II. Under Kaharagian constitutional practice, the recognition or non-recognition of a state, the recognition of a government, the establishment of a diplomatic mission, the imposition of sanctions and the entry into formal diplomatic relations are decisions reserved to the Sovereign and implemented through the appropriate instrument. A Diplomatic Memorandum states the grounds, scope, reservations and consequences of a policy; it does not by itself confer accreditation, immunity or privilege.

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*Each entry gives the title, the issuing body, the date and a link. Links to a host other than the issuing body are marked Source. The list keeps legal character on the face of the entry. An advisory opinion is separated from a judgment, a resolution of the General Assembly from a resolution of the Security Council, a trial judgement from the appeal judgement that varied its sentences, a judgment scheduled for delivery from one already delivered, an agreed text the parties did not sign from a treaty, and press reporting from the official record.*

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  31. *Kosovo court jails three Serb separatists over 2023 Banjska attack*. Al Jazeera, 24 April 2026. Reporting, on first-instance convictions in the Basic Court in Pristina.  
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  32. *Convictions for Kosovo Crimes Upheld for Four Senior Serbian Officials*. International Criminal Tribunal for the former Yugoslavia, Appeals Chamber, judgement in Sainovic and others (IT-05-87-A), 23 January 2014; reduced Sainovic from twenty-two to eighteen years, Lukic from twenty-two to twenty and Lazarevic from fifteen to fourteen, and affirmed Pavkovic's twenty-two years.

<https://www.icty.org/en/sid/11443>

33. *Advisory opinion of the International Court of Justice on the accordance with international law of the unilateral declaration of independence in respect of Kosovo*. Note by the Secretary-General transmitting the full text of the opinion to the General Assembly, A/64/881, 26 July 2010. Paragraph 76 records that the declaration was adopted at a meeting held on 17 February 2008 by 109 of the 120 members of the Assembly of Kosovo, including the Prime Minister, and by the President of Kosovo, who was not a member of the Assembly, that the ten members representing the Kosovo Serb community and one member representing the Kosovo Gorani community decided not to attend, and that the text was read out, voted upon and signed by all representatives present. Paragraph 75 sets out the operative text quoted here.

<https://documents.un.org/api/symbol/access?s=A/64/881&l=E&t=pdf>

34. *Principles which should guide Members in determining whether or not an obligation exists to transmit the information called for under Article 73 e of the Charter*. United Nations General Assembly resolution 1541 (XV), adopted at the 948th plenary meeting, 15 December 1960. Principle IX requires that wishes be expressed “through informed and democratic processes, impartially conducted and based on universal adult suffrage”, and provides that the United Nations could supervise those processes when it deems supervision necessary. A recommendation of the General Assembly, not a binding decision.

[https://documents.un.org/api/symbol/access?s=A/RES/1541\(XV\)&l=E&t=pdf](https://documents.un.org/api/symbol/access?s=A/RES/1541(XV)&l=E&t=pdf)

# Diplomatic Memorandum on the Recognition of the Sahrawi Arab Democratic Republic

*Decolonisation, Sahrawi self-determination and the status of Western Sahara*

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POSITION OF THE STATE

Kaharagia recognises the Sahrawi Arab Democratic Republic as the sovereign state of the Sahrawi people in Western Sahara

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|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SELF-DETERMINATION   | Recognised. The Sahrawi people hold an unfulfilled right to decide the status of Western Sahara.                                                                         |
| STATE RECOGNITION    | Extended in full.                                                                                                                                                        |
| DISPOSITION          | Recognition, the first of the five in DM-2026-001. No territorial reservation is entered.                                                                                |
| GOVERNMENT           | The institutions of the Sahrawi Arab Democratic Republic are recognised as entitled to act for the state, subject to continuing democratic and human-rights obligations. |
| DIPLOMATIC RELATIONS | Not established by this instrument. Reserved to a separate decision.                                                                                                     |
| TERRITORY            | Western Sahara within its decolonisation boundaries. Present control does not determine title.                                                                           |

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COMMON DOCTRINAL BASIS

*A people's right to self-determination is not extinguished by an inherited border. Nor is it fulfilled by foreign occupation, coerced integration, ethnic cleansing, demographic engineering, or a nominal independence maintained under another state's effective control. Recognition of a state is separate from endorsement of its government and from the establishment of diplomatic relations.*

## 1. Executive Position

Kaharagia recognises the Sahrawi Arab Democratic Republic as the sovereign state of the Sahrawi people in Western Sahara. Western Sahara remains a decolonisation question and a listed Non-Self-Governing Territory. Spanish Sahara was included in the list under Chapter XI of the Charter in 1963, and Spain transmitted information on the Territory from 1962. The Sahrawi people have never completed a free and genuine act of self-determination between independence and another status. The right has never been discharged.

Recognition does not rest on a claim that the Sahrawi Arab Democratic Republic governs what it claims. It does not. The Court of Justice of the European Union recorded in October 2024 that the majority of the territory is controlled by Morocco, while the Frente Popular para la Liberación de Saguía el-Hamra y de Río de Oro controls a smaller and very sparsely populated area in the east. The reason for that division is the conduct whose lawfulness is in question. Moroccan control cannot become sovereign title, or remove independence from the choices open to the Sahrawi people.

Three facts of record carry the determination, and none of them is contested by Kaharagia alone. The International Court of Justice found in 1975 that the materials before it established no tie of territorial sovereignty between Western Sahara and Morocco. The United Nations Legal Counsel advised in 2002 that the Madrid Agreement of 14 November 1975 transferred no sovereignty and conferred the status of administering Power on nobody, a status Spain could not have transferred unilaterally in any event. Morocco is not listed as the administering Power of the Territory and has not transmitted information on it under Article 73 e of the Charter.

One fact of record runs the other way, and this publication meets it directly rather than at the end. On 31 October 2025, in resolution 2797 (2025), the Security Council took Morocco's Autonomy Proposal as the basis for negotiations. Kaharagia states below what that resolution decides, what it does not decide, and why a Kaharagian recognition is consistent with it.

### 1.1 The Sahrawi Disposition: Recognition Without Territorial Reservation

Western Sahara turns on four questions the doctrine keeps apart, and answering one leaves the others open, and nothing is decided by implication. Taken in order:

- **The right of self-determination.** Recognised. The Sahrawi people hold an unfulfilled right to decide the status of Western Sahara, and no act of any other party has discharged it.
- **Statehood.** Recognised, over Western Sahara within its decolonisation boundaries.
- **Government.** The institutions of the Sahrawi Arab Democratic Republic are recognised as entitled to act for the state, subject to continuing democratic and human-rights obligations. No office-holder is endorsed by this act.
- **Diplomatic relations.** Not established here. They may be established separately by a decision of the Sovereign.

The disposition is recognition, the first of the five in DM-2026-001. No territorial

reservation is entered, and the contrast with DM-2026-007 is deliberate. There Kaharagia declines to recognise Somaliland's title to districts whose people reject rule from Hargeisa, and the reservation is part of the act. Here the boundary invoked is the decolonisation boundary of a listed Territory, and the population whose presence is said to unsettle it was introduced by the party in control. The matters excluded below are limits on what this act does. They are not qualifications upon the state's existence or upon its territorial basis.

## 2. Why Western Sahara Is Still a Decolonisation Case

DM-2026-001 places every case in one of three families before applying any further test, because the claimant's burden differs according to where the claim begins. Its remedial branch asks whether a people inside a state has been systematically excluded, repressed and left without a credible constitutional remedy, so that separation becomes the remaining lawful answer. That is the third family and the heaviest burden. Western Sahara does not sit there.

It sits in the first, unfinished decolonisation. Spain's departure and the subsequent division and occupation of the Territory completed no act of Sahrawi self-determination. Kaharagia therefore need not prove that Moroccan administration has failed the remedial test, and does not attempt to. The question is whether the Sahrawi people have chosen, and they have not.

The first family has texts of its own, and they are not Kaharagian inventions. Resolution 2625 (XXV) of 24 October 1970 provides that the territory of a colony or other Non-Self-Governing Territory has under the Charter a status separate and distinct from the territory of the State administering it, and that the separate and distinct status shall exist until the people of that territory have exercised their right of self-determination. Paragraph 5 of resolution 1514 (XV) of 14 December 1960 required immediate steps to transfer all powers to the peoples of such territories, without any conditions or reservations, in accordance with their freely expressed will and desire. Both are recommendations of the General Assembly, and Kaharagia adopts the rule they state.

Time does not discharge the obligation, and the proposition has been tested in a court within living memory. In its advisory opinion of 25 February 2019 on the Chagos Archipelago the International Court of Justice found that the detachment of 1965 was not based on the free and genuine expression of the will of the people concerned, that the decolonisation of Mauritius was accordingly not lawfully completed on accession to independence in 1968, and that the United Kingdom is under an obligation to bring its administration of the Archipelago to an end as rapidly as possible. Fifty-four years had passed between the act and the finding. That is an advisory opinion and binds no state as a judgment binds parties. Kaharagia adopts the test and does not present it as a holding against any government.

### 2.1 What the Court Decided in 1975, and What It Did Not

In its advisory opinion of 16 October 1975 the International Court of Justice answered two questions put by the General Assembly. It found that Western Sahara at the time

of Spanish colonisation was not territory belonging to no one. It found the existence of legal ties of allegiance between the Sultan of Morocco and some of the tribes living in the territory, and legal ties between the Mauritanian entity and the territory. It found that the materials and information presented to it did not establish any tie of territorial sovereignty between Western Sahara and the Kingdom of Morocco or the Mauritanian entity, and no legal ties of such a nature as might affect the application of resolution 1514 (XV) and, in particular, of the principle of self-determination through the free and genuine expression of the will of the peoples of the Territory.

An advisory opinion answers questions put to the Court. It is not a judgment against a party and decides no contentious case; its authority lies in its reasoning. Precision cuts both ways here. The Court did not hold that Morocco has no connection to the territory or its people. Ties of allegiance are real, they are a matter of the Court's own finding, and they are not a title. They are also not consent.

## **2.2 The Madrid Agreement and What It Could Not Transfer**

On 14 November 1975 Spain, Morocco and Mauritania concluded a Declaration of Principles on Western Sahara at Madrid, by which the powers and responsibilities of Spain as administering Power were transferred to a temporary tripartite administration. The Legal Counsel of the United Nations analysed that instrument in a letter of 29 January 2002 to the President of the Security Council, circulated as document S/2002/161. The Madrid Agreement did not transfer sovereignty over the Territory, nor did it confer upon any of the signatories the status of an administering Power, a status which Spain alone could not have unilaterally transferred. The transfer of administrative authority to Morocco and Mauritania in 1975 did not affect the international status of Western Sahara as a Non-Self-Governing Territory.

That is the advice of the Legal Counsel to an organ of the United Nations. It is not a judgment, it binds no state, and Kaharagia does not present it as one. The same letter records what followed. Spain informed the Secretary-General on 26 February 1976 that it had terminated its presence and relinquished its responsibilities. Mauritania withdrew in 1979 under an agreement of 19 August 1979, after which Morocco has administered the Territory alone. Morocco is not listed as the administering Power and has therefore transmitted no information under Article 73 e.

The General Assembly's answer to the Madrid instrument was given within a month, and it took two resolutions on the same day to give it. By resolution 3458 A (XXX) of 10 December 1975 the Assembly reaffirmed the inalienable right of the people of Spanish Sahara to self-determination and requested Spain, as the administering Power, to take immediately all necessary measures so that all Saharans originating in the Territory might exercise fully and freely, under United Nations supervision, their inalienable right to self-determination. By resolution 3458 B (XXX) of the same date it took note of the tripartite agreement concluded at Madrid, reaffirmed the right of all the Saharan populations originating in the Territory, and requested the interim administration to take all necessary steps to ensure that they would be able to exercise that right through free consultations organised with the assistance of a representative of the United Nations appointed by the Secretary-General.

Read together, the two resolutions decline to treat the Madrid instrument as dispos-

ing of anything. The Assembly noted the agreement and in the same breath required the consultation the agreement did not provide. On 21 November 1979, in resolution 34/37, it went further: it deeply deplored the aggravation of the situation resulting from the continued occupation of Western Sahara by Morocco and the extension of that occupation to the territory recently evacuated by Mauritania, urged Morocco to join in the peace process and to terminate the occupation, and recommended that the Frente POLISARIO, the representative of the people of Western Sahara, should participate fully in any search for a settlement. A resolution of the General Assembly is a recommendation and not a binding decision. Kaharagia records it as the clearest statement by a principal organ of the character of the situation and of who speaks for the people concerned.

### **2.3 The Unheld Referendum and the Argument From Time**

The referendum contemplated by the United Nations has not occurred, and the record of the attempt is documented rather than disputed. On 30 August 1988 Morocco and the Frente POLISARIO gave their agreement in principle to settlement proposals of the Secretary-General and the Chairman of the Assembly of Heads of State and Government of the Organization of African Unity. By resolution 658 (1990) of 27 June 1990, adopted unanimously at its 2929th meeting, the Security Council approved the report of the Secretary-General containing the full text of those proposals as accepted by the two parties and an outline of the plan to implement them. By resolution 690 (1991) of 29 April 1991, adopted unanimously at its 2984th meeting, the Council expressed its full support for the organisation and supervision by the United Nations, in cooperation with the Organization of African Unity, of a referendum for self-determination of the people of Western Sahara, and decided to establish under its authority the United Nations Mission for the Referendum in Western Sahara. The mission established for the territory carries the referendum in its name.

The referendum was originally scheduled for January 1992. It did not take place. The Mission began identifying potential voters in August 1994, the Secretary-General suspended the identification process in May 1996, and the Identification Commission formally completed its work in 2004 by transferring all its documentation to Geneva. Disputes over voter eligibility, political conditions and competing settlement plans have prolonged the conflict since.

The option set once included independence, and that is a matter of the Council's own record rather than of advocacy. In resolution 1495 (2003) of 31 July 2003, acting under Chapter VI, the Council supported the Peace plan for self-determination of the people of Western Sahara presented by the Personal Envoy of the Secretary-General as an optimum political solution on the basis of agreement between the two parties. The Frente POLISARIO described the format of that plan in its own submission to the Council in 2007 as the choice between independence, integration into the Kingdom of Morocco and self-governance. A ballot with three entries is what the Council supported in 2003.

On the delay an argument is built: the vote has become impractical, and the only realistic future is the one the controlling party offers. DM-2026-001 answers it. A free choice requires freedom from decisive external control, and a process in which that

power decides which options remain on the paper does not meet the standard. If obstruction could extinguish the right obstructed, the reward would rise with its success. Delay cannot mature into lawful annexation.

### **3. Resolution 2797 and the Argument That Only Autonomy Remains**

The Security Council adopted resolution 2797 (2025) at its 10030th meeting on 31 October 2025. It extended the mandate of the Mission until 31 October 2026. It expressed full support for the Secretary-General and his Personal Envoy in facilitating and conducting negotiations taking as basis Morocco's Autonomy Proposal, presented on 11 April 2007, and called upon the parties to engage in those discussions without preconditions on that basis. It recorded in its preamble the support expressed by many Member States for that proposal, and affirmed that genuine autonomy under Moroccan sovereignty could constitute a most feasible solution. It requested a strategic review of the Mission's future mandate within six months. Reporting of the proceedings records adoption by eleven votes in favour with three abstentions, by China, Pakistan and the Russian Federation, and records that Algeria, then a member of the Council, did not vote.

Kaharagia states what that instrument does. It decides one thing, in operative paragraph 1: the Mission continues for a year. The remainder expresses support, takes note, welcomes, calls upon and invites. The words on which the argument from realism rests are preambular and conditional. Autonomy under Moroccan sovereignty could constitute a most feasible solution. A statement that an outcome could be feasible is not a determination that a state holds title to a territory, and the Council did not make one.

The resolution also keeps the object of the exercise where it was. Operative paragraph 3 calls for a final and mutually acceptable political solution that provides for the self-determination of the people of Western Sahara. The preamble reaffirms the Council's commitment to a solution consistent with the principles and purposes of the Charter, including the principle of self-determination. An instrument that names autonomy as the basis of negotiation and self-determination as the object of the outcome has narrowed the road without moving the destination.

One further point of law disposes of the strongest version of the objection. DM-2026-001 provides that a duty of non-recognition arises where a situation is the product of a serious breach of a peremptory norm, and in particular where the competent international organs have called upon states to withhold recognition. Resolution 2797 (2025) calls upon no state to withhold recognition from anyone. It declares no entity legally invalid. It determines the status of no territory. The contrast with DM-2026-008 is exact: in resolution 541 (1983) the Council considered a declaration legally invalid and called upon all States not to recognise any Cypriot State other than the Republic of Cyprus, and that duty foreclosed the merits. Nothing of that character exists in this file, in either direction.

The General Assembly returned to the question five weeks later and reached a different emphasis on the same facts. In resolution 80/89, adopted on 5 December 2025 at its

55th plenary meeting on the report of the Fourth Committee, the Assembly reaffirmed the inalienable right of all peoples to self-determination and independence in accordance with the Charter and resolution 1514 (XV); recognised that all available options for self-determination of the Territories are valid as long as they are in accordance with the freely expressed wishes of the people concerned and in conformity with the principles contained in resolutions 1514 (XV) and 1541 (XV); reaffirmed the responsibility of the United Nations towards the people of Western Sahara; and requested the Special Committee on decolonisation to continue to consider the situation in Western Sahara and to report to the Assembly at its eighty-first session.

Two principal organs addressed one file within six weeks and neither contradicted the other. The Council set a negotiating basis and required the outcome to provide for self-determination. The Assembly kept the Territory on the decolonisation agenda and required any option to match the freely expressed wishes of the people concerned. Kaharagia records both and takes the proposition they share, which is that the choice belongs to the Sahrawi people and has not yet been made.

### **3.1 The Autonomy Proposal, Read as Written**

The Moroccan initiative for negotiating an autonomy statute for the Sahara region was transmitted to the President of the Security Council by letter of 11 April 2007 and circulated as document S/2007/206. Kaharagia has read it. It offers the populations of the region legislative, executive and judicial bodies with powers over local administration and police, economic development, the regional budget and taxation, infrastructure, housing, education, health, employment, culture and environment, and provides for representation in the national Parliament and participation in national elections.

The instrument is explicit about what it withholds. The proposal is made within the framework of the Kingdom's sovereignty and national unity. The State keeps exclusive jurisdiction over the attributes of sovereignty, including the flag, the national anthem and the currency; over the constitutional and religious prerogatives of the King; over national security, external defence and defence of territorial integrity; over external relations; and over the Kingdom's juridical order. The Head of Government of the Region is elected by the regional Parliament and invested by the King. Laws, regulations and court rulings issued by the Region's bodies must be consistent with the Kingdom's Constitution.

The proposal contains its own referendum clause, and that clause is the reason this publication reproduces the terms rather than characterising them. Paragraph 27 provides that the autonomy Statute shall be submitted to the populations concerned in a free referendum, and that this referendum will constitute a free exercise by those populations of their right to self-determination. The ballot described has one entry. A vote in which the only proposal is the one the controlling power has drafted, held under the sovereignty that proposal presupposes, is a vote on the terms of an outcome rather than a choice among outcomes. Resolution 1541 (XV) set the procedural standard for the least contested transition, requiring that the wishes of a people be expressed through informed and democratic processes, impartially conducted and based on universal adult suffrage, and provided that the three routes to a full measure of self-government are independence, free association and integration. A process that offers

one route cannot deliver a choice among three.

The constituency named in that clause raises the same difficulty a second time. The referendum is to be put to the populations concerned. The Court of Justice of the European Union found in October 2024 that a consultation conducted before the adoption of the contested decisions did not concern the people of Western Sahara but the inhabitants currently present in that territory, irrespective of whether or not they belong to that people, and that a significant proportion of the people now lives outside the territory. The distinction between the people who hold the right and the population presently on the ground is not a Kaharagian construction. It was drawn by a court examining this territory.

None of this makes autonomy an unlawful outcome. Resolution 2625 (XXV) provides that the establishment of a sovereign and independent State, free association or integration with an independent State, or the emergence into any other political status freely determined by a people, are all modes of implementing the right. An autonomy freely chosen by the Sahrawi people would discharge the right, and Kaharagia would follow that choice. What the doctrine forbids is the presentation of one option as the whole ballot by the party whose control produced the absence of the others.

The competing document belongs in the record beside it. The proposal of the Frente POLISARIO was circulated on 16 April 2007 as document S/2007/210. It offers a referendum on the format of the Peace plan the Council supported in 2003, namely the choice between independence, integration into the Kingdom of Morocco and self-governance, and states a commitment to accepting the results whatever they are. It also offers, in the event that the referendum led to independence, negotiated guarantees to Morocco and to the Moroccan population residing in Western Sahara, mutual recognition of the sovereignty and territorial integrity of the two countries on the principle of the intangibility of inherited borders, joint arrangements over natural resources, and Sahrawi nationality for any Moroccan citizen legally established in the territory who applies for it. Kaharagia records that as a published position of the party it is recognising, not as evidence of how that party would behave. The undertaking is quoted below because recognition puts Kaharagia in a position to hold its author to it.

### **3.2 Support for a Plan Is Not Recognition of a Title**

States have taken positions on this question in the past six years, and the positions differ in kind in a way that reporting frequently collapses. The Secretary-General recorded that on 8 April 2025 the Secretary of State of the United States reiterated his Government's recognition of Moroccan sovereignty over Western Sahara and urged the parties to use Morocco's Autonomy Proposal as the only framework. He also recorded that in a joint communiqué of 1 June 2025 the United Kingdom stated that it considered the Moroccan autonomy plan the most credible, viable and pragmatic basis for a lasting resolution of the dispute, and that the Sahrawi Arab Democratic Republic, in expressing its regret, noted that the United Kingdom had not recognised Moroccan sovereignty over the Territory.

That distinction is the whole of the point. Endorsing a negotiating basis and recognising a sovereign title are different acts with different consequences, and a state that has done the first has not done the second. Kaharagia records which states have done

which and treats neither as settling anything for Kaharagia.

DM-2026-001 disposes of the arithmetic in any event. Recognition is not a poll. The number of states recognising an entity, the identity of the most recent to do so and any later withdrawal are facts about those states rather than answers to the question this doctrine asks. The rule that would have prevented Kaharagia from recognising an entity because it was unfashionable is the rule that prevents Kaharagia from declining to recognise one because a recognition has become expensive.

#### **4. Statehood Where Control Is Divided**

The strongest objection to this determination is practical. A state must govern. The Sahrawi Arab Democratic Republic administers a part of the territory and operates institutions in refugee camps outside it, so recognising it as sovereign over land it does not hold looks like a fiction.

DM-2026-001 weighs a permanent population, an identifiable territory, institutions capable of public government and the capacity to conduct external relations, which are the qualifications listed at Article 1 of the Montevideo Convention. It forbids applying those indicia mechanically. Effectiveness is read with legality and popular legitimacy, and a people does not lose its statehood because another power obstructs the ordinary exercise of authority. Article 3 of the same convention states that the political existence of the state is independent of recognition by the other states.

Applied here, the objection consumes itself. Effectiveness is offered as proof of title by the party whose control produced its absence on the other side. Effective control is a fact about who administers a territory. Sovereign title is a conclusion about who is entitled to administer it, and the 1975 opinion of the International Court of Justice is a finding that the entitlement asserted was not established on the materials before it.

The other indicia hold, and each is supported by a source outside the claimant. The territory is identifiable: the decolonisation boundaries of a listed Non-Self-Governing Territory, whose separate and distinct status resolution 2625 (XXV) preserves until the right is exercised, and which the Court of Justice of the European Union has held to be separate from Morocco and a customs territory in its own right for the purposes of Union law. The population is permanent: the Secretary-General reported in September 2025 that Sahrawi refugees remain in five camps near Tindouf after fifty years of displacement, and Human Rights Watch records an estimate by the Office of the United Nations High Commissioner for Refugees of approximately 173,000 people in those camps.

Capacity for external relations is evidenced rather than asserted. The Sahrawi Arab Democratic Republic has been a member of the African Union and its predecessor since 22 February 1982. The Court of Justice of the European Union held in October 2024 that the Frente POLISARIO is a privileged interlocutor in the process conducted under the auspices of the United Nations with a view to determining the future status of Western Sahara, and that it satisfies the conditions to challenge Union decisions before the Union judicature in the interests of the people of Western Sahara. The General Assembly named it the representative of the people of Western Sahara in 1979.

DM-2026-001 denies that any of this grants statehood. It evidences a capacity, which is what the indicium asks about.

Institutions capable of public government are evidenced in the same documents that record the conflict. The Secretary-General reported that east of the berm the Mission conducts ground patrols accompanied by the Frente POLISARIO, that its movements there require authorisation, that liaison meetings take place between Mission team site commanders and Frente POLISARIO military regional commanders, and that the Mine Action Service maintains coordination through a Sahrawi Mine Action Coordination Office. Those are the marks of an administration exercising authority over territory. They are also the marks of its limits, and this publication does not report the first without the second.

#### **4.1 Dependency, Algeria and the Question Kaharagia Puts to Every Claimant**

DM-2026-001 locates every case on a scale of three. Dependency is ordinary among recognised states and does not defeat statehood. Effective control shifts the burden, and the entity must then show that the will it expresses is its own. Absorption is the condition the core maxim forbids. That scale decides DM-2026-002, DM-2026-003, DM-2026-004 and DM-2026-008, and Kaharagia does not suspend it because the claimant here is sympathetic.

The relationship it examines in this case is with Algeria, which hosts the camps and the Sahrawi administration in exile near Tindouf. On origin, the claim predates any patron: the General Assembly recognised the Frente POLISARIO as the representative of the people of Western Sahara in 1979, and the Court of Justice of the European Union recorded that a large part of that people has been in exile since the 1970s and has found refuge in Algeria. On trajectory, no instrument merging Sahrawi institutions into Algeria is before the Secretariat, no transfer of state functions appears in the materials examined, and no conferral of Algerian citizenship on the population at scale is recorded in them. The Secretary-General reported that Algeria's Minister for Foreign Affairs supports the positions expressed by the Frente POLISARIO while insisting that his country does not consider itself a party to the conflict.

Kaharagia therefore finds dependency, and states plainly what it has not found. No court or comparable body has attributed conduct in the territory east of the berm to Algeria in the materials before the Secretariat, and no finding of Algerian effective control appears in them. On whether Sahrawi institutions have refused the patron something the patron wanted, the Secretariat holds no evidence either way. Nothing before it records whether a Sahrawi party, newspaper or candidate may campaign against the arrangement with Algeria and survive doing so. Those are gaps in the record and not findings, and Kaharagia does not convert the one into the other. Were an arrangement to appear transferring decisive control over Sahrawi security institutions or foreign policy to another state, the case would move down the scale and engage the review provision below.

## 4.2 Why Kosovo, Somaliland and Northern Cyprus Do Not Decide This Case

Kosovo was an autonomous unit within a sovereign state whose constitutional order broke down, and DM-2026-005 rests recognition on that record while warning that no general right of unilateral secession follows. Western Sahara needs none of that reasoning. There is no Moroccan constitutional order whose failure must be proved, because the Sahrawi claim precedes the administration it is asserted against and the Territory's separate status is a matter of the Charter.

DM-2026-007 recognises Somaliland on restored pre-union statehood, durable institutions and popular will, and enters a territorial reservation because communities inside the claimed boundary reject rule from Hargeisa. No equivalent reservation is entered here, and the reason is a rule rather than a preference. DM-2026-001 provides that settlement organised or encouraged by a controlling power shall not decide the status question it was designed to foreclose. Sahrawis who dissent from their own authorities must be heard, and this publication says so in terms. A population introduced by the controlling power during the period of control is not a local community whose preference redraws a decolonisation boundary.

Northern Cyprus is the closest structural comparison and produces the opposite result for the same reason. In DM-2026-008 the entity seeking recognition is the one sustained by a foreign patron's effective control, so recognition is withheld from it. Here the party in effective control is the one asserting sovereignty, so recognition is withheld from the assertion. Only the direction of the rule changes. The second difference is decisive and belongs to the Security Council rather than to Kaharagia: resolution 541 (1983) called upon all States not to recognise, and no instrument of that character exists here.

DM-2026-010 affirms Palestinian sovereignty notwithstanding occupation, and the configuration there is the configuration here. Sovereignty is not created by the occupation and is not extinguished by it. What differs is the duty of non-recognition. There it arises, because the International Court of Justice identified in its advisory opinion of 19 July 2024 an obligation of all States not to recognise as legal the situation arising from Israel's unlawful presence, and it runs against the occupying power. Here, for the reason just given, none arises against anyone. Palestine and Western Sahara are both cases in which the right survives the control exercised over the people who hold it, and neither is authority for redrawing an inherited frontier through a settled state.

## 5. Who May Consent for the Sahrawi People, and Over What

The Frente POLISARIO and the Sahrawi Arab Democratic Republic have long claimed to represent the Sahrawi people, and two external bodies have accepted the claim for their own purposes. Kaharagia recognises the institutions of that state as entitled to act for it, subject to continuing democratic and human-rights obligations. The representative claim is accepted for that purpose and carries no permanent title to speak for Sahrawis. DM-2026-001 asks of every claimant whether the institutions embodying a claim are free, representative and genuinely sovereign. Kaharagia put that question to dependent entities in DM-2026-002, DM-2026-003 and DM-2026-004, and does not suspend it here.

Recognition therefore does not immunise Sahrawi institutions from scrutiny, and the file contains matters requiring it. In resolution 1495 (2003) the Security Council reaffirmed its call upon the Frente POLISARIO to release without further delay all remaining prisoners of war in compliance with international humanitarian law, and its call upon both parties to cooperate with the International Committee of the Red Cross to resolve the fate of persons unaccounted for since the beginning of the conflict. The Secretary-General reported in September 2025 that the question of persons still unaccounted for remains a major humanitarian concern and that the Committee remains ready to act as a neutral intermediary. He also reported that the Frente POLISARIO has not permitted the Mission's helicopter reconnaissance flights east of the berm since November 2020, restricts the Mission's ground patrols to a distance of twenty kilometres from each team site, and denied or did not confirm nine alleged incidents the Mission sought to investigate. Kaharagia records those as reported facts and does not treat obstruction of a United Nations mission as a small matter because the party obstructing has the better claim.

Kaharagia expects representative government, civil liberties, transparent administration of refugee camps and of the areas east of the berm, equal rights for women and minorities, and humane treatment of prisoners and opponents. Sahrawis must be free to criticise their own authorities and to argue for a status other than independence. Recognition grants no outside supporter a right of tutelage.

#### SAHRAWI PRINCIPLE

*Western Sahara is first a question of unfinished decolonisation. Recognition must protect Sahrawi self-determination without treating present Moroccan residents as disposable.*

### 5.1 Population Change and the Rights of Present Residents

Moroccan settlement and administrative integration have substantially altered the population, and the scale of the change is now recorded in a United Nations document. The Secretary-General reported that, according to a national census conducted by Moroccan authorities in September 2024 which included the Territory west of the berm, the population of that part of the Territory had increased from approximately 450,000 to 600,000 since the previous survey in 2014. That change cannot manufacture Moroccan sovereign title or erase Sahrawi refugee claims, and DM-2026-001 forbids manufacturing an electorate whose vote is then presented as self-determination.

The same doctrine protects the people that policy brought. Civilians born or long resident in Western Sahara hold human rights and may not be subjected to collective expulsion, denationalisation or violence because of Moroccan origin. Recognition does not authorise the removal of Moroccan civilians, reprisals against Sahrawis who worked for the Moroccan administration, or the withholding of documents, schooling, medical care or property on the ground of origin or past allegiance. Serious crimes are matters of individual responsibility and due process. Ordinary public service is not a crime.

A final settlement is to offer secure residence, citizenship choices, property adjudication and political participation to present residents while ensuring that Sahrawi refugees can return and take part. The party Kaharagia recognises has published an

undertaking to that effect: its 2007 submission to the Security Council offers guarantees to the Moroccan population residing in Western Sahara covering their status and their participation in the political, economic and social life of the territory, and states that the Sahrawi State could grant Sahrawi nationality to any Moroccan citizen legally established in the territory who applied for it. Kaharagia holds the institutions it recognises to what they have published. Property claims belong to restitution, compensation, good-faith purchase evidence and land commissions, not to decree in either direction.

Electoral rules will therefore need to distinguish the self-determination constituency from the enjoyment of ordinary civil rights, so that neither colonial settlement nor retaliatory exclusion decides the outcome. Resolution 3458 A (XXX) framed the constituency in 1975 as all Saharans originating in the Territory, and required the act to take place under United Nations supervision. That definition is hard, and the difficulty argues for international supervision of the vote, not for abandoning it.

## **5.2 Natural Resources and the Requirement of Consent**

Fisheries, phosphates, agriculture, renewable energy and other resources may not be treated as though Morocco held uncontested sovereign title. The Legal Counsel of the United Nations addressed resource activity in the Territory in the letter of 29 January 2002. He concluded that while the specific reconnaissance and evaluation contracts then before the Council were not in themselves illegal, if further exploration and exploitation activities were to proceed in disregard of the interests and wishes of the people of Western Sahara they would be in violation of the principles of international law applicable to mineral resource activities in Non-Self-Governing Territories. He recorded the converse in the same letter: where such activities are conducted for the benefit of the peoples of those Territories, on their behalf or in consultation with their representatives, they are considered compatible with the Charter obligations of the administering Power.

The Court of Justice of the European Union applied the requirement of consent to concrete agreements on 4 October 2024. Sitting as the Grand Chamber in Joined Cases C-778/21 P and C-798/21 P and in Joined Cases C-779/21 P and C-799/21 P, it dismissed in their entirety the appeals brought by the Commission and the Council against the annulment of the decisions approving the 2019 fisheries and agricultural agreements with Morocco. It held that implementation of such an agreement in the territory of Western Sahara must receive the consent of the people of Western Sahara, who are the sole holder of the right of self-determination with regard to that territory, and that such consent had not been given. It held that consent may be presumed only where the agreement creates no obligation for that people and confers on it a specific, tangible, substantial and verifiable benefit deriving from the exploitation of the territory's natural resources, proportional to the degree of that exploitation, and that the second condition was not satisfied because the agreements conferred no rights or benefits on that people. The decision concerning fisheries had expired in July 2023; the effects of the decision on agricultural products were maintained for twelve months.

On the same day, in Case C-399/22, the Court answered a reference from the French Conseil d'État on the labelling of melons and tomatoes harvested in Western Sahara.

It held that the country of origin indicated on those goods may designate only Western Sahara, because they are harvested in that territory, that the territory is separate from Morocco and is a customs territory within the meaning of Union law, and that any other indication would be likely to mislead consumers as to the true origin of the goods. It also held that a Member State may not unilaterally ban such imports, since that falls within the exclusive competence of the Union. A preliminary ruling interprets Union law for the referring court and does not decide the underlying dispute.

The legal character of both sets of decisions must be stated exactly, because they are quoted for more than they hold. Advice within the United Nations and judgments on the validity of European Union acts neither confer nor remove sovereign title, and neither binds Kaharagia. The Court decided what the Union may lawfully conclude and how goods entering the Union must be marked. Kaharagia adopts the proposition those instruments state, which is that the resources of a Non-Self-Governing Territory are disposed of with the consent of its people or not lawfully at all.

Kaharagia therefore avoids procurement, investment or agreements that describe Western Saharan resources as Moroccan without Sahrawi consent, and conforms its treatment of origin, address and provenance to the separate status of the Territory. Recognition does not license opaque disposal of those resources by any other authority either. The Office of the United Nations High Commissioner for Human Rights received reports, following the October 2024 judgments, indicating that the Sahrawi population does not benefit from the exploitation by Morocco of natural resources in the Territory, and stating that this is inconsistent with the principle of self-determination applicable to the people of Western Sahara. Transparency and public benefit remain required whoever administers, and the beneficiary must be the Sahrawi population.

## **6. Precedent, Negotiation and the Limits of This Act**

An objection holds that recognition removes the incentive to negotiate. Recognition changes the subject of the negotiation and leaves the negotiation standing. What is negotiated becomes the peaceful implementation or consensual modification of Sahrawi sovereignty, not whether prolonged control has erased the people's right. Nor does recognition license redrawing inherited borders elsewhere: the boundary invoked is a decolonisation boundary, not a new frontier cut through a state, and the Frente POLISARIO's own 2007 submission rests on the intangibility of borders inherited from the independence period.

Kaharagia supports the United Nations negotiations and the work of the Personal Envoy of the Secretary-General, and does so on the footing that independence remains a genuine option in any process that claims to provide for self-determination. Reporting of Council proceedings records that in early February 2026 the United States convened ministerial-level delegations from Algeria, Mauritania, Morocco and the Frente POLISARIO for direct talks in Madrid, the first such gathering since 2019; that Morocco reportedly presented there a revised version of its 2007 autonomy proposal; that follow-up talks were held in Washington on 23 and 24 February 2026, co-chaired by the Personal Envoy; and that the Secretary-General was expected to submit the

strategic review of the Mission's future mandate in April 2026. The mandate runs to 31 October 2026, which fixes the next ordinary occasion for review of this determination.

A mutually agreed association with Morocco could be legitimate if freely chosen. It cannot be the only option presented as realistic. Recognition extends to Western Sahara within its decolonisation boundaries as the state's territorial basis, while control is divided and the line awaits peaceful settlement. Diplomatic relations may be developed with Sahrawi institutions while Kaharagia maintains dialogue with Morocco, whose nationals are the subject of no accusation in this publication. The objective is a lawful and consent-based final status, human security on both sides of the berm, family reunification, release or accounting for detainees and missing persons, and the end of armed conflict.

## 6.1 Human Rights, Detainees and the Camps

Kaharagia asks for independent human-rights monitoring because there is none, and the absence is recorded by the Secretary-General rather than alleged by Kaharagia. He reported in September 2025 that the Office of the United Nations High Commissioner for Human Rights has not been granted access to the Territory since 2015 despite repeated requests, that the lack of independent, impartial, comprehensive and sustained monitoring remains detrimental to any assessment of the situation on the ground, and that international observers including parliamentarians, lawyers and journalists reportedly continued to face entry restrictions, with dozens denied entry or expelled. The Security Council had strongly urged enhanced cooperation with that Office in resolution 2756 (2024).

The same report records what monitoring from outside has produced. The Office received reports of shrinking civic space and of restrictions on Sahrawis' rights to freedom of expression, association and peaceful assembly amid growing surveillance, harassment and intimidation, and reports that Moroccan authorities suppressed gatherings supporting self-determination, with a particular impact on Sahrawi women human rights defenders. On 20 March 2025 United Nations special procedure mandate holders sent a communication to Morocco expressing concern over violations affecting seventy-nine Sahrawi activists, and citing abuses linked to coastal development projects involving large-scale land acquisition, destruction of private property and displacement. Morocco denied the allegations in May 2025. A communication from special procedure mandate holders is a request for information and a statement of concern. It is not a finding of a court.

On detention the record is specific. The Secretary-General reported that the conditions of detention of Sahrawi prisoners remain a serious concern, that the Gdeim Izik prisoners remain held in prisons outside Western Sahara, that in November 2024 the Working Group on Arbitrary Detention noted that no action had been taken by Morocco to implement its opinion 23/2023 and highlighted deteriorating conditions including isolation, lack of contact with families and restricted access to medical care, and that at least one death in custody was reported. Human Rights Watch records that nineteen Sahrawi men remain imprisoned after convictions in 2013 and 2017 in trials it describes as unfair, on accusations of killing eleven members of the Moroccan security forces in 2010, with allegations of forced confessions and torture. An opinion of a

working group and a report by a non-governmental organisation are neither of them judgments, and Kaharagia does not convert them into convictions by repetition.

The humanitarian record is the part of this file least affected by the argument about status. The Secretary-General reported that after fifty years of displacement the Sahrawi refugees remain dependent on humanitarian aid; that approximately 36.16 million United States dollars of the nearly 104 million appealed for under the Sahrawi Refugee Response Plan had been received as at the end of July 2025; that a nutrition survey conducted in May 2025 found global acute malnutrition and stunting in children at 13.6 per cent and 30.7 per cent, against 10.7 per cent and 28.8 per cent in 2022, and anaemia prevalence at 68.8 per cent among women of reproductive age and 65.3 per cent among children under five; and that the World Food Programme provides assistance to the approximately 80 per cent of the Sahrawi population who are food-insecure. The confidence-building measures allowing family links between refugees in the camps and their communities of origin, established under resolution 1282 (1999) and subsequent resolutions, remain on hold, and neither party has expressed immediate interest in resuming them.

Fighting has not stopped, and the reported conduct runs in both directions. The Secretary-General reported that nearly five years have elapsed since the resumption of hostilities in 2020; that the Mission continued to receive reports of alleged shootings by the Frente POLISARIO towards units of the Royal Moroccan Army at or near the berm, and of strikes east of the berm by uncrewed aerial vehicles of that Army; that of the strikes the Mission investigated east of the berm, two caused civilian casualties and all caused material damage; and that after investigating an artillery strike by the Royal Moroccan Army in the Mijek area on 15 October 2024 the Mission was informed by local witnesses that three people had been killed, two Mauritanian and one Sudanese, all reportedly artisanal gold miners. As at 31 August 2025, twenty-four of sixty-seven known minefields and thirty-four of five hundred and forty-one recorded cluster strike areas east of the berm had yet to be cleared. Kaharagia states these facts because a recognition that does not know what it is recognising is worth nothing to the people it concerns.

## 6.2 What Recognition Does Not Authorise

Recognition is addressed to a state. It confers nothing on anyone against anybody living in the territory, displaced from it or living beyond it. Recognition does not authorise:

- The removal, denationalisation or dispossession of Moroccan civilians resident in Western Sahara, or the treatment of their lawful status as a matter of official discretion.
- Reprisals or exclusion from public life directed at Sahrawis who worked for the Moroccan administration, or at Sahrawis who argue for a status other than independence.
- The imposition of any administration by force upon a population that rejects it, or the treatment of military success on either side of the berm as settling status.
- The disposal of Western Saharan resources without transparency and public ben-

efit to the Sahrawi population, by any authority.

- Restrictions on journalists, opponents or peaceful assembly presented as a consequence of statehood, or the treatment of criticism of an administration as an attack on the state.
- Obstruction of the United Nations mission, of humanitarian access, of family visits or of work on persons unaccounted for, by any party, for any reason.
- Retaliation against Moroccan nationals, Sahrawi residents or their relatives, by any party, on account of this determination.

### 6.3 Reservations and Review

The Sovereign instrument giving effect to this determination names the Sahrawi Arab Democratic Republic a state, declines to recognise Moroccan sovereignty over Western Sahara absent the freely expressed consent of the Sahrawi people, avoids procurement and agreements treating Western Saharan resources as Moroccan without that consent, and supports the United Nations process on the footing that independence remains a genuine option. The following are excluded from the effect of the act.

- Diplomatic relations, which DM-2026-001 leaves to a separate decision.
- Accreditation, immunity and privilege, which recognition confers on no one.
- Endorsement of any Sahrawi administration or office-holder.
- The line of control, which is divided in fact and awaits peaceful settlement, not Kaharagian declaration.
- Relations with Morocco, which are not severed, and Moroccan nationals, against whom no accusation is made.

Recognition states the Kaharagian position. It binds no other state and alters no fact on the ground.

DM-2026-001 requires review when control, borders, democratic conditions or the position of the people materially change. Five developments trigger it here: a free and genuine Sahrawi act of self-determination, whatever status it chooses, which Kaharagian policy would follow; a settlement freely agreed between the parties; material deterioration in the conduct of Sahrawi institutions, including the treatment of detainees, opponents and persons unaccounted for; evidence that Sahrawi institutions cannot refuse, renegotiate or terminate the arrangements on which they depend; and a decision of the Security Council determining the status of the Territory or addressing the recognition of any entity in it.

## 7. Operative Declaration

The State of Kaharagia recognises the Sahrawi Arab Democratic Republic as the sovereign state of the Sahrawi people in Western Sahara. It does not recognise Moroccan sovereignty over Western Sahara absent the freely expressed consent of the Sahrawi people. Recognition is accompanied by commitments to a peaceful United Nations process, protection of all present residents, refugee return and compensation, human-rights monitoring, and a final settlement in which independence remains a genuine option. Diplomatic relations may be established separately.

## 8. Publication and Legal Effect

This memorandum is a public statement of the foreign policy of the State of Kaharagia, published by authority of the Sovereign. Under Kaharagian constitutional practice, the recognition or non-recognition of a state, the recognition of a government, the establishment of a diplomatic mission, the imposition of sanctions and the entry into formal diplomatic relations remain decisions reserved to the Sovereign and implemented through the appropriate instrument. This memorandum states the grounds, scope, reservations and consequences of the policy adopted; it does not by itself confer accreditation, immunity or privilege, and the recognition it states was effected by Sovereign instrument.

This memorandum is published in the Diplomatic Memorandum Series by the Office of the Sovereign's Printer. Its serial reference shall be preserved in every separate or electronic edition. Organs of State shall conform their terminology, publications, procurement, entry decisions and official contact to the determinations recorded here. Material changes in facts, control, legal proceedings or the formally expressed position of the people concerned shall trigger review under the heading above.

### Selected Authorities and Official Materials

*Every authority in this list was retrieved and read in the preparation of this publication, each against the issuing body's own publication except where the entry states otherwise. Each entry gives the title, the issuing body, the date, what the source records on the points for which this publication relies on it, and a source link. Advisory opinions, judgments of the Court of Justice of the European Union and the press releases reporting them, decisions of the Security Council, recommendations of the General Assembly, advice of the Legal Counsel, reports of the Secretary-General, proposals circulated by Member States, reports of non-governmental organisations and independent reporting on the work of the Council are identified according to their actual legal character, and none is described as more than it is.*

1. *Western Sahara*. International Court of Justice, Advisory Opinion, 16 October 1975. Answers the two questions put to the Court by the General Assembly. Records the finding that Western Sahara at the time of colonisation by Spain was not territory belonging to no one; that legal ties of allegiance existed between the Sultan of Morocco and some of the tribes living in the territory, and legal ties existed between the Mauritanian entity and the territory; and that the materials and information presented to the Court did not establish any tie of territorial sovereignty between Western Sahara and the Kingdom of Morocco or the Mauritanian entity, nor legal ties of such a nature as might affect the application of resolution 1514 (XV) and, in particular, of the principle of self-determination through the free and genuine expression of the will of the peoples of the Territory. An advisory opinion, not a judgment against a party.  
<https://www.icj-cij.org/case/61>
2. *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*. International Court of Justice, Advisory Opinion, 25 February 2019. Records the finding that the detachment of 1965 was not based on the free and genuine expression of the will of the people concerned, that the decolonisation of Mauritius was accordingly not lawfully completed when it acceded to independence in 1968, and that the United Kingdom is under an obligation to bring its administration of the Archipelago to an end as rapidly as possible. An advisory opinion, which binds no state as a judgment binds the parties to a contentious case.  
<https://www.icj-cij.org/case/169>
3. *Declaration on the Granting of Independence to Colonial Countries and Peoples*. General Assembly resolution 1514 (XV), 947th plenary meeting, 14 December 1960. Paragraph 5 requires immediate steps to be taken to transfer all powers to the peoples of Trust and Non-Self-Governing Territories, without any conditions or reservations, in accordance

with their freely expressed will and desire. A recommendation of the General Assembly.  
[https://documents.un.org/api/symbol/access?s=A/RES/1514\(XV\)&l=E&t=pdf](https://documents.un.org/api/symbol/access?s=A/RES/1514(XV)&l=E&t=pdf)

4. *Principles which should guide Members in determining whether or not an obligation exists to transmit the information called for under Article 73 e of the Charter.* General Assembly resolution 1541 (XV), 15 December 1960. Provides that the three routes by which a Non-Self-Governing Territory reaches a full measure of self-government are emergence as a sovereign independent State, free association with an independent State and integration with an independent State, and that the wishes of the people are to be expressed through informed and democratic processes, impartially conducted and based on universal adult suffrage. A recommendation of the General Assembly.  
[https://documents.un.org/api/symbol/access?s=A/RES/1541\(XV\)&l=E&t=pdf](https://documents.un.org/api/symbol/access?s=A/RES/1541(XV)&l=E&t=pdf)
5. *Declaration on Principles of International Law concerning Friendly Relations.* General Assembly resolution 2625 (XXV), 1883rd plenary meeting, 24 October 1970. Provides that the territory of a colony or other Non-Self-Governing Territory has, under the Charter, a status separate and distinct from the territory of the State administering it, and that the separate and distinct status shall exist until the people of that territory have exercised their right of self-determination; and that the establishment of a sovereign and independent State, the free association or integration with an independent State, or the emergence into any other political status freely determined by a people, are modes of implementing that right. A recommendation of the General Assembly.  
[https://documents.un.org/api/symbol/access?s=A/RES/2625\(XXV\)&l=E&t=pdf](https://documents.un.org/api/symbol/access?s=A/RES/2625(XXV)&l=E&t=pdf)
6. *Question of Spanish Sahara.* General Assembly resolutions 3458 A and 3458 B (XXX), 2435th plenary meeting, 10 December 1975. Resolution 3458 A reaffirms the inalienable right of the people of Spanish Sahara to self-determination and requests Spain, as the administering Power, to take immediately all necessary measures so that all Saharans originating in the Territory may exercise fully and freely, under United Nations supervision, their inalienable right to self-determination. Resolution 3458 B takes note of the tripartite agreement concluded at Madrid, reaffirms the right of all the Saharan populations originating in the Territory, and requests the interim administration to take all necessary steps to ensure that they can exercise that right through free consultations organised with the assistance of a representative of the United Nations appointed by the Secretary-General. Recommendations of the General Assembly.  
[https://documents.un.org/api/symbol/access?s=A/RES/3458\(XXX\)&l=E&t=pdf](https://documents.un.org/api/symbol/access?s=A/RES/3458(XXX)&l=E&t=pdf)
7. *Question of Western Sahara.* General Assembly resolution 34/37, 75th plenary meeting, 21 November 1979. Deeply deplores the aggravation of the situation resulting from the continued occupation of Western Sahara by Morocco and the extension of that occupation to the territory recently evacuated by Mauritania; urges Morocco to join in the peace process and to terminate the occupation; and recommends that the Frente POLISARIO, the representative of the people of Western Sahara, should participate fully in any search for a settlement. A recommendation of the General Assembly and not a binding decision.  
<https://documents.un.org/api/symbol/access?s=A/RES/34/37&l=E&t=pdf>
8. *Question of Western Sahara.* General Assembly resolution 80/89, 55th plenary meeting, 5 December 2025, on the report of the Fourth Committee. Reaffirms the inalienable right of all peoples to self-determination and independence in accordance with the Charter and resolution 1514 (XV); recognises that all available options for self-determination of the Territories are valid as long as they are in accordance with the freely expressed wishes of the people concerned and in conformity with the principles contained in resolutions 1514 (XV) and 1541 (XV); reaffirms the responsibility of the United Nations towards the people of Western Sahara; and requests the Special Committee on decolonisation to continue to consider the situation in Western Sahara and to report to the Assembly at its eighty-first session. A recommendation of the General Assembly.  
<https://documents.un.org/api/symbol/access?s=A/RES/80/89&l=E&t=pdf>
9. *Security Council resolution 658 (1990).* 2929th meeting, 27 June 1990, adopted unanimously. Operative paragraph 2 approves the report of the Secretary-General transmitted to the Council in accordance with resolution 621 (1988), which contains the full text of the settlement proposals as accepted by the two parties on 30 August 1988 as well as an outline of the plan provided by the Secretary-General in order to implement those proposals. Paragraph 1 expresses full support for the Secretary-General in his mission of good offices, pursued jointly with the current Chairman of the Assembly of Heads of State and Government of the Organization of African Unity, and paragraph 5 requests a further detailed report containing an estimate of the cost of the Mission, on the understanding that that report is to be the basis on which the Council would

- authorise the establishment of the Mission. Obtained in the Council's compilation of resolutions and decisions for 1990.  
[https://documents.un.org/api/symbol/access?s=S/RES/658\(1990\)&l=E&t=pdf](https://documents.un.org/api/symbol/access?s=S/RES/658(1990)&l=E&t=pdf)
10. *Security Council resolution 690 (1991)*. 2984th meeting, 29 April 1991, adopted unanimously. Expresses full support for the organisation and supervision by the United Nations, in cooperation with the Organization of African Unity, of a referendum for self-determination of the people of Western Sahara, and decides to establish under the Council's authority the United Nations Mission for the Referendum in Western Sahara.  
[https://documents.un.org/api/symbol/access?s=S/RES/690\(1991\)&l=E&t=pdf](https://documents.un.org/api/symbol/access?s=S/RES/690(1991)&l=E&t=pdf)
  11. *Security Council resolution 1495 (2003)*. 4801st meeting, 31 July 2003, acting under Chapter VI. Supports the Peace plan for self-determination of the people of Western Sahara presented by the Personal Envoy of the Secretary-General as an optimum political solution on the basis of agreement between the two parties; reaffirms the call upon the Frente POLISARIO to release without further delay all remaining prisoners of war in compliance with international humanitarian law; and reaffirms the call upon both parties to work with the International Committee of the Red Cross to resolve the fate of persons unaccounted for since the beginning of the conflict.  
[https://documents.un.org/api/symbol/access?s=S/RES/1495\(2003\)&l=E&t=pdf](https://documents.un.org/api/symbol/access?s=S/RES/1495(2003)&l=E&t=pdf)
  12. *Security Council resolution 2797 (2025)*. 10030th meeting, 31 October 2025. Operative paragraph 1 extends the mandate of the Mission until 31 October 2026. The resolution expresses full support for the Secretary-General and his Personal Envoy in facilitating and conducting negotiations taking as basis Morocco's Autonomy Proposal, presented on 11 April 2007, and calls upon the parties to engage in those discussions without preconditions on that basis; operative paragraph 3 calls for a final and mutually acceptable political solution that provides for the self-determination of the people of Western Sahara; the preamble records the support expressed by many Member States for that proposal and affirms that genuine autonomy under Moroccan sovereignty could constitute a most feasible solution; and the Council requests a strategic review of the Mission's future mandate within six months. The resolution calls upon no state to withhold recognition, declares no entity legally invalid and determines the status of no territory.  
[https://documents.un.org/api/symbol/access?s=S/RES/2797\(2025\)&l=E&t=pdf](https://documents.un.org/api/symbol/access?s=S/RES/2797(2025)&l=E&t=pdf)
  13. *Letter dated 29 January 2002 from the Under-Secretary-General for Legal Affairs, the Legal Counsel, addressed to the President of the Security Council (S/2002/161)*. Circulated 12 February 2002; signed Hans Corell. Paragraph 5 records that Spanish Sahara was included in 1963 in the list of Non-Self-Governing Territories under Chapter XI of the Charter, and that beginning in 1962 Spain as administering Power transmitted technical and statistical information on the Territory under Article 73 e. Paragraph 6 records that the Madrid Agreement of 14 November 1975 transferred the powers and responsibilities of Spain to a temporary tripartite administration, that it did not transfer sovereignty over the Territory nor confer upon any signatory the status of administering Power, a status which Spain alone could not have unilaterally transferred, and that the transfer of administrative authority to Morocco and Mauritania in 1975 did not affect the international status of Western Sahara as a Non-Self-Governing Territory. Paragraph 7 records Spain's notification of 26 February 1976 that it had terminated its presence and relinquished its responsibilities, the withdrawal of Mauritania in 1979 upon the agreement of 19 August 1979, Morocco's sole administration since, and that Morocco is not listed as the administering Power and has therefore not transmitted information under Article 73 e. Paragraphs 24 and 25 record that resource activities conducted for the benefit of the peoples of Non-Self-Governing Territories, on their behalf or in consultation with their representatives, are considered compatible with the Charter obligations of the administering Power, and conclude that while the specific reconnaissance and evaluation contracts before the Council were not in themselves illegal, further exploration and exploitation proceeding in disregard of the interests and wishes of the people of Western Sahara would be in violation of the principles of international law applicable to mineral resource activities in such Territories. Advice of the Legal Counsel to an organ of the United Nations, not a judgment, and binding on no state.  
<https://documents.un.org/api/symbol/access?s=S/2002/161&l=E&t=pdf>
  14. *Letter dated 11 April 2007 from the Permanent Representative of Morocco (S/2007/206)*, annexing the 'Moroccan initiative for negotiating an autonomy statute for the Sahara region'. Records the offer to the populations of the region of legislative, executive and judicial bodies with powers over local administration and police, economic development, the regional budget and taxation, infrastructure, housing, education,

health, employment, culture and environment, with representation in the national Parliament and participation in national elections; the reservation to the State of exclusive jurisdiction over the attributes of sovereignty, including the flag, the national anthem and the currency, over the constitutional and religious prerogatives of the King, over national security, external defence and defence of territorial integrity, over external relations and over the Kingdom's juridical order; the election of the Head of Government of the Region by the regional Parliament and investiture by the King; the requirement that laws, regulations and court rulings of the Region's bodies be consistent with the Kingdom's Constitution; and paragraph 27, providing that the autonomy Statute shall be submitted to the populations concerned in a free referendum which will constitute a free exercise by those populations of their right to self-determination. A proposal circulated by a Member State, not an act of the Council.

<https://documents.un.org/api/symbol/access?s=S/2007/206&l=E&t=pdf>

15. *Letter dated 16 April 2007 from the Permanent Representative of South Africa (S/2007/210)*, annexing the Frente POLISARIO proposal. Records the offer of a referendum on the format of the Peace plan supported by the Council in 2003, namely the choice between independence, integration into the Kingdom of Morocco and self-governance, with a commitment to accept the result whatever it is; and, in the event that the referendum led to independence, negotiated guarantees to Morocco and to the Moroccan population residing in Western Sahara covering their status and their participation in the political, economic and social life of the territory, mutual recognition of the sovereignty and territorial integrity of the two countries on the principle of the intangibility of borders inherited from the independence period, joint arrangements over natural resources, and Sahrawi nationality for any Moroccan citizen legally established in the territory who applies for it. A published position of a party to the conflict, circulated by a Member State.  
<https://documents.un.org/api/symbol/access?s=S/2007/210&l=E&t=pdf>
16. *Situation concerning Western Sahara: Report of the Secretary-General (S/2025/612)*, 30 September 2025, submitted pursuant to resolution 2756 (2024) and covering developments since the report of 1 October 2024. Records the statement of 8 April 2025 in which the Secretary of State of the United States reiterated his Government's recognition of Moroccan sovereignty over Western Sahara and urged use of Morocco's Autonomy Proposal as the only framework; the joint communiqué of 1 June 2025 in which the United Kingdom described the Moroccan autonomy plan as the most credible, viable and pragmatic basis for a lasting resolution; that according to a national census conducted by Moroccan authorities in September 2024 covering the Territory west of the berm the population of that part had increased from approximately 450,000 to 600,000 since the previous survey in 2014; that the Minister for Foreign Affairs of Algeria continued to support the positions expressed by the Frente POLISARIO while insisting that his country did not consider itself a party to the conflict; that east of the berm the Mission conducts ground patrols accompanied by the Frente POLISARIO, that the Frente POLISARIO restricts those patrols to a distance of twenty kilometres from each team site and has not permitted helicopter reconnaissance flights since November 2020, that liaison meetings continued with Frente POLISARIO liaison officers, that the Mine Action Service maintains cooperation through the Sahrawi Mine Action Coordination Office, and that on nine separate alleged incidents the Frente POLISARIO either denied or did not confirm investigation; that two of the strikes investigated east of the berm caused civilian casualties and all caused material damage; that on 15 October 2024 the Mission investigated an artillery strike by the Royal Moroccan Army in the Mijek area and was informed by local witnesses of three deaths, two Mauritanian and one Sudanese, all reportedly artisanal gold miners; that as at 31 August 2025 twenty-four of sixty-seven known minefields and thirty-four of five hundred and forty-one recorded cluster strike areas east of the berm had yet to be cleared; that the question of persons still unaccounted for remains a major humanitarian concern and the International Committee of the Red Cross remained ready to act as a neutral intermediary; that the confidence-building measures pursuant to resolution 1282 (1999) and subsequent resolutions allowing family links between refugees in the Tindouf camps and their communities of origin remained on hold, neither party having expressed immediate interest; that approximately 36.16 million United States dollars of the nearly 104 million appealed for had been received as at the end of July 2025; that a nutrition survey conducted in May 2025 found global acute malnutrition and stunting in children at 13.6 per cent and 30.7 per cent against 10.7 per cent and 28.8 per cent in 2022, and anaemia at 68.8 per cent among women of reproductive age and 65.3 per cent among children under five; that after fifty years of displacement the refugees in the five camps near Tindouf remain dependent on humanitarian aid; that the Office of the United Nations High Commissioner for Human Rights has not been granted access to the Territory since 2015

- despite repeated requests and although the Council, most recently in resolution 2756 (2024), strongly urged enhanced cooperation with that Office, and that the lack of independent, impartial, comprehensive and sustained monitoring remained detrimental to assessment of the situation, with international observers including parliamentarians, lawyers and journalists reportedly facing entry restrictions and dozens denied entry or expelled; that the Office continued to receive reports of shrinking civic space and restrictions on freedom of expression, association and peaceful assembly amid growing surveillance, harassment and intimidation, and of the suppression of gatherings supporting self-determination with a particular impact on Sahrawi women human rights defenders; that on 20 March 2025 special procedure mandate holders sent a communication to Morocco concerning violations affecting seventy-nine Sahrawi activists and abuses linked to coastal development projects entailing large-scale land acquisition, destruction of private property and displacement, which Morocco denied in May 2025; that the Gdeim Izik prisoners remained held in prisons outside Western Sahara, that in November 2024 the Working Group on Arbitrary Detention noted that no action had been taken by Morocco to implement its opinion 23/2023 and highlighted deteriorating conditions including isolation, lack of contact with families and restricted access to medical care, and that at least one death in custody was reported; and that following the judgments of the Court of Justice of the European Union in October 2024 the Office received reports indicating that the Sahrawi population does not benefit from the exploitation by Morocco of natural resources in the Territory and stating that this is inconsistent with the principle of self-determination applicable to the people of Western Sahara. A report of the Secretary-General to the Council, not a judicial determination.  
<https://documents.un.org/api/symbol/access?s=S/2025/612&l=E&t=pdf>
17. *Court of Justice of the European Union, Press Release No 170/24, 4 October 2024, on the Grand Chamber judgments in Joined Cases C-778/21 P and C-798/21 P and Joined Cases C-779/21 P and C-799/21 P, Commission and Council v Front Polisario.* Records the dismissal of the appeals in their entirety; the holding that implementation in the territory of Western Sahara of the 2019 fisheries and agricultural agreements must receive the consent of the people of Western Sahara, which is the sole holder of the right to self-determination with regard to that territory, and that such consent was not given; that the consultation process carried out before the contested decisions did not concern the people of Western Sahara but the inhabitants currently present in that territory, irrespective of whether or not they belong to that people, a significant proportion of that people now living outside the territory, a large part having been in exile since the 1970s and having found refuge in Algeria; that consent may be presumed only where the agreement gives rise to no obligation for that people and confers on it a specific, tangible, substantial and verifiable benefit deriving from the exploitation of the territory's natural resources and proportional to the degree of that exploitation, the second condition being unsatisfied because the agreements confer no rights or benefits on that people; that the Front Polisario is a privileged interlocutor in the process conducted under the auspices of the United Nations with a view to determining the future status of Western Sahara and satisfies the conditions to challenge the decisions before the Union judicature in the interests of that people; and that the decision concerning fisheries expired in July 2023 while the effects of the decision on agricultural products were maintained for twelve months. Issued by the Court's press service for media use and stated on its face not to bind the Court; the judgments are the operative acts.  
<https://curia.europa.eu/jcms/upload/docs/application/pdf/2024-10/cp240170en.pdf>
  18. *Court of Justice of the European Union, Press Release No 169/24, 4 October 2024, on the Grand Chamber judgment in Case C-399/22, Confédération paysanne, on a reference for a preliminary ruling from the French Conseil d'État.* Records the holding that the indication of country of origin on melons and tomatoes harvested in Western Sahara may designate only Western Sahara, because those goods are harvested in that territory, that the territory is separate from Morocco and is a customs territory within the meaning of Union law, and that any other indication would be likely to suggest to consumers an origin other than the territory of harvest; and the holding that a Member State may not unilaterally ban such imports, that measure falling within the exclusive competence of the Union. Records also that the majority of the territory of Western Sahara is currently controlled by Morocco, while the Front Polisario controls a smaller and very sparsely populated area in the east of that territory. A preliminary ruling interprets Union law for the referring court and does not decide the underlying dispute.  
<https://curia.europa.eu/jcms/upload/docs/application/pdf/2024-10/cp240169en.pdf>
  19. *MINURSO: Background.* United Nations Mission for the Referendum in Western Sahara. Records that the settlement proposals were accepted on 30 August 1988 by Morocco and

the Frente POLISARIO; that the referendum in Western Sahara was to take place in January 1992; that the Identification Commission was established in 1991 and that the Mission began the process of identifying potential voters in August 1994; that the Secretary-General suspended the identification process in May 1996; and that in 2004 the Identification Commission formally completed its work, transferring all the documentation to Geneva. The page carries no account of the listing of the Territory in 1963, for which this publication relies on the letter of the Legal Counsel.  
<https://minurso.unmissions.org/en/background>

20. *United Nations Mission for the Referendum in Western Sahara (MINURSO)*. Official site of the Mission. Gives the Mission's full name and describes its present work as monitoring, investigating and reporting on the military activities of the parties and on general developments in Western Sahara, together with mine action and support for the political process led by the Secretary-General and his Personal Envoy.  
<https://minurso.unmissions.org/>
21. *Member States: country profiles*. African Union. Lists the Sahrawi Arab Democratic Republic among the member states of the Union, in the Northern Africa region, with 22 February 1982 as the date of admission.  
[https://au.int/en/member\\_states/countryprofiles2](https://au.int/en/member_states/countryprofiles2)
22. *World Report 2026: Morocco and Western Sahara*. Human Rights Watch, 2026 edition. Records the estimate of the Office of the United Nations High Commissioner for Refugees that 173,000 Sahrawi refugees were living in five camps near the south-western Algerian town of Tindouf, and that nineteen Sahrawi men known as the Gdeim Izik group remained in prison after being convicted in 2013 and 2017 of killing eleven Moroccan security force members in 2010, in trials the organisation describes as unfair and amid allegations of forced confessions and torture. A report by a non-governmental organisation; its characterisation of those trials is that organisation's own finding and not a judicial determination.  
<https://www.hrw.org/world-report/2026/country-chapters/morocco-and-western-sahara>
23. *Western Sahara, April 2026 Monthly Forecast*. Security Council Report, April 2026. Independent reporting on the programme of work of the Council. Records that in early February 2026 the United States convened ministerial-level delegations from Algeria, Mauritania, Morocco and the Frente POLISARIO for direct talks in Madrid, the first time since 2019 that all had met in person; that Morocco reportedly presented a revised version of its 2007 autonomy proposal; that the United States hosted the four delegations in Washington for a further round on 23 and 24 February 2026, co-chaired by the Personal Envoy; that the Secretary-General was expected to submit a strategic review of the Mission's future mandate in April 2026; that resolution 2797 (2025) renewed the mandate of the Mission until 31 October 2026; and that the resolution was adopted with eleven votes in favour and three abstentions, by China, Pakistan and the Russian Federation, Algeria, then a member of the Council, not voting. Not an official record of the Council.  
<https://www.securitycouncilreport.org/monthly-forecast/2026-04/western-sahara-16.php>
24. *Montevideo Convention on the Rights and Duties of States: text*. Signed 26 December 1933. Article 1 states the qualifications of the state as a person of international law: a permanent population, a defined territory, government, and capacity to enter into relations with the other states. Article 3 provides that the political existence of the state is independent of recognition by the other states. The text is reproduced by a university library collection and not by a depositary.  
<https://www.jus.uio.no/english/services/library/treaties/01/1-02/rights-duties-states.html>
25. *Security Council resolution 541 (1983)*. 2500th meeting, 18 November 1983. Considers the declaration purporting to establish an independent state in northern Cyprus legally invalid and calls upon all States not to recognise any Cypriot State other than the Republic of Cyprus. Recorded here for the contrast with resolution 2797 (2025), which calls upon no state to withhold recognition from anyone.  
[https://documents.un.org/api/symbol/access?s=S/RES/541\(1983\)&l=E&t=pdf](https://documents.un.org/api/symbol/access?s=S/RES/541(1983)&l=E&t=pdf)
26. *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*. International Court of Justice, Advisory Opinion, 19 July 2024; the obligation of all States not to recognise as legal the situation arising from Israel's unlawful presence. An advisory opinion, not a judgment. Cited only for the contrast drawn with DM-2026-010.  
<https://www.icj-cij.org/case/186>

# Diplomatic Memorandum on the Recognition of the Republic of Somaliland

*Restored independence, effective statehood and contested eastern districts*

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POSITION OF THE STATE

Kaharagia recognises the Republic of Somaliland as a sovereign state, with an express reservation concerning the contested districts of Sool, Sanaag and Cayn

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|                         |                                                                                                                                                             |
|-------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SELF-DETERMINATION      | Recognised. The population of Somaliland has maintained a durable claim to restored independence.                                                           |
| STATE RECOGNITION       | Extended.                                                                                                                                                   |
| GOVERNMENT              | Somaliland's constitutional institutions are recognised as entitled to act for the state, subject to democratic and human-rights obligations.               |
| DIPLOMATIC RELATIONS    | Not established by this instrument. Reserved to a separate decision.                                                                                        |
| TERRITORIAL RESERVATION | The final status of the contested parts of Sool, Sanaag and Cayn is excluded from the effect of this act, to be resolved peacefully and with local consent. |

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COMMON DOCTRINAL BASIS

*A people's right to self-determination is not extinguished by an inherited border. Nor is it fulfilled by foreign occupation, coerced integration, ethnic cleansing, demographic engineering, or a nominal independence maintained under another state's effective control. Recognition of a state is separate from endorsement of its government and from the establishment of diplomatic relations.*

## 1. Executive Position

Kaharagia recognises the Republic of Somaliland as a sovereign state. Somaliland corresponds broadly to the former British Somaliland Protectorate, which became independent on 26 June 1960 and entered a union with the former Italian-administered territory days later. The united Somali Republic was admitted to the United Nations as a single state on 20 September 1960, on the recommendation of the Security Council. Following state collapse and mass violence, a conference of northern communities at Burco in 1991 declared independence and disbanded the 1960 Act of Union, and Somaliland has maintained separate institutions since.

Recognition carries one reservation, and that reservation is part of the act. Kaharagia does not recognise Somaliland's title to the contested parts of Sool, Sanaag and Cayn. Those districts are excluded from the effect of the act, to be settled peacefully and with local consent. Recognition opens no mission, fixes no eastern boundary and endorses no administration in Hargeisa.

Recognition does not rest on the convenience of a patron. Israel announced recognition of Somaliland on 26 December 2025, and that announcement changed the diplomatic context. It is not the source of Somaliland's claim and it is not the reason for this act. Kaharagia's grounds are three decades older than that announcement and would stand if it were withdrawn tomorrow: sustained popular will, effective governance, an inherited external boundary, and the failure of the union to produce an accepted common state.

### 1.1 The Somaliland Disposition: Recognition With Reservations

Somaliland is decided on four separate questions, and an answer to one leaves the others open, and nothing is decided by implication. Taken in order:

- **The right of self-determination.** Recognised. The population of Somaliland has maintained a durable claim to restored independence.
- **Statehood.** Recognised, subject to the territorial reservation set out below.
- **Government.** Somaliland's constitutional institutions are recognised as entitled to act for the state, subject to democratic and human-rights obligations. No administration in office is endorsed by this act.
- **Diplomatic relations.** Not established here. They may be established separately by a decision of the Sovereign.

The disposition is recognition with reservations, the second of the five in DM-2026-001. Kaharagia recognises the constitutional institutions of Somaliland, not the record of whoever occupies them, and one identified question is excluded from the effect of the act. That separation allows the criticisms below to be made without unsettling the recognition. A reservation of this kind is a determination in its own right.

## 2. The Claim Tested: Restored Statehood, Not Provincial Secession

DM-2026-001 requires a case to be placed in one of three families before any further test is applied, because the claimant's burden differs according to where the claim begins. Classification is what Somalia and Somaliland disagree about. Somalia's classification is separation from a settled state, the third family and the heaviest burden: the claimant must show that internal self-determination has been denied and that no rights-respecting constitutional remedy remains. Somaliland's is the second family, restored statehood after a contested union, which resumes a former status and draws no new frontier.

Neither party chooses. Classification is a question of history. A parent state cannot convert one family into another by administering a territory for long enough, and a claimant cannot convert an ordinary separation into a restoration by asserting an older sovereignty it cannot demonstrate. Somaliland could fail that test and does not. The former protectorate became independent on 26 June 1960 and entered the union days later. That is a separate international personality, however brief, and it is a matter of record.

The union's foundation is contested on the African Union's own evidence. A fact-finding mission led by the Deputy Chairperson of the Commission visited Somaliland from 30 April to 4 May 2005 and reported that the union between Somaliland and Somalia "was never ratified" and that it malfunctioned "when it went into action from 1960 to 1990". That finding was made by the organisation whose settled practice is now urged against the claim, and it was made twenty years before the present dispute arose.

What the union later produced in the north is documented, and its legal character must be stated exactly. A preliminary study prepared for the United Nations by a consultant, Chris Mburu, and commissioned jointly by the United Nations Co-ordination Unit under UNDP-Somalia and the Office of the High Commissioner for Human Rights, concluded that "the crime of genocide was conceived, planned and perpetrated by the Somali Government against the Isaaq people of northern Somali between 1987 and 1989". That document is a draft preliminary study by an individual consultant, carried out between December 2001 and March 2002. It is not a determination of any organ of the United Nations, and no court has entered judgment on the allegation. The same study records reports that the Somali National Movement executed captured government soldiers, which it describes as a clear violation of the Geneva Conventions. Kaharagia records the study for what it is and does not convert it into a conviction by repetition.

Somaliland is therefore not required to show that no constitutional remedy remains inside Somalia, because it is not asking to leave a settled state. It must show that the prior status existed, that the union is genuinely contested, and that the people concerned sustain the claim across time. Nor is this unfinished decolonisation, and Kaharagia does not borrow that vocabulary from DM-2026-006. The people of the protectorate were not prevented from choosing. They chose in 1960, and the complaint concerns what the choice produced.

## 2.1 The Inherited Border, Taken at Full Strength

The African Union has rejected recognition and reaffirmed Somalia's unity and territorial integrity, invoking the principle of inherited borders. The objection deserves its full weight. Africa's colonial frontiers were drawn without the consent of the people inside them, and treating them as fixed accepted a bad set of lines to avoid fighting over each one. A state that unpicks that settlement for a case it finds sympathetic must answer for the cases that follow, and the weakest states pay first.

The instrument invoked can be read. Resolution AHG/Res.16(I), adopted by the Assembly of Heads of State and Government of the Organization of African Unity at Cairo between 17 and 21 July 1964, declares that "all Member States pledge themselves to respect the borders existing on their achievement of national independence". Somaliland claims the borders existing on the achievement of its national independence on 26 June 1960. The African Union's 2005 mission recorded that Somaliland's state-building was anchored "on the recognition by the Somalilanders of the inherited colonial borders at the time of independence from Britain in June 1960". Read as written, the Cairo pledge is the foundation of this claim rather than the answer to it.

DM-2026-001 accepts the presumption and states what it is for. An inherited boundary settles which line is the starting point, not whether the people inside it have consented. The same principle may therefore support a claim to restore a former external boundary and defeat a claim to draw a new internal one. Applied here it runs with Somaliland, which claims the external limit of the former protectorate, proposes no frontier matched to clan settlement, and asks no neighbour to surrender territory. Recognition on that basis establishes nothing for a movement seeking to divide an African state along ethnic lines, which would sit in the third family and carry the heavier burden. The answer holds only while Somaliland's claim stays inside the protectorate line. A Somaliland that redrew the eastern boundary to match whoever could be governed would forfeit the argument that carries it here, and the reservation entered below is what keeps the two propositions consistent.

The African Union has said more than one thing about this case, and both statements are before the Secretariat. The 2005 mission reported that the failure of the union made Somaliland's search for recognition "historically unique and self-justified in African political history", that the case "should not be linked to the notion of 'opening a Pandora's box'", and that the Union "should find a special method of dealing with this outstanding case". On 26 December 2025 the Chairperson of the Commission rejected any recognition, stated that Somaliland "remains an integral part of the Federal Republic of Somalia", and invoked the intangibility of inherited borders under the 1964 decision. Kaharagia treats neither statement as an adjudication. It records that the objection from continental practice was answered, on the same facts, by a mission the continent sent.

## 2.2 The Peace and Security Council Communiqué and the Duty of Non-Recognition

On 6 January 2026 the Peace and Security Council of the African Union met at ministerial level, its 1324th meeting, and addressed the preservation of Somalia's sovereignty and territorial integrity. It condemned and rejected Israel's recognition and called for

its immediate revocation. It declared that no actor has the authority or standing to alter the territorial configuration of a Member State and that “any such declaration is null, void, and without legal effect under international law”. It called upon Member States and international partners to reaffirm Somalia’s sovereignty and unity and to reject illegal acts undermining international principles. It reaffirmed the Cairo pledge of 1964.

DM-2026-001 requires that instrument to be classified before it is weighed. It is a decision of a regional organisation, taken by its executive organ for peace and security and addressed to its own members and to partners. It is not a judgment, it determines the status of no territory, and it does not in terms call upon states to withhold recognition. The duty of non-recognition in DM-2026-001 arises where a situation is the product of a serious breach of a peremptory norm, and in particular where competent international organs have called upon states to withhold recognition. The communiqué identifies no peremptory norm breached by Somaliland. It rests on territorial integrity and on inherited borders, and it is directed at the act of a third state rather than at the conduct of the entity whose status is in issue.

The contrast with DM-2026-008 is exact, and it is the reason the two files end differently. Security Council resolution 541 (1983) deplored the declaration of 15 November 1983 as legally invalid, called for its withdrawal, and called upon all States not to recognise any Cypriot State other than the Republic of Cyprus. No resolution of the Security Council addresses the status of Somaliland. Were an instrument of that character to issue, this determination would fall to be reconsidered under that heading rather than on its merits, because a duty of that kind cannot be cured by attaching reservations.

### **2.3 The 2001 Referendum and What the Evidence Will Bear**

Somaliland’s Constitution affirmed independence and was approved at a referendum held on 31 May 2001. A ten-person monitoring team of the Initiative and Referendum Institute reported approval by about 97 per cent of those voting, on a turnout the team put at more than 66 per cent of the estimated voting-age population. A result reported by the authority it vindicates is evidence, not proof, and the observers recorded their own limits: the Somaliland government provided all transport and translators, and the Somaliland Forum paid the delegation’s airfare, food and lodging. Kaharagia does not rest a recognition on a figure it cannot test.

The recognition does not rest there. A referendum records a preference on one day. Somaliland has maintained civil administration, courts, an electoral commission and a biometric voter register carrying 1,227,048 names by 2024, and has sustained a separate political order for more than three decades, with a stability that distinguishes it from much of Somalia’s experience since 1991. Persistence of that kind is evidence a single vote cannot supply. Effectiveness alone creates no right to secede, and DM-2026-001 is explicit that functioning institutions settle no status question. It matters here because of what it is combined with: a prior separate boundary, a voluntarily attempted union, decades of separate political development and persistent popular support. Remove the first and this becomes an ordinary secession.

DM-2026-001 imposes a prior question. Before asking what a people has chosen, Kaharagia shall ask who was permitted to choose. The 2001 record answers it in part, and

the part it leaves open is the reason for the reservation. The Institute's delegation observed 57 of 600 polling stations in five of Somaliland's six regions. It chose to send no observer at all to Sool, which it described as the most volatile region of Somaliland with opposition to the referendum, and sent a single observer to Sanaag. On the certified results the Institute reported, Sool returned the highest negative vote of any region at 16 per cent against, where the other five regions averaged 98 per cent in favour. In the Las Anod district 45 per cent voted against, and the negative vote prevailed in nine of the 23 polling stations there.

Two conclusions follow from that record, and neither is convenient. The eastern districts did take part, so the assertion that they were simply excluded from the founding act is not made out. And the one region that divided is the region no independent observer watched. The Institute also recorded that in Sool and Sanaag, populated substantially by clans other than the Isaaq, some inhabitants did not recognise the independence of Somaliland and continued to consider themselves part of a larger Somalia. Where the constituency can be defended, the claim is made out. Where it cannot, the claim is not defeated; it is reserved.

### **3. Unrecognised, and Without a Sponsor**

DM-2026-001 locates every case on a scale of three. Dependency is ordinary among recognised states and does not defeat statehood. Effective control shifts the burden, and the entity must then show that the will it expresses is its own. Absorption is the condition the core maxim forbids. That scale decides DM-2026-002, DM-2026-003 and DM-2026-004. It does not decide DM-2026-008. That file places Northern Cyprus at effective control on the same scale, then withholds recognition on a duty of non-recognition, which no position on the scale supplies. On the present file the scale is the least contested part of the case.

Somaliland has maintained public institutions, security structures, taxation, elections and external relations for decades without the level of foreign military sponsorship found in several other unrecognised entities. Its settlement was built at its own conferences. The Burco conference of 1991 reconciled the warring parties, disbanded the 1960 Act of Union and provided for the accommodation of non-Isaaq clans in the governing structure. The Hargeisa conference of February 1997 ended hostilities, provided for demobilisation and an interim constitution, and increased the representation of minority clans in parliament. The claim to self-government predates any external sponsor by decades, and the institutions were built without one. No transfer of state functions, merger of institutions or mass conferral of another state's citizenship appears in the materials before the Secretariat.

Kaharagia therefore finds dependency at most on this record, and no finding of external effective control appears in the materials before it. Most entities in this series have been unrecognised and sponsored; Somaliland has been unrecognised without a sponsor of that kind, which is why its endurance carries the weight it does. That is the strongest single element of its case and the element most easily lost. A security or basing arrangement Somaliland could not lawfully terminate, decisive external influence over its security institutions, or the conferral of another state's citizenship on its pop-

ulation at scale would move the case down the scale and engage the review provision below.

#### SOMALILAND PRINCIPLE

*Somaliland's case rests on restored pre-union statehood, durable institutions and popular will, not on patronage from any later recognising state.*

### 3.1 Sea Access, Recognition and the Price of an Airfield

The transactions this doctrine forbids have been proposed in this case, by more than one party, and they are the reason the prohibition is stated here rather than assumed. On 1 January 2024 Somaliland and Ethiopia signed a memorandum of understanding on access to the Somaliland coast, whose text was not published and which Somaliland described as carrying recognition in return. On 11 December 2024 Ethiopia and Somalia signed the Ankara Declaration, facilitated by Türkiye, which provides for Ethiopia's "assured access to and from the sea, whilst respecting the territorial integrity of the Federal Republic of Somalia", and "under the sovereign authority of the Federal Republic of Somalia", with technical negotiations to begin no later than the end of February 2025 and to be concluded within four months.

The Associated Press reported on 14 March 2025 that officials in Sudan, Somalia and Somaliland had been approached about receiving Palestinians relocated from Gaza. Somaliland and Somalia officials denied being approached or in talks. An American official was reported as acknowledging "having a quiet conversation with Somaliland about a range of areas where they can be helpful to the U.S. in exchange for recognition". That is reporting, not a finding, and Kaharagia does not treat it as establishing what was offered. It establishes that the currency was named.

Kaharagia rejects any proposal to use Somaliland, or any other state, as a destination for the coerced or engineered displacement of Palestinians from Gaza or the West Bank. Somaliland's legitimate search for recognition is not tied to population transfer, annexation or the destruction of Palestinian sovereignty. DM-2026-010 states the rule: relocation produced by starvation, bombardment, closed borders or the denial of return is not free migration, and no agreement with a third state may legitimise it. Somalia's Defence Minister asserted on 11 January 2026 that Israel planned such a transfer to Somaliland. Israel's Foreign Minister said displacement of Palestinians "was not part of our agreement", and Somaliland's foreign ministry has denied any such arrangement. Kaharagia records the assertions and the denials, adopts neither as a finding, and states its position on the scheme itself.

### 3.2 Israel's 2025 Recognition and the Independence of Kaharagian Judgment

The recognition announced on 26 December 2025 introduces the relationship the patron scale watches. It is the first fact in the file capable of weakening Somaliland's case, and it strengthens nothing in it. Reporting of the announcement describes a joint declaration of mutual recognition, framed in the language of the Abraham Accords, with embassies to be opened and ambassadors appointed. On 29 December 2025 an Assistant Secretary-General briefed the Security Council on the regional con-

sequences, recording that twenty Middle Eastern and African countries had issued a joint statement rejecting the recognition, and that Somalia had said it would not permit any foreign military base or arrangement drawing it into proxy conflicts. A risk of instability is a reason to act carefully, not a finding about who holds title to a territory.

DM-2026-001 disposes of the arithmetic. Recognition is not a poll. The number of states recognising an entity, and the identity of the most recent, are facts about those states. They do not answer the question this doctrine asks. On the materials before the Secretariat, Israel is the only state to have recognised Somaliland, and the rule that would have prevented Kaharagia from recognising Somaliland during the decades when no state did is the rule that prevents it from recognising because one state now has. Kaharagia does not treat recognition as a transaction for military access, strategic alignment or support for another state's regional agenda. The prohibition binds both ways: it forbids a recognition bought with an airfield, and a refusal designed to avoid the cost of holding a position.

Recognition of a state does not ratify its government's bilateral arrangements. Kaharagia's act carries no Kaharagian position on the status of any city, boundary or territory outside the former protectorate, and no party may cite it as one.

#### **4. Contested Eastern Districts and the Limits of Recognition**

Somaliland does not exercise uncontested legitimacy throughout every territory it claims, and the shortfall is now measurable rather than asserted. The international mission that observed the 2024 elections recorded that Somaliland's National Electoral Commission "was not able to operate in some districts of Sool and Sanaag as they were not under the control of the Somaliland authorities during the election period". A state whose electoral administration cannot enter a district does not hold that district by consent.

The human cost is documented. The United Nations Office for the Coordination of Humanitarian Affairs reported on 3 April 2023 that between 154,000 and 203,000 people had been displaced by the fighting at Laas Caanood since late December 2022, that those displaced inside Somalia had moved into villages in Sool, Togdheer, Nugaal and Mudug, and that an estimated 100,000 had crossed into the Somali Region of Ethiopia, where partners appealed for 116 million United States dollars. Displacement on that scale is the fact any consultation about these districts must be built around.

The administration of those districts has since changed hands and changed name. An SSC-Khaatumo administration was formed during the 2023 conflict and acknowledged by Somalia's federal government in October of that year. A conference at Las Anod on 30 July 2025 declared the formation of the North East State, replacing the interim administration, and the federal government recognised it as a federal member state. Puntland and Somaliland both maintain overlapping claims to the same territory. Kaharagia takes none of these steps as settling title.

DM-2026-001 governs this directly. A people asserting self-determination against a parent state acquires no licence to deny it to a community inside the territory it claims, and recognition authorises nothing by way of force, siege or the imposition of administration upon a population that rejects it. The claim Somaliland makes against

Mogadishu is the claim the eastern communities are entitled to make against Hargeisa, and Kaharagia cannot honour the first and dismiss the second because the second is smaller.

The reservation awards those districts to nobody. Kaharagia does not recognise Somaliland's title to them, and it does not recognise Somalia's title to them either. Nor does it accept ethnic partition as a default remedy, which rewards the coercive movement of people and endangers every community left on the wrong side of a new line. Effective control cuts in every direction: control of a district by Somaliland forces creates no title, control by a federal member state creates none either, and the recognition of an administration by Mogadishu is not a determination of sovereignty. Final affiliation is to be determined by local consultation, negotiation between Somaliland and Somalia, boundary commissions and, where necessary, internationally monitored local votes. Negotiated federal or autonomous arrangements are among the outcomes such a process may produce.

#### EASTERN DISTRICTS PRINCIPLE

*Kaharagia recognises no title to the contested parts of Sool, Sanaag and Cayn, in Hargeisa or in Mogadishu. Effective control over a district is not sovereign title to it. Final affiliation is to be settled peacefully, with the consent of the people living in those districts and displaced from them.*

Where a consultation is held, the constituency question applies with full force, and the 2001 and 2023 records show why. People displaced from the contested districts shall not be excluded because return has not yet been achieved, and residents shall not be disqualified on grounds of clan, origin or date of arrival. Registration rules, eligibility and the framing of the question shall be settled before the process begins, by a body no interested party controls. A vote taken on an electorate defined by the winner of the last engagement is evidence of the engagement, not of consent.

### 4.1 Why Northern Cyprus and Kosovo Do Not Decide This Case

DM-2026-008 declines to recognise the Turkish Republic of Northern Cyprus, and a reader who sees two declarations by populations divided from a parent state may ask what separates them. Two things do. The Security Council treated the 1983 declaration as legally invalid and called upon states not to recognise it, and the only comparable instrument in the Somaliland file is a communiqué of a regional organisation that does not call for recognition to be withheld. That case also rests on findings by the European Court of Human Rights of Turkish effective overall control, and this file contains no equivalent finding against any state.

DM-2026-005 recognises Kosovo without a territorial reservation, and the difference is not that northern Kosovo is quiet. The two reservations would answer different questions. Kosovo's boundary is fixed and only the manner of its change is left open, which is by peaceful agreement with Serbia. Somaliland's eastern boundary is the question itself. Kosovo's record also contains an international administration, failed status negotiations and an advisory opinion of the International Court of Justice, because that claim arises from an autonomy dismantled inside a state whose sovereignty was not in question. Somaliland's arises from a sovereignty that existed and needs no

such apparatus.

DM-2026-006 recognises the Sahrawi Arab Democratic Republic as unfinished decolonisation, and that vocabulary does not transfer: Western Sahara turns on a choice never made and on settlement used to manufacture title against a colonised people. DM-2026-002, DM-2026-003 and DM-2026-004 are decided by the patron scale, which places them at two of its three points: effective control in Abkhazia and Transnistria, absorption in South Ossetia. Abkhazia alone of the three is recognised, because refusal of the patron is demonstrated there and the Abkhaz claim predates the patron's involvement. Somaliland is recognised with no finding of external control hanging over it, which none of those three can claim. The reservations differ in kind as well. Abkhazia's concerns people, and holds the recognised state to the rights of those expelled from it. Somaliland's concerns districts, and therefore the people living in them and displaced from them.

## **5. Objections: Hargeisa's Democratic Record and Mogadishu's Case**

The strongest objection to this determination comes from Kaharagia's own principles, not from Mogadishu. A doctrine that demands a free and genuine choice, then recognises a state whose conditions of choice it criticises in the same paper, can fairly be accused of deciding first and reasoning after. The criticisms are therefore set out at their full strength.

The presidential election due on 13 November 2022 was not held. The electoral commission announced in September 2022 that it could not conduct the poll for budgetary and technical reasons, and in October 2022 the House of Elders extended the President's term by two years under an exceptional clause of the Constitution. Somaliland's Constitution and electoral laws permit only three registered political parties to field candidates. The international observation mission to the 2024 elections concluded that the combination of that restriction with a ten-year bar on forming new parties, unequal registration fees and the disqualification of candidates by party membership "constitutes a violation of Somalilanders' rights under Article 22 of the ICCPR", the right to freedom of association, and consequently of their rights under Article 25, the right to take part in public affairs through elections. Human Rights Watch reported for 2026 that the authorities continued to arrest journalists, politicians and other perceived critics, and recorded a local rights group's count of 16 journalists unlawfully detained in the first six months of 2025.

The record also contains the answer to the sharpest form of the objection. The election delayed from 2022 was held on 13 November 2024. Twenty-eight observers from thirteen countries observed 146 polling stations in all six regions and reported a well-managed and peaceful process whose results were widely accepted. The opposition candidate took 407,908 votes, 63.92 per cent of votes cast, against 225,519 and 34.81 per cent for the incumbent, on a turnout of 52.66 per cent. Power changed hands. An entity that removes its own government by counting is not an entity whose institutions exist only on paper.

The answer to the objection in principle lies in the separation of the four decisions. Re-

cognition is addressed to a state, and a state's legal personality does not rise and fall with the conduct of those holding office in it. What the conditions below attach to is not Somaliland's existence but Kaharagian support: diplomatic advocacy, the opening of relations, and the terms of any cooperation offered. A deterioration in electoral practice would engage support, official contact and public criticism. It would not unmake a state.

Effective government is not sufficient where democratic competition and civil liberties deteriorate, and this recognition is directed at strengthening constitutional accountability rather than rewarding incumbency. The expectations are these: elections at their constitutional time rather than by extension; a party system that admits more than three parties and permits independent candidates; free media; judicial independence; and equal rights across clan and minority lines. Minority clans, women and displaced people are the ones a recognition most easily overlooks, because they are absent from the negotiations it sets in motion. Kaharagia asks after them by name.

### **5.1 Relations With Somalia and the Succession Agenda**

Recognition of Somaliland is not hostility towards the Federal Republic of Somalia. The two states share language, kinship, commerce and security interests, and nearly every question separation raises must be settled between them. Kaharagia encourages negotiations on assets and liabilities, debt, airspace, maritime boundaries, citizenship, pensions, archives, security cooperation and freedom of movement.

Somalia's position deserves an answer. A federal state rebuilding after collapse can reasonably say that the departure of a stable region raises the cost of everything it is trying to do, and that outside recognition removes the incentive to negotiate. Kaharagia's answer is narrow. What it declines to recognise is an unlimited veto over whether Somaliland exists. Every other Somali position survives: Somalia may withhold recognition, argue its case in any forum open to it, and negotiate for the terms it prefers.

Somaliland is bound by the same logic. Recognition removes neither the need to negotiate with Mogadishu nor the need to negotiate with the eastern communities. A settlement freely reached between two Somali states would serve regional peace better than permanent ambiguity, and Kaharagia supports the African Union and the United Nations as facilitators even where it reaches a different conclusion on recognition. Endless non-recognition also denies a functioning society normal international responsibility as well as normal international benefit, since an entity that cannot be recognised cannot easily be bound by treaty or held to a maritime obligation. That answers the suggestion that non-recognition is the cautious course, and it would not carry a case that failed the tests above.

### **5.2 Conditions Attaching to Kaharagian Support**

The following conditions attach to Kaharagian support and engagement. None attaches to Somaliland's statehood. Each is capable of satisfaction by the government addressed and capable of assessment by an observer, because a condition no government could ever meet is a refusal wearing the language of encouragement. These are

conditions the State has set, and they are the measure against which support will be reviewed.

- Constitutional and electoral timetables that prevent further extensions of executive or legislative mandates of the kind granted in October 2022.
- Removal of the three-party limit and admission of independent candidates, as recommended by the mission that observed the 2024 elections.
- Protection of opposition parties, journalists, minority clans, women, internally displaced persons and residents of contested areas.
- A peaceful process for Sool, Sanaag, Cayn and other disputed localities, without presuming that military control establishes final title.
- No agreement facilitating forced Palestinian displacement, unlawful foreign basing or action incompatible with regional peace.

## **6. What Recognition Gives Hargeisa, and What It Does Not**

Under the Sovereign instrument giving effect to this determination, Kaharagia recognises the Republic of Somaliland as a state under its own constitutional name. It recognises Somaliland's constitutional institutions as entitled to act for it. It treats Somaliland as a state in its terminology, its publications and its legal analysis. And it holds that no other state possesses a sovereign, tutelary or annexationist right over Somaliland.

No mission opens and no representative is accredited, because relations are a separate decision. Recognition fixes no eastern boundary, endorses no administration in office and validates no election. It prejudices nothing between Somaliland and Somalia on assets, debt, airspace or maritime limits. And it converts nobody's effective control into title.

### **6.1 What Recognition Does Not Authorise**

Recognition is addressed to a state. It confers nothing on anyone against anybody living in the territory, displaced from it or living beyond it. Recognition does not authorise:

- The imposition of Hargeisa's administration by force, siege or blockade upon communities in Sool, Sanaag or Cayn that reject it, or the treatment of military success in those districts as settling their status.
- The treatment of the people displaced from Laas Caanood and the surrounding districts since December 2022 as having forfeited return, property, compensation or a voice in the status of their own homes.
- Reprisals, collective punishment or exclusion from public life directed at minority clans, at communities associated with SSC-Khaatumo or the North East State, or at people in Somaliland who oppose independence.
- Restrictions on journalists, opposition parties or peaceful assembly presented as a consequence of statehood, or the treatment of criticism of an administration as an attack on the state.

- Any arrangement facilitating the coerced displacement of Palestinians, unlawful foreign basing, or a foreign security presence Somaliland could not lawfully terminate.
- Retaliation against Somali citizens, Somaliland residents or their relatives, by any party, for Kaharagia's recognition or for the Israeli recognition that preceded it.

## 6.2 Review and Reversibility

Review follows DM-2026-001, and the reservation attached to this determination is held in place by it.

The recognition of Somaliland falls to be reviewed on any of the following: an arrangement transferring decisive control over Somaliland's security institutions or foreign policy to another state; the conferral of another state's citizenship upon the population at scale; the imposition of a settlement in the eastern districts by force; the closure of return, property or participation as practical possibilities for people displaced there; the systematic exclusion of minority clans or of opposition from public life; a settlement freely agreed between Somaliland and Somalia; a resolution of the Security Council addressing the status of the territory; and any freely expressed decision of the people concerned in favour of a different status. Review is the consequence of recognising a state on stated grounds.

## 7. Operative Declaration

The State of Kaharagia recognises the Republic of Somaliland as a sovereign and independent state. Such recognition is grounded in restored pre-union statehood, sustained popular will, and enduring effective institutions, and is not dependent upon the policy of any third state. Kaharagia does not prejudge the final status of the contested eastern districts and requires that their affiliation be determined peacefully, democratically, and with local consent. Diplomatic relations may be established separately.

## 8. Publication and Legal Effect

This memorandum is a public statement of the foreign policy of the State of Kaharagia. Under Kaharagian constitutional practice, the recognition or non-recognition of a state, the recognition of a government, the establishment of a diplomatic mission, the imposition of sanctions and the entry into formal diplomatic relations remain decisions reserved to the Sovereign and implemented through the appropriate instrument. This memorandum states the grounds, scope, reservations and consequences of the policy adopted; it does not by itself confer accreditation, immunity or privilege, and the recognition it states was effected by Sovereign instrument.

This memorandum is published in the Diplomatic Memorandum Series by the Office of the Sovereign's Printer. Its serial reference shall be preserved in every separate or electronic edition. Material changes in facts, control, legal proceedings or the formally expressed position of the people concerned shall trigger review under the heading above.

## Selected Authorities and Official Materials

Every authority in this list was retrieved and read in the preparation of this publication. Titles are followed by the issuing body, the date and a source link. Judicial judgments, advisory opinions, resolutions of the Security Council, decisions of regional organisations, briefings, commissioned studies, observation reports and press reporting are identified according to their actual legal character, and none is described as more than it is. A link marked Official source leads to a host of the issuing state, court or international organisation. Every other link is marked Source, and where the only copy found sits away from the issuing body the entry says so.

1. *RESUME: AU Fact-Finding Mission to Somaliland (30 April to 4 May 2005)*. African Union Commission, mission led by the Deputy Chairperson H. E. Patrick Mazimhaka; records the 26 June 1960 independence, the union of July 1960, that the union “was never ratified” and “malfunctioned when it went into action from 1960 to 1990”, that Somaliland’s case is “historically unique and self-justified in African political history” and “should not be linked to the notion of ‘opening a Pandora’s box’”, and that the AU “should find a special method of dealing with this outstanding case”. The copy retrieved is hosted by a private archive and not by the African Union.  
<https://www.americanrhetoric.com/speeches/PDFFiles/au-fact-finding-mission-to-somaliland-30-april-to-4-may-2005.pdf>
2. *Border Disputes Among African States, resolution AHG/Res.16(I)*. Organization of African Unity, Assembly of Heads of State and Government, First Ordinary Session, Cairo, 17 to 21 July 1964; “all Member States pledge themselves to respect the borders existing on their achievement of national independence”. Hosted by the African Union Peace and Security Department.  
<https://www.peaceau.org/uploads/ahg-res-16-i-en.pdf>
3. *Admission of the Republic of Somalia to membership in the United Nations, resolution A/RES/1479(XV)*. United Nations General Assembly, adopted at the 864th plenary meeting, 20 September 1960.  
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4. *Security Council resolution 141 (1960) on the admission of Somalia to membership in the United Nations*. United Nations Security Council, 1960; recommendation to the General Assembly.  
<https://digitallibrary.un.org/record/280597>
5. *Somaliland National Referendum, May 31, 2001: Final Report of the Initiative & Referendum Institute’s Election Monitoring Team*. Initiative & Referendum Institute, issued 27 July 2001; ten observers; 57 of 600 polling stations in five of six regions; no observer sent to Sool; certified results showing Sool 16 per cent against and Las Anod district 45 per cent against with the negative vote prevailing in nine of 23 polling stations; approval by about 97 per cent of those voting on a turnout above 66 per cent of the estimated voting-age population; Burco 1991 and Hargeisa 1997 conferences. The copy retrieved is hosted on a private website and not by the Institute.  
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6. *Past Human Rights Abuses in Somalia: report of a preliminary study conducted for the United Nations (OHCHR/UNDP-Somalia)*. Prepared by Chris Mburu, consultant, December 2001 to March 2002; the title page is marked DRAFT. Issued to the bodies that commissioned it, the Office of the High Commissioner for Human Rights (Somalia Country Programme) and the United Nations Co-ordination Unit under the auspices of UNDP-Somalia; the report carries no United Nations document symbol, no imprint and no place of publication, and Kaharagia has found no copy on a United Nations host. A preliminary study by an individual consultant, not a determination of any organ of the United Nations and not a judicial finding. The copy retrieved is a 63-page unsearchable scan with no text layer, hosted by a campaign website on the Isaaq genocide.  
<https://isaaqgenocide.info/doc/un-report.pdf>
7. *AUC Chairperson rejects any recognition of Somaliland*. African Union Commission, statement of H. E. Mahmoud Ali Youssouf, 26 December 2025; a statement of policy by the Chairperson, not an adjudication.  
<https://au.int/en/pressreleases/20251226/auc-chairperson-rejects-any-recognition-somaliland>
8. *Communiqué of the 1324th meeting of the Peace and Security Council, held on 6 January 2026 at ministerial level, on the preservation of the sovereignty, territorial integrity, unity and stability of the Federal Republic of Somalia*. African Union Peace and Security Council; a

- decision of a regional organisation addressed to its Member States and partners, which does not in terms call upon states to withhold recognition.  
<https://www.peaceau.org/en/article/communique-of-the-1324th-meeting-of-the-psc-held-on-6-january-2026-at-the-ministerial-level-on-the-preservation-of-the-sovereignty-territorial-integrity-unity-and-stability-of-the-federal-republic-of-somalia>
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<https://dppa.un.org/en/speeches-and-statements/asg-khiari-warns-security-council-of-regional-risks-following-israels>
  10. *Israel becomes first country to recognize breakaway Somaliland as independent state.* The Times of Israel, 26 December 2025; reporting of the joint declaration of mutual recognition, the Abraham Accords framing, and the intention to open embassies and appoint ambassadors. Reporting, not an instrument.  
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  11. *Security Council resolution 541 (1983) on Cyprus.* United Nations Security Council, 18 November 1983; deplores the declaration of 15 November 1983 as legally invalid, calls for its withdrawal, and calls upon all States not to recognise any Cypriot State other than the Republic of Cyprus. Cited for the contrast with DM-2026-008.  
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  12. *International Election Observation Mission to Somaliland's 2024 elections: final report.* University College London, mission led by Tim Cole, report launched 20 March 2025; 28 observers from 13 countries; 146 polling stations in all six regions; official results of the presidential poll; the finding that the National Electoral Commission “was not able to operate in some districts of Sool and Sanaag as they were not under the control of the Somaliland authorities during the election period”; the 2022 postponement and the two-year extension of the President's term; and the conclusion that the three-party restriction violates Articles 22 and 25 of the ICCPR.  
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  13. *Somalia: Flash Update No. 4, Situation in Laas Caanood, Sool Region, 3 April 2023.* United Nations Office for the Coordination of Humanitarian Affairs; 154,000 to 203,000 people displaced since late December 2022, displacement into Sool, Togdheer, Nugaal and Mudug, an estimated 100,000 crossing into the Somali Region of Ethiopia per UNHCR, and an appeal for 116 million United States dollars.  
<https://www.unocha.org/publications/report/somalia/somalia-flash-update-no-4-situation-laas-caanood-sool-region-3-april-2023>
  14. *Somalia, October 2025 Monthly Forecast.* Security Council Report, 30 September 2025; the declaration of the North East State at Las Anod on 30 July 2025 replacing the interim SSC-Khaatumo administration, its recognition by the federal government as a federal member state, the federal government's acknowledgement of SSC-Khaatumo in October 2023, and the overlapping claims of Puntland and Somaliland. Reporting on United Nations proceedings, not an instrument.  
<https://www.securitycouncilreport.org/monthly-forecast/2025-10/somalia-41.php>
  15. *Ankara Declaration by the Federal Democratic Republic of Ethiopia and the Federal Republic of Somalia, facilitated by the Republic of Türkiye.* Ministry of Foreign Affairs of the Republic of Türkiye, 11 December 2024; “assured access to and from the sea, whilst respecting the territorial integrity of the Federal Republic of Somalia”, “under the sovereign authority of the Federal Republic of Somalia”, technical negotiations to begin no later than end of February 2025 and to be concluded and signed in four months.  
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  16. *AP report: U.S. and Israel look to Africa for permanent relocation of Palestinians from Gaza.* Associated Press, 14 March 2025, published by PBS News; approaches to officials in Sudan, Somalia and Somaliland, the denials by Somaliland and Somalia officials, and an American official's acknowledgement of “a quiet conversation with Somaliland about a range of areas where they can be helpful to the U.S. in exchange for recognition”. Reporting, not a finding.  
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17. *Somali minister says Israel plans to displace Palestinians to Somaliland*. Al Jazeera, 11 January 2026; the assertion by Somalia's Defence Minister, the denial by Israel's Foreign Minister that displacement "was not part of our agreement", and the denial by Somaliland's foreign ministry. Reporting of assertions and denials, adopted by Kaharagia as neither.  
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18. *World Report 2026: Somalia*. Human Rights Watch; records that authorities in Somaliland continued to restrict discussion by arresting journalists, politicians and other perceived critics, and a local rights group's count of 16 journalists unlawfully detained in the first six months of 2025. A report by a non-governmental organisation, not a judicial determination.  
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19. *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*. International Court of Justice, Advisory Opinion, 22 July 2010; an advisory opinion, not a judgment. Cited for the contrast with DM-2026-005.  
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# Diplomatic Memorandum on Northern Cyprus and the Turkish Cypriot Community

*Political equality, Turkish effective control and a freely agreed settlement for Cyprus*

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POSITION OF THE STATE

Kaharagia does not recognise the present Turkish Republic of Northern Cyprus; Kaharagia recognises the Turkish Cypriot community's right to political equality and meaningful self-government

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|                      |                                                                                                                                     |
|----------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| SELF-DETERMINATION   | Recognised. Turkish Cypriots are a constituent community entitled to political equality, security and meaningful self-government.   |
| STATE RECOGNITION    | Withheld. Kaharagia does not recognise the present Turkish Republic of Northern Cyprus as a sovereign state.                        |
| DISPOSITION          | Non-recognition required. The refusal rests on a duty engaged by resolutions 541 (1983) and 550 (1984), and carries no reservation. |
| GOVERNMENT           | No de jure recognition. Community representatives may be engaged for dialogue, and such engagement decides nothing about status.    |
| DIPLOMATIC RELATIONS | Not established.                                                                                                                    |
| FUTURE STATUS        | A federation, confederation or two-state arrangement is legitimate only if freely agreed by both Cypriot communities.               |

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COMMON DOCTRINAL BASIS

*A people's right to self-determination is not extinguished by an inherited border. Nor is it fulfilled by foreign occupation, coerced integration, ethnic cleansing, demographic engineering, or a nominal independence maintained under another state's effective control. Recognition of a state is separate from endorsement of its government and from the establishment of diplomatic relations.*

## 1. Executive Position

Kaharagia does not recognise the present Turkish Republic of Northern Cyprus as a sovereign state, and Kaharagia recognises Turkish Cypriots as a constituent community of Cyprus entitled to political equality, security and meaningful self-government. Those are separate answers to separate questions, and neither is a concession made to soften the other.

The Security Council considered the declaration of 15 November 1983 legally invalid, called for its withdrawal, and called upon all States not to recognise any Cypriot State other than the Republic of Cyprus. It did so in resolution 541 (1983) of 18 November 1983, adopted at its 2500th meeting by thirteen votes to one with one abstention. In resolution 550 (1984) of 11 May 1984 it condemned the secessionist acts that followed, including the purported exchange of ambassadors between Turkey and the Turkish Cypriot leadership, declared them illegal and invalid, and reiterated the call for non-recognition.

The European Court of Human Rights held in *Loizidou v. Turkey*, in its merits judgment of 18 December 1996, that the Turkish army exercises effective overall control over that part of the island and that such control entails Turkish responsibility for the policies and actions of the authorities there. The Grand Chamber carried that reasoning across the whole inter-State case in *Cyprus v. Turkey* on 10 May 2001, holding by sixteen votes to one that the facts complained of fall within the jurisdiction of Turkey for the purposes of Article 1 of the Convention. Displacement and unresolved property rights remain at the centre of the conflict.

Among the five dispositions in DM-2026-001, this publication closes on non-recognition required. Kaharagia withholds recognition because a duty binds Kaharagian conduct, not because the Turkish Cypriot claim to self-government has been weighed and found wanting. No reservation is attached to the refusal, and the doctrine explains why: a duty of non-recognition cannot be cured by qualifying it.

Non-recognition is not a denial of the Turkish Cypriot people, and it is not a claim that Turkish Cypriots are settlers or agents of Ankara. They are a historic constituent community of Cyprus with a legitimate demand for political equality, security, local government, language and cultural protection, and freedom from domination by the Greek Cypriot majority. The General Assembly recorded the substance of that position in 1974, considering in resolution 3212 (XXIX) that the constitutional system of the Republic of Cyprus concerns the Greek Cypriot and Turkish Cypriot communities.

### 1.1 Political Equality Recognised, Statehood Refused

In Cyprus the four decisions pull in different directions, and stating them together would conceal what Kaharagia holds:

- **The right of self-determination.** Recognised. Turkish Cypriots are a constituent community entitled to political equality, security and meaningful self-government.
- **Statehood.** Withheld. Kaharagia does not recognise the present Turkish Republic of Northern Cyprus as a sovereign state.

- **Government.** No de jure recognition. Community representatives may be engaged for dialogue, and such engagement decides nothing about status.
- **Diplomatic relations.** Not established.

Refusing the second decides nothing about the first, and a reader who treats the refusal of statehood as a judgement upon the community has collapsed two questions the doctrine exists to hold apart.

## 2. Why the 1983 Declaration Cannot Be Recognised

DM-2026-001 places every case in one of three families before any further test is applied, and provides that classification is a question of history which neither party may choose.

The Turkish Cypriot argument places this case in the second family, and it deserves to be stated at full strength. On that argument the Republic of Cyprus was constituted in 1960 not as a unitary state containing a minority, but as a partnership between two communities, each holding constitutionally guaranteed institutions and a share of public authority. When the partnership collapsed, the communities resumed the separate constituent capacity they had brought to it. Turkey put the same case to the Strasbourg Court in *Cyprus v. Turkey*, submitting that the entity is a democratic and constitutional State, politically independent of all other sovereign States including Turkey, set up by the Turkish Cypriot people in the exercise of its right to self-determination.

The 1960 instruments do not carry that reading. Under Article I of the Treaty of Guarantee of 16 August 1960, the Republic of Cyprus undertook to maintain its independence, territorial integrity and security and to respect its Constitution, and declared prohibited any activity likely to promote either union with any other State or partition of the Island. Under Article II, Greece, Turkey and the United Kingdom guaranteed the independence, territorial integrity and security of the Republic and the state of affairs established by the Basic Articles of its Constitution, and undertook to prohibit any activity aimed at union or partition. The entrenched communal institutions were guarantees held inside one state and placed under international protection. They were not two sovereignties in temporary association.

The Secretariat therefore does not accept the second-family classification, and the ground is narrow. That family concerns a territory separately sovereign, or separately constituted, before entering a union. Turkish Cypriots were separately constituted as a community. They were not separately constituted as a territory, and there is no earlier northern Cypriot sovereignty for the 1983 declaration to restore. DM-2026-007 recognises Somaliland partly because it claims the external limits the territory actually held at independence. Nothing of that kind is available here. The line between north and south was produced in 1974, and a line produced by the intervention cannot supply the pre-union status the argument needs.

The case therefore falls in the third family, which carries the heaviest burden. A community seeking to leave a state whose sovereignty is not otherwise in question must show that internal self-determination has been denied and that no rights-respecting

constitutional remedy remains. The first limb is substantially supported on this record. The second is not made out. DM-2026-003 and DM-2026-004 leave that second limb undecided, and this publication decides it. Those two close on deferral, where the case turns on whether a choice can be shown to be the population's own and the limb would decide nothing. Here it can be decided, because a constitutional remedy was written, put to the community and accepted by it.

## 2.1 The Exhausted-Remedy Test and the 2004 Referendums

The remedy limb asks whether a durable, rights-respecting and freely chosen order remains possible inside the existing state. It is not answered by pointing to a period in which that order failed. DM-2026-005 recognises Kosovo because the parent state dismantled the autonomy, shut the community out of institutions, and because status negotiations were attempted and failed before the declaration was made. The elements were met, and met in sequence.

The Cypriot sequence runs the other way. The declaration came in 1983. The United Nations plan for a comprehensive settlement was drafted and put to both communities afterwards, at separate simultaneous referendums held on 24 April 2004. The Secretary-General reported in S/2004/437 of 28 May 2004 that the plan was approved by 64.9 per cent of Turkish Cypriot voters and rejected by 35.1 per cent, and that it was rejected by 75.8 per cent of Greek Cypriot voters and approved by 24.2 per cent.

That is direct evidence on the point the third family turns upon. A constitutional remedy was not merely conceivable. It was written, put to a vote, and accepted by the community now said to have none available to it. The Secretary-General drew the same conclusion in plainer terms in the same report, recording that in opting for a settlement the Turkish Cypriots had broken with the decades-old policies of seeking recognition of the state they purported to create in 1983.

The plan became null and void when one side rejected it, as the Secretary-General also reported. Its content nonetheless belongs to the record, because it shows what the community accepted. The Strasbourg Court summarised that content in *Demopoulos and Others v. Turkey*: a United Cyprus Republic of two constituent states, the predominantly Greek Cypriot one eventually comprising about 71 per cent of the land area and the predominantly Turkish Cypriot one about 29 per cent, with a detailed property regime combining reinstatement, compensation, exchange and protection for current users.

The consequence for recognition follows. So does a second consequence, which Kaha-*ragia* states with equal clarity. The remedy failed on the other side of the line, and Turkish Cypriots are asked to live with the legal effects of a refusal they did not make. Non-recognition is the correct answer to the status question and an unjust position in which to leave a community. Both of those are true at once, and a publication that records only the first is not honest about what it decides.

The framework has not lapsed. In resolution 2815 (2026) of 30 January 2026, adopted at its 10100th meeting, the Security Council extended the mandate of the United Nations Peacekeeping Force in Cyprus to 31 January 2027 and recalled the importance of an enduring, comprehensive and just settlement based on a bicomunal, bizonal fed-

eration with political equality. The Council has held that position since resolution 716 (1991) of 11 October 1991, whose fourth paragraph states it as one State of Cyprus comprising two politically equal communities. The force itself has remained on the island since 1964 to supervise the ceasefire lines, maintain the buffer zone and support the good offices of the Secretary-General in the absence of a settlement.

The route is live in fact and not only in form. The Secretary-General reported in S/2026/9 of 5 January 2026 that at the meeting of the two leaders on 11 December 2025 discussions on core political issues took place for the first time in more than five years, and that both leaders agreed their goal was a solution of the Cyprus issue with political equality as described in the Security Council resolutions, a commitment not seen from the leaders since 2020. He met both leaders in Nicosia on 29 July 2026 and stated his intention to convene a further meeting in the broader format after adequate preparation on confidence-building, methodology and substance. Where a settlement route is live and the community is a party to it, withholding recognition holds a question open. It does not surrender the question to whoever holds the ground.

## **2.2 Turkish Effective Control: Naming the Degree**

DM-2026-001 places external influence on a scale of three: dependency, effective control, absorption. The degree found in this case is effective control.

In *Loizidou v. Turkey* the Court recorded that Turkish armed forces of more than 30,000 personnel were then stationed throughout the occupied area of northern Cyprus, held that the Turkish army exercises effective overall control over that part of the island, and held by eleven votes to six both that the denial of access to the applicant's property was imputable to Turkey and that there had been a breach of Article 1 of Protocol No. 1. The Grand Chamber applied the same test to the inter-State case in 2001. The United Nations applies the same attribution today: the peacekeeping force reported in January 2026 that the United Nations continues to hold the Government of Turkey responsible for the situation in Varosha.

The character of those findings must be stated exactly, because they are quoted for more than they hold. The Court decided which state answers under the Convention for acts occurring in northern Cyprus. Attribution of that kind identifies responsibility for violations. It confers no Turkish sovereign title, because effective control is not sovereign title and conquest cannot manufacture one. Neither is it a ruling that Turkish Cypriot institutions have no will of their own. The Court said in terms that it was not necessary to determine whether Turkey actually exercises detailed control over the policies and actions of those authorities, and it did not determine it.

Effective control does not by itself defeat a claim under the doctrine. It shifts the burden. The entity must then show that the will it expresses is its own, and the doctrine supplies four indicators by which the showing is tested.

## **2.3 Autonomous Politics and the Unanswered Security Question**

The indicators do not all run the same way, and the record on the last of them has changed since this series was opened.

- **Whether the claim predates the patron.** It does. Turkish Cypriot demands for political equality and guaranteed participation were written into the settlement of 1960, whose guarantor Powers undertook by Article II of the Treaty of Guarantee to guarantee the state of affairs established by the Basic Articles of the Constitution, and those demands were pressed through the breakdown of the decade that followed, before any Turkish intervention. This indicator runs in the community's favour.
- **Whether the institutions have refused the patron something the patron wanted.** No instance is before the Secretariat in which the entity refused Turkey on a question Turkey is shown by material the Secretariat has examined to have pressed. The change of leadership in 2025 is evidence of autonomy inside the community's own politics; it is not by itself evidence of a refusal of the patron, because no Turkish position on the matter has been established from a source read for this publication. The gap tells against the entity, because the burden has shifted to it. It remains a gap in the record rather than a finding that no such refusal has occurred, and Kaharagia does not convert the one into the other.
- **Whether the trajectory runs toward independence or toward incorporation.** No instrument merging northern Cyprus into Turkey is before the Secretariat, and the entity asserts separate statehood rather than union with its patron. The leader elected in 2025 campaigned on returning to talks on the basis of a federal solution for the island, which is a course toward shared institutions with the other community rather than toward the patron. The case sits at effective control and not at absorption.
- **Whether the argument against the patron can be made and survived.** This indicator is now satisfied in a strong form. At the leadership election in the Turkish Cypriot community held on 19 October 2025, Tufan Erhürman won more than 62 per cent of the vote in the first round and took office as the new Turkish Cypriot leader, having campaigned on overcoming political and social divisions within the community and on returning to talks on the basis of a federal solution for the island. The Secretary-General reported that result in January 2026. A community that changes its leadership by vote, and changes its declared settlement policy with it, is conducting a politics of its own. In 2001 the Grand Chamber found that no violation of the rights of Turkish Cypriot opponents of the regime under Articles 3, 5, 8, 10 and 11 had been established by reason of an alleged administrative practice, while declining jurisdiction over the parts of that complaint which the Commission had held outside the scope of the admissible case. The same judgment found a violation of Article 6 on account of the legislative practice of authorising the trial of civilians by military courts, which is a limit on the political space and not an ornament to it.

The burden is therefore not discharged, and the reason is narrow. The community's internal politics are demonstrably contestable and its leadership demonstrably replaceable. What has not been shown is the entity's capacity to decide the matters on which effective control was found, which are the military presence and the security arrangements that sustain the line. Those are the matters the Court declined to attribute to local will, and no evidence before the Secretariat establishes that they have passed to it. On the merits alone that would be sufficient ground to withhold recognition, and

it is not the ground on which this publication principally rests. DM-2026-002 records the same gap on the same matters and still recognises a state. What separates the two is the indicator asking whether the institutions have refused their patron: there the refusals are on the record, and here that indicator is a gap the entity was free to fill.

## **2.4 The Duty of Non-Recognition and the Absence of Reservations**

DM-2026-001 separates a discretionary refusal from a duty. Where a situation is the product of a serious breach of a peremptory norm, and in particular where the competent international organs have called upon states to withhold recognition, Kaharagia shall withhold it and shall not attempt to cure the position by attaching reservations.

The Security Council considered the 1983 declaration legally invalid and called upon all States not to recognise any Cypriot State other than the Republic of Cyprus in resolution 541 (1983), and reiterated that call in resolution 550 (1984). Both resolutions stand, and the Council recalled the second of them again in resolution 2815 (2026) when addressing the status of Varosha. The duty is engaged on the doctrine's own terms.

The disposition is accordingly non-recognition required, which operates independently of the merits of any local claim. No reservation accompanies the refusal. The contrast with DM-2026-002, where recognition is extended subject to express reservations, is deliberate: a reservation qualifies a discretionary act, and there is no discretion here to qualify. The answer would be the same if every indicator in the preceding section ran the other way, which is what separates a duty from a judgement.

The duty reaches Kaharagian conduct as well as the formal act of recognition. It forbids any agreement whose performance would consolidate the position the Security Council declined to accept. It does not curtail the humanitarian, cultural and peacebuilding engagement this publication requires. It does not reach the limb of the doctrine concerned with treating a territory as part of an acquiring state, since no annexation of northern Cyprus is asserted by anyone. Whether Organs of State give effect to particular documents affecting individuals is a separate question, and this publication does not decide it.

The duty attaches to the entity as declared in 1983 and to the circumstances that produced it. It says nothing about a status the two Cypriot communities may freely agree hereafter, and it is not to be read as an answer given in advance to a settlement not yet made.

## **3. Political Equality and the Failed Constitutional Order**

The Republic of Cyprus was established in 1960 through a constitutional and international structure designed to protect Greek Cypriot and Turkish Cypriot participation. The Treaty of Guarantee placed the Basic Articles of the Constitution under the guarantee of Greece, Turkey and the United Kingdom, and prohibited, in the same breath, union of the island with any other State and partition of it. That structure broke down amid intercommunal violence, segregation and competing nationalist projects. Turkish Cypriot exclusion and insecurity before 1974 belong to the record, and a history that

opens with the Turkish intervention has discarded the evidence that explains what followed.

The coup of 1974 sought the union the Treaty prohibited. The Turkish military action that followed was taken under Article IV of the same Treaty, which reserves to each guarantor, where common or concerted action does not prove possible, the right to take action with the sole aim of re-establishing the state of affairs created by the Treaty. The state of affairs created by the Treaty was one guaranteed republic in which partition was prohibited by name. A permanent division of the island is not the restoration of that state of affairs. A right of action limited by its own words to restoration cannot be the source of a title to the territory it divides, and the protection of Turkish Cypriots does not by itself legalise indefinite occupation or every territorial consequence of the intervention. The crimes and fears of one period do not cancel the rights created in another.

The organs of the United Nations said as much at the time, and in terms Kaharagia adopts. In resolution 3212 (XXIX) of 1 November 1974, adopted unanimously, the General Assembly urged the speedy withdrawal of all foreign armed forces and foreign military presence and personnel from the Republic of Cyprus and the cessation of all foreign interference in its affairs; considered that the constitutional system of the Republic concerns the Greek Cypriot and Turkish Cypriot communities; commended the negotiations between the representatives of the two communities taking place on an equal footing, with a view to reaching freely a mutually acceptable political settlement based on their fundamental and legitimate rights; and considered that all the refugees should return to their homes in safety. The Security Council endorsed that resolution in resolution 365 (1974) of 13 December 1974 and urged the parties to implement it.

What follows for a settlement is a structural guarantee, not a numerical share. Simple majoritarian rule cannot answer security fears produced by the collapse of a guaranteed partnership. The long-standing United Nations basis is a bizonal and bi-communal federation with political equality, stated most precisely in resolution 716 (1991) as one State of Cyprus comprising two politically equal communities and restated by the Council in January 2026. Kaharagia supports a settlement in which Turkish Cypriots exercise meaningful internal self-determination. If both communities freely agree to a confederation or a two-state settlement, Kaharagia will not reject it merely because federation was previously preferred. The settlement must be chosen by Cypriots and not imposed by Ankara, Athens, London or another power.

#### CYPRIOT PRINCIPLE

*Turkish Cypriots cannot be reduced to instruments of Ankara, but neither can Turkish effective control and the consequences of 1974 be ignored.*

### 3.1 The Perpetual Veto and the Limits of Territorial Integrity

DM-2026-001 refuses to treat territorial integrity as an unlimited veto held by a parent state. The refusal has an edge in this case which Kaharagia does not blunt. If the only route out of non-recognition ran through the consent of the community that rejected the plan in 2004, Turkish Cypriots would face a condition no conduct of their own could satisfy, and the doctrine forbids the drafting of such a condition. Conditions at-

tached to recognition or to future engagement must be capable of satisfaction by the entity addressed, and a condition no government could ever meet is a refusal wearing the language of encouragement.

Kaharagia therefore states which of its conditions are addressed to whom. The withdrawal or consensual regulation of foreign forces is addressed to Turkey, and it is the condition the General Assembly addressed to the same quarter in 1974. A settlement is addressed to both communities and to the process between them. What the Turkish Cypriot community can reach by its own conduct is engagement, and a state that offers engagement in place of recognition owes it in practice.

#### **4. Declining the Declaration, Not the People**

The strongest objection to this determination is made on behalf of the people it affects, not on behalf of Ankara. Turkish Cypriot voters approved the United Nations plan in 2004 and remain outside ordinary international life. Non-recognition, on this view, imposes a penalty on a community for the acts of a state it does not control and for a refusal it did not make, and then calls the penalty a principle.

Part of the answer lies in what the duty operates upon. It restrains Kaharagia. It authorises nothing against any Turkish Cypriot, and DM-2026-001 forbids the conversion of a refusal of status into a refusal of contact or the use of a population's daily life as pressure upon an authority. A publication that withholds recognition and then tolerates isolation has applied half the doctrine.

The United Nations reached that position in 2004 and put it more sharply than this publication could. The Secretary-General reported that recognition or assisting secession would be contrary to the resolutions of the Security Council and would not respect the will of the Turkish Cypriots, who had voted for reunification, and that their vote had undone whatever rationale might have existed for pressuring and isolating them. He expressed the hope that the members of the Security Council would give a strong lead to all States to cooperate, bilaterally and in international bodies, to eliminate unnecessary restrictions and barriers having the effect of isolating the Turkish Cypriots and impeding their development, and deemed such a course consistent with resolutions 541 (1983) and 550 (1984). Non-recognition and isolation are separable, and the United Nations has asked states to maintain the first and bring the second to an end.

The rest of the answer lies in what recognition would deliver. Recognising the present entity would fix the community's political future to the territorial and security conditions produced in 1974 and to the presence that sustains them. It would remove from the table the settlement Turkish Cypriot voters themselves accepted, and it would do so on the authority of states with no standing to accept or abandon it on their behalf. The 2004 vote is evidence of what the community wanted, and recognition of the present entity is not that.

Non-recognition carries costs, and they fall on people who did not choose them. The Kaharagian response is engagement without recognition, and that response is worth precisely what is done with it.

The objection from the opposite direction is that recognising Turkish Cypriots as a

constituent community entitled to political equality rewards partition and prejudices the settlement. It does neither. Political equality is the settlement basis the Security Council itself has stated since 1991. This publication recognises no state, no boundary and no territory in the north. Affirming that a community must be an equal party to the arrangement governing it takes nothing from the Republic of Cyprus, whose continuing existence the 1983 declaration did not extinguish and whose government the Strasbourg Court continues to treat as the sole legitimate government of Cyprus.

#### **4.1 Why Kosovo, Abkhazia and Palestine Do Not Decide Cyprus**

The Assessment Framework decides each case on its facts, and the facts that separate Cyprus from the rest of the series are these.

DM-2026-005 recognises Kosovo. The International Court of Justice, in an advisory opinion delivered on 22 July 2010 at the request of the General Assembly, concluded that the declaration of independence adopted on 17 February 2008 did not violate international law. An advisory opinion that a declaration did not violate international law is neither a judgment nor a determination of statehood, and Kaharagia does not treat it as either. What separates the cases is that no competent organ called upon states to withhold recognition of Kosovo, while the Security Council called upon all States not to recognise any Cypriot State other than the Republic of Cyprus. The sequences differ as well. The internal remedy in Kosovo was destroyed by the parent state before the declaration. The Cypriot remedy was drafted and put to both communities after it, and the Turkish Cypriots voted for it.

DM-2026-002 recognises Abkhazia subject to express reservations. Reservations are available there because the decision there is discretionary. Deferral in that case would also have left the status question to Tbilisi and Moscow with the Abkhaz at neither side of the table, whereas Turkish Cypriots are a party to a settlement process that continues and that returned to core political issues in December 2025.

DM-2026-003 defers South Ossetia because integration with the patron is accelerating and the favoured outcome is administered by the party in possession. That is absorption, or a course toward it. This case sits a step short. The entity claims statehood of its own, and no merger with Turkey is proposed. Two refusals may rest on different grounds without either weakening the other.

DM-2026-004 withholds recognition from Transnistria because official votes carry little evidentiary weight where economic power is concentrated, media restricted and dissent unsafe. Nothing in this publication turns on a finding of that kind about Turkish Cypriot political life, and none is made. The election of October 2025, in which the leadership changed hands at the first round of a vote, points the other way. DM-2026-007 recognises Somaliland on a restoration claim to a boundary the territory held at independence, and no call by a competent organ against its recognition is before the Secretariat.

DM-2026-010 affirms Palestinian sovereignty notwithstanding occupation, and a reader may ask how occupation can be compatible with recognition there and fatal to it here. The configurations are opposite. Sovereignty there is not created by the occupation and survives it. The entity whose recognition is sought here was declared in

the conditions the intervention produced, and the Security Council said so three days later. This publication declines the declaration, not the people.

## 5. What Follows for the People in Cyprus and for the Settlement

Greek Cypriots displaced from the north and Turkish Cypriots displaced from the south retain claims to property, remedy and family connection. The movement of Turkish Cypriots northward in 1975 was carried out under an agreement reached at Vienna on 2 August 1975 and reported to the Security Council in S/11789. It provided that Turkish Cypriots then in the south would be allowed, if they wished, to proceed north with their belongings under an organised programme and with the assistance of the peacekeeping force; that Greek Cypriots then in the north were free to stay and would be given every help to lead a normal life, including education, religious practice, medical care by their own doctors and freedom of movement; and that the force would have free and normal access to Greek Cypriot villages in the north. The guarantees given to the Greek Cypriots who stayed did not hold. In *Cyprus v. Turkey* the Grand Chamber found violations of Article 9 in respect of their religious life, of Article 10 through excessive censorship of school-books destined for their primary school, of Article 2 of Protocol No. 1 through the absence of appropriate secondary-school facilities, and of Article 3 through discrimination amounting to degrading treatment of those living in the Karpas area.

The displaced were refused return outright. In the same judgment the Court held that there had been continuing violations of Article 8 by reason of the refusal to allow the return of any Greek Cypriot displaced persons to their homes in the north, and of Article 1 of Protocol No. 1 by reason of the denial to Greek Cypriot owners of access to and control, use and enjoyment of their property and of any compensation, with a violation of Article 13 for the absence of remedies. It held that there had been continuing violations of Articles 2 and 5 arising from the failure to investigate effectively the fate of Greek Cypriot missing persons, and of Article 3 in respect of their relatives.

The property question has since acquired a mechanism, and its legal character must be stated exactly. In *Demopoulos and Others v. Turkey* the Grand Chamber decided, on admissibility and not on the merits, that Law no. 67/2005 provides an accessible and effective framework of redress for complaints about interference with property owned by Greek Cypriots, and declared the applications inadmissible by a majority for failure to exhaust it. The Court added that its decision does not require any applicant to use that mechanism, that applicants may instead await a political solution, and that its own supervisory jurisdiction remains. It also held that allowing a responsible state to correct wrongs imputable to it does not amount to an indirect legitimisation of a regime unlawful under international law, and that this conclusion casts no doubt on the view adopted by the international community about the establishment of the entity or on the standing of the Government of the Republic of Cyprus as the sole legitimate government of Cyprus. That is the architecture of the whole question in a sentence: a remedy may be used without conferring a status.

Kaharagia adopts that distinction and applies it to itself. A settlement may combine return, restitution, compensation, tenancy conversion, land exchange and territorial

adjustment. Neither community is to be told that decades of separation have erased individual claims. The Court observed in 2010 that some thirty-five years had passed since the applicants lost possession, that generations had passed with them, and that the local population had not remained static. Time complicates remedies. It does not extinguish them.

Work on the missing belongs to both communities and has continued through every political failure. The Committee on Missing Persons in Cyprus is mandated to recover, identify and return the remains of persons who went missing in 1963 and 1964, in 1974, and in the intervening period. The Secretary-General reported in January 2026 that of the 2,002 persons on the Committee's official list, 1,062 have been formally identified and their remains returned to their families, and that the remains of 1,713 persons have been exhumed or received on both sides of the island since operations began in 2006. The Security Council has called for that work to be kept free from political interference. Kaharagia treats it as owed to families and never as a bargaining position.

Varosha is the clearest instance of a change on the ground pursued outside the process. In resolution 550 (1984) the Council considered attempts to settle any part of Varosha by people other than its inhabitants inadmissible and called for the transfer of that area to the administration of the United Nations. In resolution 2815 (2026) it called for the immediate reversal of all steps taken on Varosha since October 2020 and cautioned against further action. The peacekeeping force reported in January 2026 that no steps had been taken to comply, that no significant change was observed in the 3.5 per cent of the area whose military status was announced as lifted in July 2021, though renovation of facilities there continued, and that a trench and berm system built by Turkish forces and running nearly four kilometres along the northern ceasefire line remains a military violation.

DM-2026-001 asks who was permitted to choose before it asks what was chosen, and its answer governs any future Cypriot status process:

- Displaced persons of either community, and their descendants with a demonstrable connection to the territory, are not excluded from a status process because return has not been achieved.
- Present residents are not disqualified from civil and political life on grounds of origin, ethnicity, religion or date of arrival.
- Settlement organised or encouraged by a controlling power does not decide the status question it was arranged to foreclose.

People of mainland Turkish origin and their descendants now live in northern Cyprus. Their number has been disputed rather than established, and the Strasbourg Court recorded both that the figure was contested and that the plan of 2004 would have capped at 45,000 the number who could be granted citizenship of the reunified state. They must not be collectively expelled, deprived of due process, or treated as racially or nationally tainted. Their presence cannot confer Turkish sovereignty or predetermine the constitutional balance, and the third rule above is what keeps those two propositions consistent with one another. Lawful status is to be resolved through agreed citizenship and residency rules, while property obtained through dispossession remains subject to remedy.

## 5.1 What This Determination Does Not Authorise

Non-recognition is addressed to an entity. It grants no latitude against anyone living in Cyprus or displaced within it. Kaharagia records what the decision does not authorise:

- Any measure against Turkish Cypriots as individuals, or the treatment of a Turkish Cypriot as an agent of Turkey by reason of residence, office, employment or documentation.
- The collective expulsion, denationalisation or dispossession of people of mainland Turkish origin or their descendants, or the treatment of their status as a matter of official discretion.
- The treatment of displaced persons of either community, or their descendants, as having forfeited return, property, compensation or participation through the passage of time.
- The use of force by any party to alter the position on the ground, or the imposition of a settlement by Ankara, Athens, London or another power.
- The withholding of humanitarian access, family contact, work on missing persons or the technical business of ordinary life as pressure upon any authority.
- Reprisals against Turkish Cypriots or Greek Cypriots, in Cyprus or elsewhere, prompted by this decision.

## 5.2 Interim Engagement Without Recognition

Kaharagia may communicate directly with Turkish Cypriot elected representatives, universities, municipalities and civil society; facilitate cultural and humanitarian exchange; and support measures easing isolation. Such engagement is expressly without prejudice to recognition and shall strengthen autonomous Turkish Cypriot institutions without strengthening Turkish control.

The technique exists and has been operated at scale by others. On the accession of Cyprus to the European Union, Article 1 of Protocol No 10 to the Act of Accession of 2003 suspended the application of the *acquis* in those areas in which the Government of the Republic of Cyprus does not exercise effective control. The Council of the European Union then adopted Regulation (EC) No 866/2004 of 29 April 2004, establishing under that Protocol a regime for the crossing of persons and goods across the line. A body of states has regulated daily traffic across that line for more than twenty years without recognising any authority on the far side of it. Kaharagia does not need to invent the method.

Two limits apply, and neither is available to be traded away. Contact shall not extend to acts whose performance would consolidate the position the Security Council declined to accept. No party may represent such contact as recognition by conduct. Where that risk arises, the remedy is a plain statement of the Kaharagian position, and the contact continues.

DM-2026-001 provides that contact of this kind does not require a decision on status and is not held hostage to one. Kaharagia treats the engagement as owed, and not as a courtesy to be withdrawn when relations with another state make it inconvenient. In Cyprus the measures are already on the record. By paragraph 10 of resolution 2815

(2026) the Security Council called upon the sides to reduce existing barriers to inter-communal contact, echoed the Secretary-General's call for renewed efforts to remove remaining obstacles to trade across the Green Line, and encouraged the leaders to deliver on the trust-building initiatives agreed in 2025, especially the opening of new crossing points. Kaharagia supports those measures. The Council recorded in the same paragraph that confidence-building measures are not a substitute for a solution, and Kaharagian support for them is not a step toward status.

### 5.3 Possible Final-Status Arrangements

Kaharagia continues to support a freely agreed bizonal and bicommunal federation as the established international framework, with political equality, shared or rotating institutions, territorial adjustment, security reform and guarantees for both communities. It does not declare that framework eternally exclusive if both peoples freely agree upon another rights-respecting arrangement.

A confederation, free association or eventual two-state settlement is legitimate only if reached without Turkish coercion, accepted through valid processes by both communities, and accompanied by comprehensive property, security and citizenship agreements. Unilateral recognition of the present entity would bypass every one of those conditions.

Free agreement carries a procedural content, and Kaharagia settles it before any process begins. Eligibility, registration and the framing of the question belong to a body no interested party controls, and a vote taken on an electorate defined by the winner of the last war is evidence of the war, not of consent. The General Assembly stated the same requirement in 1974, commending negotiations between the representatives of the two communities conducted on an equal footing and directed at a settlement reached freely. That rule protects both communities in Cyprus, and Kaharagia applies it in both directions.

## 6. What Would Change the Answer

DM-2026-001 requires each memorandum to name the evidence that would produce a different answer. For this case:

- A settlement freely agreed by both Cypriot communities, in whatever constitutional form, reached through a process meeting the conditions set out above.
- A change in the position of the competent international organs on non-recognition, which would remove the duty on which this disposition principally rests.
- A material change in the degree of Turkish control, measured against the four indicators, not against declarations.
- Any step toward the incorporation of northern Cyprus into Turkey, which would move the case from effective control to absorption and engage a stronger prohibition.
- A freely expressed decision of both communities in favour of another status, including the restoration of a single constitutional order.

Nothing on that list can be delivered by the Turkish Cypriot community acting alone. Kaharagia publishes it as a record of what it is watching, not as a set of instructions to a community that cannot carry them out. The next decision of the Security Council on the mandate falls due by 31 January 2027, and resolution 2815 (2026) requires the Secretary-General to report on his good offices by 6 July 2026 and again by 4 January 2027. Those dates fix the ordinary occasions for review.

## 7. Operative Declaration

The State of Kaharagia does not recognise the present Turkish Republic of Northern Cyprus as a sovereign state. It recognises Turkish Cypriots as a constituent community entitled to political equality, security, cultural protection and meaningful self-government. Kaharagia supports a bizonal and bicomunal federal settlement, or another status freely agreed by both Cypriot communities, with provisions for foreign-force withdrawal or consent, property remedies, displaced persons, present residents, and human rights. Dialogue with Turkish Cypriot authorities does not constitute recognition.

## 8. Publication and Legal Effect

This memorandum is a public statement of the foreign policy of the State of Kaharagia, published by authority of the Sovereign. Under Kaharagian constitutional practice, the recognition or non-recognition of a state, the recognition of a government, the establishment of a diplomatic mission, the imposition of sanctions and the entry into formal diplomatic relations remain decisions reserved to the Sovereign and implemented through the appropriate instrument. A Diplomatic Memorandum states the grounds, scope, reservations and consequences of a policy; it does not by itself confer accreditation, immunity or privilege.

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## Selected Authorities and Official Materials

*Authorities were verified as at the date of publication. Titles are followed by the issuing body and a source link. Legal character is stated and not assumed: a resolution of the Security Council is distinguished from a resolution of the General Assembly, which is not binding; a Grand Chamber judgment on the merits is distinguished from a decision as to admissibility; and an advisory opinion of the International Court of Justice is not a judgment. Reports of the Secretary-General and material of the peacekeeping force are cited for what they record, and the treaty and European Union instruments for what they enact.*

1. *Security Council resolution 541 (1983)*. United Nations Security Council, 18 November 1983; adopted at the 2500th meeting by 13 votes to 1 with 1 abstention. Deplores the declaration of 15 November 1983, considers it legally invalid and calls for its withdrawal,

- and calls upon all States not to recognise any Cypriot State other than the Republic of Cyprus.  
<https://digitallibrary.un.org/record/58970>
2. *Security Council resolution 550 (1984)*. United Nations Security Council, 11 May 1984; adopted at the 2539th meeting by 13 votes to 1 with 1 abstention. Condemns all secessionist actions including the purported exchange of ambassadors between Turkey and the Turkish Cypriot leadership, declares them illegal and invalid, reiterates the call upon all States not to recognise the purported State, and considers attempts to settle any part of Varosha by people other than its inhabitants inadmissible.  
<https://digitallibrary.un.org/record/67600>
  3. *Loizidou v. Turkey (merits)*. European Court of Human Rights, Grand Chamber, application no. 15318/89, judgment of 18 December 1996; effective overall control, imputability to Turkey and a breach of Article 1 of Protocol No. 1.  
<https://hudoc.echr.coe.int/eng?i=001-58007>
  4. *Cyprus v. Turkey*. European Court of Human Rights, Grand Chamber, application no. 25781/94, judgment of 10 May 2001; jurisdiction, missing persons, the property and homes of displaced persons, the living conditions of the enclaved, and the rights of Turkish Cypriots in the north.  
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DM-2026-009

# Diplomatic Memorandum on the Status of Taiwan

*Effective statehood, the limits of resolution 2758 and a claim asserted from outside*

POSITION OF THE STATE

Kaharagia recognises the Republic of China (Taiwan) as a sovereign and independent state within the Taiwan Area, with an express reservation excluding any title to the Mainland Area

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|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SELF-DETERMINATION      | Recognised. The people of Taiwan determine their political status through institutions they elect and replace, and no other population may determine it for them.                                            |
| FAMILY OF CLAIM         | None of the three. The claim alters no existing sovereign arrangement. Unfinished decolonisation is the nearest and does not carry the case.                                                                 |
| EXTERNAL CONTROL        | None found over the entity whose status is in issue. Ordinary dependency only. The state asserting title exercises no control at all.                                                                        |
| STATE RECOGNITION       | Extended, subject to an express territorial reservation. Statehood itself is recognised without condition.                                                                                                   |
| DISPOSITION             | Recognition with reservations, the second of the five in DM-2026-001.                                                                                                                                        |
| GOVERNMENT              | The constitutional institutions of the Republic of China (Taiwan) are recognised as entitled to act for the state. No administration in office is endorsed.                                                  |
| DIPLOMATIC RELATIONS    | Not established by this instrument. Reserved to a separate decision.                                                                                                                                         |
| TERRITORIAL RESERVATION | Recognition covers the Taiwan Area as defined by that state's own law. No title to the Mainland Area is recognised, in Taipei or in Beijing.                                                                 |
| RESOLUTION 2758 (XXVI)  | Settled which delegation represents China in the United Nations. It names no territory, determines the status of neither Taiwan nor its people, and calls upon no State to withhold recognition of anything. |

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## 1. Executive Position

Kaharagia recognises the Republic of China, which its own government renders as the Republic of China (Taiwan), as a sovereign and independent state. It governs Taiwan, Penghu, Kinmen and Matsu. Its Government records a population of 23,400,220 for December 2024. Its President and Vice President are directly elected every four years, its Legislative Yuan has 113 members elected for four-year terms, and it has been a member of the World Trade Organization in its own right since 1 January 2002. Statehood is recognised without condition.

One reservation is part of the act. That state's own law divides the territory it claims in two. Article 2 of the Act Governing Relations between the People of the Taiwan Area and the Mainland Area defines the Taiwan Area as "Taiwan, Penghu, Kinmen, Matsu, and any other area under the effective control of the Government", and the Mainland Area as "the territory of the Republic of China outside the Taiwan Area". Kaharagia recognises the state within the Taiwan Area. It recognises no title to the Mainland Area, and no party may cite this act as recognition of one.

The case reaches a limb no earlier publication in this series has reached. Abkhazia, South Ossetia and Transnistria are decided by a patron's hold on the entity seeking recognition. Western Sahara turns on a choice never made. Somaliland carries districts it does not hold by consent. Northern Cyprus is closed by a duty the Security Council created. Taiwan presents none of these. The objection to its recognition is made by another state about that state's own claim, and not about any defect in the government, the territory, the population or the freedom of choice in Taiwan.

### 1.1 The Decisions Taken Here and the One Reserved

DM-2026-001 holds four decisions apart, and answers to three of them are taken here:

- **The right of self-determination.** Recognised. The people of Taiwan determine their political status through institutions they elect, and no other population may determine it for them.
- **Statehood.** Recognised, subject to the territorial reservation set out above and applied below.
- **Government.** The constitutional institutions of the Republic of China (Taiwan) are recognised as entitled to act for the state. No administration in office is endorsed and no party's programme is adopted.
- **Diplomatic relations.** Not established here. They remain reserved to a separate decision of the Sovereign.

The disposition is recognition with reservations, the second of the five in DM-2026-001. The reservation excludes a claim, not the state. Nothing in the conditions set out below attaches to statehood, and none of them can unmake it.

## 2. Resolution 2758 and the Limits of What It Decided

The General Assembly adopted resolution 2758 (XXVI) at its 1976th plenary meeting on 25 October 1971, under the title “Restoration of the lawful rights of the People’s Republic of China in the United Nations”. Recalling the principles of the Charter, and considering that the restoration of those rights was essential both for the protection of the Charter and for the cause the United Nations must serve under it, the Assembly recognised “that the representatives of the Government of the People’s Republic of China are the only lawful representatives of China to the United Nations and that the People’s Republic of China is one of the five permanent members of the Security Council”. It then decided “to restore all its rights to the People’s Republic of China and to recognize the representatives of its Government as the only legitimate representatives of China to the United Nations, and to expel forthwith the representatives of Chiang Kai-shek from the place which they unlawfully occupy at the United Nations and in all the organizations related to it”.

That is the whole of the text. It decided a question of representation and it decided it conclusively. Since 25 October 1971 the seat of China in the General Assembly, in the Security Council and in the related organizations has belonged to the Government in Beijing. Kaharagia does not dispute that, does not ask any body to revisit it, and treats the seating as settled.

What the resolution does not contain governs the rest of this publication. The word Taiwan appears nowhere in it. No territory is named, ceded, transferred or assigned. No population is placed under any sovereignty. The persons expelled are identified by reference to Chiang Kai-shek, a man, and not by reference to a state, a territory or a people. A resolution that disposes of a delegation has not disposed of an island.

DM-2026-001 records that a resolution of the General Assembly is a recommendation and not a binding decision. That proposition is stated about resolutions addressed to States and it is not to be misapplied here. Resolution 2758 was addressed to the Organization about the Organization’s own proceedings, and inside them it took effect. The Assembly seated one delegation and removed another and was competent to do so. The limit is one of subject matter and not of form. The Assembly did not admit a state, which under Article 4 of the Charter requires a decision of the General Assembly upon the recommendation of the Security Council, and it did not purport to determine the status of any territory or of anyone living in one.

Overstatement in the other direction is refused with equal firmness. The resolution is not a nullity, it is not a political preference dressed as a decision, and it did not leave the Chinese seat open for competing claims. Kaharagia reads it for what it says and declines to read it for what it does not. The discipline is the one DM-2026-001 applies to an advisory opinion quoted as a judgment and to a commission of inquiry quoted as a court.

### WHAT RESOLUTION 2758 DECIDED

*Resolution 2758 settled which delegation represents China in the United Nations. It names no territory, transfers no territory, decides nothing about the status of the people of Taiwan, and calls upon no State to withhold recognition of anything.*

## 2.1 The Instruments Read Alongside the Resolution

Paragraph 8 of the Potsdam Declaration of 26 July 1945 provides that “The terms of the Cairo Declaration shall be carried out and Japanese sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine”. The Secretariat did not obtain the text of the Cairo Declaration for this publication and therefore states nothing about its contents. A declaration of terms to be carried out is not an instrument of cession, and this one names no recipient of anything.

The operative treaty is exact and its exactness is the point. By Article 2 (b) of the Treaty of Peace with Japan signed at San Francisco on 8 September 1951, “Japan renounces all right, title and claim to Formosa and the Pescadores”. Article 2 (a) of the same treaty runs differently: Japan renounces Korea “recognizing the independence of Korea”. Where the drafters intended a destination for what was renounced they wrote one. For Formosa and the Pescadores they wrote none.

Kaharagia does not build its determination on that silence. A treaty that transfers title to nobody supports no positive claim by anybody, and an argument that the status of the island was left undetermined in 1951 answers no question about the government there now. The silence also fails to cover the ground. Article 2 (b) names Formosa and the Pescadores. It does not name Kinmen or Matsu, which the same Government administers today and which its own statute places inside the Taiwan Area. A theory of title assembled out of the 1951 text would leave two of the four island groups outside its reach on the first page. This case is decided where DM-2026-001 puts it, on the facts of government and on the freedom of the choice the people concerned are able to make.

## 3. The Indicia of Statehood Applied to Taiwan

The indicia DM-2026-001 takes from Article 1 of the Montevideo Convention are a permanent population, an identifiable territory, institutions capable of public government, and the capacity to conduct external relations, weighed together with legality and popular legitimacy and applied to the facts rather than by formula.

The population is permanent and it is not uniform. The Government records 23,400,220 people for December 2024, of whom 14.28 per cent are under 18 and 19.18 per cent are 65 or older. Sixteen Indigenous peoples are officially recognised and together make up just over 2.6 per cent of the population. More than 600,000 residents are recorded as new immigrants, most from China and Southeast Asia. Those figures decide nothing by themselves and they shape the reservations and conditions below.

The territory is identified by that state in its own legislation, which is stronger evidence than a map drawn by an interested observer. The Taiwan Area is Taiwan, Penghu, Kinmen, Matsu and any other area under the effective control of the Government. The Mainland Area is defined as everything the same statute places outside it. A government that draws that line in its own law has named the territory it governs and marked off the territory it does not.

The institutions govern and they change hands. Martial law in force since 1949 ended in 1987, together with the bans on new political parties and news publications. The

first direct presidential and vice presidential elections were held in 1996. In 2000 Chen Shui-bian and Annette Hsiu-lien Lu were elected, ending more than fifty years of Kuomintang rule and marking, in the Government's own words, the first transfer of executive power in Taiwan between political parties. In 2024 Lai Ching-te and Hsiao Bi-khim were elected, the first time a party had held the office for three consecutive terms since direct elections began. The presidency sits alongside five yuans, the President may be re-elected once, and voters cast one district ballot and one at-large ballot for the legislature.

External capacity is exercised and not merely asserted. Twelve states maintain diplomatic relations with it: Belize, Eswatini, Guatemala, Haiti, the Holy See, the Marshall Islands, Palau, Paraguay, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, and Tuvalu. Under DM-2026-001 that count is a fact about those twelve states and not an answer to the question asked here. The membership carries more weight than the count. Since 1 January 2002 it has been a member of the World Trade Organization in its own right, under the name Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei).

That name is a condition of participation and not a finding about status, and Kaharagia does not adopt it. The same holds for administrative designations used elsewhere. The United Nations Statistics Division states of its own country and area codes that "The designations employed and the presentation of material at this site do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries". Kaharagia takes the Secretariat at its word. A statistical label is not a determination, and a label repeated in enough databases is still not one.

### 3.1 Genuine Sovereignty and Whether the Dependency Scale Engages

The scale in DM-2026-001 runs dependency, effective control, absorption, and it decides most of this series. It engages here and it returns nothing that qualifies the recognition.

The scale measures the hold a patron has over the entity whose status is in issue, and the arithmetic of this case runs against the ordinary suspicion. Security assistance is real. The United States enacted the Taiwan Relations Act on 10 April 1979, declaring the policy of providing Taiwan with arms of a defensive character and of maintaining the capacity of the United States to resist any resort to force or other forms of coercion, and in the same year it acknowledged "the Chinese position that there is but one China and Taiwan is part of China". The state most engaged in Taiwan's defence therefore withholds the very recognition Kaharagia is extending, and has withheld it for more than four decades. A patron does not manufacture a claim it declines to endorse. Acknowledging another state's position is not recognising it, and Kaharagia records the difference because both governments concerned have an interest in blurring it.

The indicators DM-2026-001 supplies are applied in turn.

- **Whether the claim to self-government predates the patron.** The end of martial law in 1987, the first direct presidential election in 1996 and the change of govern-

ing party in 2000 were not produced by an external sponsor, and the sponsor most often named has not recognised what they produced.

- **Whether the institutions have refused the patron something the patron wanted.** No arrangement is before the Secretariat by which any state directs Taiwan's security institutions or its foreign policy, and no material examined for this publication records a patron's instruction for the institutions to refuse. The indicator is answered structurally rather than by episode: the relationship on which the burden would rest does not carry recognition, so it cannot be the source of the claim.
- **Whether the trajectory runs toward independence or toward incorporation.** No instrument merging the Taiwan Area into another state is before the Secretariat, no transfer of state functions appears in the materials examined, and no mass conferral of another state's citizenship on the population is recorded in them. Nothing in the file points toward absorption by anyone.
- **Whether the argument against the relationship can be made and survived.** The presidency has passed between parties by counting, and the constitutional machinery for arguing a different status is in the electorate's hands. Article 4 of the Additional Articles allows the national territory to be altered on a proposal of one quarter of the Legislative Yuan, passed by at least three quarters, and sanctioned by the electors of the free area at a referendum.

Kaharagia therefore finds no external control over the entity whose status is in issue. Dependency in the ordinary sense is present, it is ordinary among recognised states, and it defeats nothing. The state asserting title exercises no control over the territory at all, and the materials before the Secretariat record continuous administration of the Taiwan Area by the Government in Taipei since 1949 and no administration of any part of it by the People's Republic of China.

#### 4. The Claim of the People's Republic of China, Stated as a Claim

The Preamble to the Constitution of the People's Republic of China provides that "Taiwan is part of the sacred territory of the People's Republic of China" and that "It is the sacred duty of all the Chinese people, including our fellow Chinese in Taiwan, to achieve the great reunification of the motherland". The Constitution was last amended by the First Session of the Thirteenth National People's Congress on 11 March 2018.

The Anti-Secession Law, adopted at the Third Session of the Tenth National People's Congress on 14 March 2005, states at Article 2 that "There is only one China in the world. Both the mainland and Taiwan belong to one China. China's sovereignty and territorial integrity brook no division". Article 5 states that reunification through peaceful means best serves the fundamental interests of the compatriots on both sides of the Taiwan Straits. Article 8 provides that where secessionist forces act under any name or by any means to cause the fact of Taiwan's secession from China, the state "shall employ non-peaceful means and other necessary measures".

The legal character of those texts must be stated with the same care applied to resolution 2758. A constitutional preamble states what a state holds. A statute binds inside the state that enacts it. Neither is a judgment, an advisory opinion, a decision of the

Security Council or a determination by any body with authority over the question. The claim is asserted, and it is asserted over a territory the claimant has never administered. DM-2026-001 holds that effective control is not sovereign title. A claim unaccompanied by even effective control stands further from title, not nearer to it.

The reservation of non-peaceful means is answered now rather than after the event. DM-2026-001 holds that invasion, annexation, military occupation and the implantation of dependent authorities create no lawful sovereign title, and that no territorial acquisition resulting from the threat or use of force is to be recognised as legal. A statute providing for non-peaceful means to prevent a status cannot produce a title Kaharagia would recognise, and any acquisition of the Taiwan Area achieved by those means would be met by the rule rather than by a fresh assessment of the merits.

None of this treats the claim as frivolous. It is the constitutional position of a permanent member of the Security Council, held consistently, and it is the reason Taiwan sits outside the ordinary machinery of international life. Kaharagia records that the claim is a claim and that no instrument before the Secretariat has converted it into anything else.

#### **4.1 Who Is Permitted to Choose**

DM-2026-001 asks who was permitted to choose before it asks what was chosen. The Taiwanese answer is unusual in this series, because the dispute is not about which residents may vote. It is about whether the residents are the constituency at all.

The Preamble quoted above describes reunification as the duty of “all the Chinese people, including our fellow Chinese in Taiwan”. Read as a constituency rule, that formulation hands the decision to a population which has never lived under the institutions whose status is in question and which takes no part in the elections that constitute them. DM-2026-001 requires eligibility, registration and the framing of a status question to be settled in advance by a body no interested party controls, and it requires the choice to be the free and genuine expression of the will of the people concerned. The people concerned are the people whose political status is at stake and who live under the government whose status is at stake.

The instruments on the other side answer the same question in a form capable of being tested. Article 2 of the Additional Articles provides that the President and Vice President are directly elected by the entire populace of the free area of the Republic of China. Article 4 places any alteration of the national territory in the hands of the electors of the free area at a referendum, after a proposal by one quarter of the Legislative Yuan and passage by at least three quarters of it. Kaharagia does not endorse that constitutional scheme and records where it puts the decision, which is where DM-2026-001 puts it.

Two limbs of the constituency rule that decide other files find little to attach to here. No population expelled from the territory is being kept out of a status process, because no such expulsion appears in the materials before the Secretariat. The settlement limb requires care rather than dismissal. The Government’s own history records that 1.2 million people came from China with the Government that relocated in 1949, and its own statistics record more than 600,000 new immigrants, most from China and

Southeast Asia. DM-2026-001 bars the disqualification of residents on grounds of origin, ethnicity, religion or date of arrival, and Kaharagia applies that bar to every one of them. Their presence confers sovereignty on no state, and their origin costs them no vote.

The sixteen recognised Indigenous peoples raise the question DM-2026-001 calls a nested claim. Their connection to the territory precedes every administration that has governed it. A people asserting self-determination against another state acquires no licence to deny it to a community inside the territory it claims. Recognition of the state settles no Indigenous claim within it, extinguishes none, and may not be cited against any. Their standing in a status process is a matter for them, and this publication does not decide it.

#### TAIWAN PRINCIPLE

*A claim asserted by one state over a territory it has never administered is a claim. Nothing before the Secretariat has converted it into a determination, and only the free choice of the people who live there could convert it into a title.*

## 5. Why Kosovo, Somaliland, Northern Cyprus and Palestine Do Not Decide This Case

DM-2026-005 recognises Kosovo on the exhausted-remedy route: autonomy dismantled by the parent state, exclusion from institutions, repression found by a tribunal, an international administration, and status negotiations that were attempted and failed. Taiwan needs none of that apparatus, because it is not asking to leave anything. There is no parent state whose internal remedy could have been exhausted and no autonomy for anyone to have dismantled. The advisory opinion of 22 July 2010 does not carry this file either. It held, on a request from the General Assembly, that Kosovo's declaration of independence did not violate international law, and it is an advisory opinion and not a judgment. Taiwan has issued no declaration for such an opinion to address.

DM-2026-007 recognises Somaliland with a reservation over districts it claims and does not hold by consent. The reservation entered here is that one's mirror. Somaliland's reserved territory is contested ground its electoral administration could not enter, and the reservation protects the communities living in it. The territory reserved here has never been administered by the state being recognised, and the reservation protects the position of the state that does administer it. Both rest on the same rule in DM-2026-001, that recognising a state is not recognising every boundary that state claims.

DM-2026-008 closes on non-recognition required, and it is the file this one must be measured against. That disposition rests on a duty rather than on a judgement of the merits: the Security Council considered the declaration of 15 November 1983 legally invalid and called upon all States not to recognise any Cypriot State other than the Republic of Cyprus. DM-2026-001 provides that a duty of that kind displaces discretion and cannot be cured by attaching reservations. No instrument of that character is before the Secretariat here. Resolution 2758 is not one and does not read as one. It calls upon no State to do or withhold anything, it addresses no State's recognition

policy, and it identifies no entity whose recognition is in issue. Kaharagia declined in DM-2026-007 to treat a regional organisation's communiqué as engaging the duty and applied the duty in DM-2026-008 where the Council had created it. The same test, unaltered, produces the answer here.

DM-2026-010 affirms Palestinian sovereignty that survives occupation. Taiwan is not occupied, and the state claiming it administers no part of it, so the configuration that governs there is absent. DM-2026-002, DM-2026-003 and DM-2026-004 turn on a patron's hold over the entity seeking recognition and reach three different answers on it. No such hold is found here, and the state pressing the competing claim is patron of nothing inside the territory. DM-2026-006 treats Western Sahara as unfinished decolonisation, and that vocabulary is examined below rather than borrowed.

### **5.1 The Family of Claim and Why None of the Three Fits**

DM-2026-001 requires each case to be placed in one of three families before any further test, because the claimant's burden differs according to where the claim begins. Classification is a question of history and neither party chooses it.

Separation from a settled state does not describe this case. That family concerns a community seeking to leave a state whose sovereignty is not otherwise in question. The Government in Taipei relocated in 1949, has administered the territory continuously since, and has never been administered by the state that claims it. There is no departure to perform and no parent state to depart from.

Restored statehood after a contested union does not describe it either. No union between the two was ever constituted, ratified or operated, and a family that resumes a status interrupted by a union has nothing here to resume.

Unfinished decolonisation is the nearest and it does not carry the case. Japan renounced right, title and claim to Formosa and the Pescadores in 1951 without a named recipient, and the inhabitants were consulted on status by nobody in that period. The obligation that family enforces is owed by an administering power to a people it has not permitted to choose. The government administering this territory is now chosen by the people of the territory at four-yearly elections, under a constitution they may amend by their own referendum, and it has been replaced by them at the ballot. An obligation discharged from inside, by the people to whom it was owed, leaves the classification without work to do.

The case accordingly stands outside the three families, and DM-2026-001 supplies what remains: the indicia of statehood, the degree of external control, the freedom of the choice expressed, and any duty of non-recognition. Each has been applied above. Where a case does not fit a classification the honest course is to say so and apply the tests, rather than force the case into the nearest family and then reason from a burden it never carried.

### **5.2 The Objections at Full Strength**

The strongest objection is not that Taiwan is unfree or ungoverned. It is that Taipei's own constitutional text does not say what recognition would make it say. The Additional Articles are enacted "To meet the requisites of the nation prior to national

unification". They divide the country into a free area and a mainland area rather than into two states, and they contemplate a unification this act would appear to foreclose. Both Chinese governments make that point, in different words and for opposite reasons.

DM-2026-001 answers it. The political existence of a state is independent of recognition by other states, and recognition records a judgment about a thing that either exists or does not. Kaharagia recognises the state that exists, governs, taxes, legislates, elects and negotiates. It adopts no party's theory of that state's relationship to China and requires none. Integration and union are among the modes of implementing self-determination that DM-2026-001 lists. If the people of Taiwan freely choose unification, this determination falls to be reviewed and Kaharagian recognition will not be held up against their choice. Recognition here protects the decision. It does not take it.

The second objection is that recognition raises the risk of war and that prudence counsels silence. Kaharagia does not accept the premise as a legal argument. A risk of instability is a reason to act carefully and is not a finding about who holds title. DM-2026-001 forbids the purchase of recognition and forbids with equal force a refusal designed to avoid the cost of holding a position. It also provides that no recognition decision is a warrant for force, and this one is not. Kaharagia asks no state to act on it and offers no party a justification for anything.

The third objection is that recognition supplies a precedent to every separatist movement. It does not, and the classification above is the reason. This is not a separation claim. Nothing here assists a community seeking to divide a state, which would fall in the third family and carry the heaviest burden. What this file establishes is narrower and harder to abuse: a state that governs its territory, elects and replaces its government and conducts its own external relations is not deprived of existence by another state's claim to it.

## **6. What Recognition Gives Taipei, and What It Does Not**

Under the Sovereign instrument giving effect to this determination, Kaharagia recognises the Republic of China (Taiwan) as a state under its own constitutional name, within the Taiwan Area. It recognises that state's constitutional institutions as entitled to act for it. It treats it as a state in Kaharagian terminology, publications and legal analysis. And it holds that no other state possesses a sovereign, tutelary or annexationist right over it.

Kaharagian usage follows. Kaharagia uses the state's own name and the ordinary short form Taiwan. It does not use participation formulas adopted for membership of other bodies, and it does not use administrative designations whose own publishers disclaim any opinion on legal status. The name belongs to the state and may be changed by it, and Kaharagian recognition does not depend on which name it carries.

No mission opens and no representative is accredited. Recognition endorses no administration, validates no election and adopts no party's account of history. It fixes no boundary beyond the Taiwan Area and recognises no title to the Mainland Area. It says nothing about the statehood of the People's Republic of China, which is not in

question in this series and is not diminished by a word of this publication. It asks no other state to change its position, and it treats the positions of other states as facts about them.

## 6.1 What This Determination Does Not Authorise

Recognition is addressed to a state. It confers nothing on anyone against any person in Taiwan, in the People's Republic of China or anywhere else. Recognition does not authorise:

- Any use of force by any party, or the citation of this act by any state as a justification for military action, basing, blockade or coercion.
- Adverse treatment of citizens of the People's Republic of China, of their relatives, or of residents of Taiwan with family, property or commercial ties across the strait.
- Treating residents of Taiwan who favour unification as disloyal. Peaceful advocacy of union with another state is a political position, not an offence.
- The exclusion of Indigenous peoples from any status process, or the citation of this recognition against Indigenous claims to land, language or standing within the territory.
- Discrimination against people who arrived from China in 1949 or their descendants, against new immigrants from China or Southeast Asia, or against anyone on grounds of origin or date of arrival.
- The treatment of the residents of Kinmen and Matsu as a bargaining position, or the withdrawal from them of services, movement, documentation or protection on account of where they live.
- Reprisal against any person, in Taiwan or elsewhere, on account of this decision or of the recognition policy of any other state.

## 6.2 Conditions Attaching to Kaharagian Support

The following conditions attach to Kaharagian support and engagement. None attaches to statehood. Each can be satisfied by the government addressed and assessed by an observer, because a condition no government could meet is a refusal wearing the language of encouragement.

- Continued domestic legal effect for the human rights protection provisions of the two Covenants, which were given domestic legal status by the implementing Act of 22 April 2009.
- Protection of the political rights of parties, candidates, publications and voters who advocate unification, including their access to the ballot and to the ordinary means of campaigning.
- Consultation with the sixteen recognised Indigenous peoples on measures affecting their lands, languages and standing, and their participation in any process affecting the status of the territory.
- Equal treatment of new immigrants and their families in documentation, residence, employment and civil status, without distinction by place of origin.

- Preparation of any status process on the terms DM-2026-001 requires, with eligibility, registration and the framing of the question settled in advance by a body no interested party controls.
- No arrangement conferring on another state decisive control over Taiwan's security institutions or foreign policy, and no security arrangement Taiwan could not lawfully terminate.

### 6.3 Review and Reversibility

Review follows DM-2026-001, and the territorial reservation is held in place by it. This determination falls to be reviewed on any of the following:

- A freely expressed decision of the people of Taiwan in favour of another status, including union with the People's Republic of China, taken through a process meeting the conditions above.
- A settlement freely negotiated between the two governments and accepted by the people of Taiwan.
- The extinction of the state's independence by force or annexation, or the transfer of its state functions to another state.
- The conferral of another state's citizenship on the population at scale, or the progressive replacement of local institutions by another state's.
- A decision of the Security Council addressing the status of the territory, or any instrument by which a competent international organ calls upon states to withhold recognition, which would engage the duty limb of DM-2026-001 and displace this disposition.
- A material change in the territory the recognised state claims, in either direction, which would engage the reservation entered here.
- A material deterioration in the conditions of free political choice inside the territory, which would engage Kaharagian support, official contact and public criticism, and would not by itself unmake a state.

## 7. Operative Declaration

The State of Kaharagia recognises the Republic of China (Taiwan) as a sovereign and independent state within the Taiwan Area, being Taiwan, Penghu, Kinmen, Matsu and the other areas under the effective control of its Government. Recognition rests on a permanent population, an identified territory, institutions the people of Taiwan elect and replace, and external relations conducted in its own right, and it does not depend upon the policy of any third state. Kaharagia recognises no title to the Mainland Area and takes no position on the statehood or internal affairs of the People's Republic of China. Kaharagia holds that the political status of Taiwan belongs to the people of Taiwan to determine, that independence, union and any other status they freely choose are open to them, and that no title over the territory may be acquired by force. Diplomatic relations are not established by this instrument and remain reserved to a separate decision.

## 8. Publication and Legal Effect

This memorandum is a public statement of the foreign policy of the State of Kaharagia, adopted by the Sovereign and issued through the Secretariat of State, Section II. Under Kaharagian constitutional practice, the recognition or non-recognition of a state, the recognition of a government, the establishment of a diplomatic mission, the imposition of sanctions and the entry into formal diplomatic relations remain decisions reserved to the Sovereign and implemented through the appropriate instrument. This memorandum states the grounds, scope, reservations and consequences of the policy adopted; it does not by itself confer accreditation, immunity or privilege, and the recognition it states was effected by Sovereign instrument.

This memorandum is published in the Diplomatic Memorandum Series by the Office of the Sovereign's Printer. Its serial reference shall be preserved in every separate or electronic edition. Organs of State shall conform their terminology, publications, procurement, entry decisions and official contact to the determinations recorded here. Material changes in facts, control, legal proceedings or the formally expressed position of the people concerned shall trigger review under the heading above.

### Selected Authorities and Official Materials

*Every authority in this list was retrieved and read in the preparation of this publication. Titles are followed by the issuing body, the date and a source link. Links to a host other than the issuing body are marked Source. Legal character is kept on the face of each entry. A resolution of the General Assembly deciding the representation of a Member within the Organization is separated from a determination of territorial status; a constitutional preamble and a domestic statute are separated from a judgment, an advisory opinion or a decision of the Security Council; a treaty renunciation naming no recipient is separated from a cession; an administrative statistical designation is separated from a status finding; an acknowledgement of another state's position is separated from recognition of it; and a name adopted for participation in an international organisation is separated from the name of a state.*

1. *Resolution 2758 (XXVI), Restoration of the lawful rights of the People's Republic of China in the United Nations.* United Nations General Assembly, adopted at the 1976th plenary meeting, 25 October 1971. Recalls the principles of the Charter; recognises the representatives of the Government of the People's Republic of China as the only lawful representatives of China to the United Nations and that the People's Republic of China is one of the five permanent members of the Security Council; decides to restore all its rights to the People's Republic of China and to expel forthwith the representatives of Chiang Kai-shek. The word Taiwan does not appear in the text. A decision of the General Assembly upon representation within the Organization, not a determination of territorial status and not a call upon States to withhold recognition.  
[https://documents.un.org/api/symbol/access?s=A/RES/2758\(XXVI\)&l=E&t=pdf](https://documents.un.org/api/symbol/access?s=A/RES/2758(XXVI)&l=E&t=pdf)
2. *Charter of the United Nations.* United Nations, full text as published by the Organization. Article 1, paragraph 2 on equal rights and self-determination of peoples; Article 2, paragraph 1 on sovereign equality; Article 4, paragraphs 1 and 2, under which admission to membership is effected by a decision of the General Assembly upon the recommendation of the Security Council; Article 96 on requests for advisory opinions.  
<https://www.un.org/en/about-us/un-charter/full-text>
3. *Treaty of Peace with Japan, signed at San Francisco on 8 September 1951.* United Nations Treaty Series, volume 136, No. 1832; registered by the United States of America on 21 August 1952. Article 2 (a): Japan, recognizing the independence of Korea, renounces all right, title and claim to Korea. Article 2 (b): "Japan renounces all right, title and claim to Formosa and the Pescadores." No recipient of the renounced title is named, and Kinmen and Matsu are not named in the Article.  
<https://treaties.un.org/doc/Publication/UNTS/Volume%20136/volume-136-I-1832-English.pdf>

4. *Potsdam Declaration, 26 July 1945*. Text reproduced by the National Diet Library of Japan. Paragraph 8: “The terms of the Cairo Declaration shall be carried out and Japanese sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine.” A declaration of terms, not an instrument of cession. The Cairo Declaration itself was not retrieved and nothing is asserted here about its contents.  
<https://www.ndl.go.jp/constitution/e/etc/c06.html>
5. *Constitution of the People’s Republic of China*. National People’s Congress; as amended by the First Session of the Thirteenth National People’s Congress, 11 March 2018. The Preamble provides that “Taiwan is part of the sacred territory of the People’s Republic of China” and that “It is the sacred duty of all the Chinese people, including our fellow Chinese in Taiwan, to achieve the great reunification of the motherland.” A constitutional assertion by the claimant state, not a determination by any international body. Published by the State Council of the People’s Republic of China.  
[https://english.www.gov.cn/archive/lawsregulations/201911/20/content\\_WS5ed8856ec6d0b3f0e9499913.html](https://english.www.gov.cn/archive/lawsregulations/201911/20/content_WS5ed8856ec6d0b3f0e9499913.html)
6. *Anti-Secession Law of the People’s Republic of China*. Adopted at the Third Session of the Tenth National People’s Congress, 14 March 2005. Article 2: “There is only one China in the world. Both the mainland and Taiwan belong to one China. China’s sovereignty and territorial integrity brook no division.” Article 5 on peaceful reunification; Article 8 providing that in the events it specifies the state “shall employ non-peaceful means and other necessary measures”. A domestic statute of the People’s Republic of China. Full text as published by China Daily.  
[https://www.chinadaily.com.cn/english/doc/2005-03/14/content\\_424643.htm](https://www.chinadaily.com.cn/english/doc/2005-03/14/content_424643.htm)
7. *Additional Articles of the Constitution of the Republic of China*. Office of the President, Republic of China (Taiwan). Enacted “To meet the requisites of the nation prior to national unification”. Article 1 provides for referendums by the electors of the free area; Article 2 provides that the President and Vice President shall be directly elected by the entire populace of the free area; Article 4 requires a proposal by one quarter of the members of the Legislative Yuan, passage by at least three quarters and sanction by the electors of the free area at a referendum before the national territory may be altered; Article 11 provides that rights and obligations between the people of the mainland area and those of the free area may be specified by law.  
<https://english.president.gov.tw/Page/95>
8. *Act Governing Relations between the People of the Taiwan Area and the Mainland Area*. Legislative Yuan, Republic of China (Taiwan); last amended 8 June 2022. Article 2 defines the “Taiwan Area” as “Taiwan, Penghu, Kinmen, Matsu, and any other area under the effective control of the Government”, and the “Mainland Area” as “the territory of the Republic of China outside the Taiwan Area”. Published in the Laws and Regulations Database of the Republic of China (Taiwan), Ministry of Justice.  
<https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=Q0010001>
9. *Act to Implement the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights*. Republic of China (Taiwan), 22 April 2009. Article 2 provides that the human rights protection provisions of the two Covenants have domestic legal status. Published in the Laws and Regulations Database of the Republic of China (Taiwan), Ministry of Justice.  
<https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=I0020028>
10. *Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei) and the WTO*. World Trade Organization. Records membership of the World Trade Organization since 1 January 2002 under that name. A name adopted for participation, not a determination of status.  
[https://www.wto.org/english/thewto\\_e/countries\\_e/chinese\\_taipei\\_e.htm](https://www.wto.org/english/thewto_e/countries_e/chinese_taipei_e.htm)
11. *Political System*. Government Portal of the Republic of China (Taiwan), Ministry of Foreign Affairs. The presidency and five yuans; the President and Vice President directly elected every four years and eligible for one further term; a Legislative Yuan of 113 members serving four-year terms, each voter casting one district ballot and one at-large ballot.  
[https://www.taiwan.gov.tw/content\\_4.php](https://www.taiwan.gov.tw/content_4.php)
12. *History*. Government Portal of the Republic of China (Taiwan), Ministry of Foreign Affairs. Records the acceptance of the Japanese surrender in Taiwan in 1945; the relocation of the ROC government to Taiwan in 1949 followed by 1.2 million people from China; the end in 1987 of martial law in effect since 1949 and of the bans on new political

parties and news publications; the first direct presidential and vice presidential elections in 1996; the election of Chen Shui-bian and Annette Hsiu-lien Lu in 2000 as the first transfer of executive power in Taiwan between political parties; the passage of resolution 2758 on 25 October 1971 and the withdrawal of the ROC from the United Nations; and the election of Lai Ching-te and Hsiao Bi-khim in 2024.

[https://www.taiwan.gov.tw/content\\_3.php](https://www.taiwan.gov.tw/content_3.php)

13. *People*. Government Portal of the Republic of China (Taiwan), Ministry of Foreign Affairs. Population of 23,400,220 for December 2024, with 14.28 per cent aged 0 to 17 and 19.18 per cent aged 65 and over; sixteen officially recognised Indigenous peoples comprising just over 2.6 per cent of the population; over 600,000 new immigrants, most from China and Southeast Asia.  
[https://www.taiwan.gov.tw/content\\_2.php](https://www.taiwan.gov.tw/content_2.php)
14. *Diplomatic Allies*. Ministry of Foreign Affairs, Republic of China (Taiwan). Lists twelve states: Belize, Eswatini, Guatemala, Haiti, the Holy See, the Marshall Islands, Palau, Paraguay, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, and Tuvalu. Under DM-2026-001 a count of recognitions is a fact about the recognising states and not a title.  
<https://en.mofa.gov.tw/AlliesIndex.aspx?n=DF6F8F246049F8D6&sms=A76B7230ADF29736>
15. *Standard country or area codes for statistical use (M49)*. United Nations Statistics Division. Prepared by the Statistics Division of the United Nations Secretariat primarily for use in its publications and databases, and carrying the statement that “The designations employed and the presentation of material at this site do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.” An administrative standard of the Secretariat, not a determination of any organ.  
<https://unstats.un.org/unsd/methodology/m49/>
16. *China Policy, 1977 to 1980*. Office of the Historian, United States Department of State. Records that on normalisation the United States acknowledged “the Chinese position that there is but one China and Taiwan is part of China”, and that the Taiwan Relations Act, which became law on 10 April 1979, states the policy of providing Taiwan with arms of a defensive character and of maintaining the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan. Acknowledgement of another state’s position is not recognition of it.  
<https://history.state.gov/milestones/1977-1980/china-policy>
17. *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*. International Court of Justice, Advisory Opinion of 22 July 2010, on a request made by the General Assembly in resolution 63/3 of 8 October 2008. An advisory opinion, not a judgment, and not a determination of statehood. Cited for the contrast with DM-2026-005.  
<https://www.icj-cij.org/case/141>

DM-2026-010

# Diplomatic Memorandum on the Full Sovereignty and Recognition of the State of Palestine

*Sovereignty under occupation, territorial unity and the rights of Palestinians and  
Israeli residents*

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## POSITION OF THE STATE

Kaharagia recognises the sovereign State of Palestine de jure, determines that Gaza is the site of an ongoing genocide, establishes practical relations, and opposes occupation, annexation and forced displacement

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|-------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| STATE RECOGNITION             | Recognised in full and without condition. Sovereignty is not suspended by occupation.                                                                                  |
| DISPOSITION                   | Recognition, the first of the five dispositions under DM-2026-001.                                                                                                     |
| GOVERNMENT AND REPRESENTATION | The constitutional Government of the State of Palestine is recognised as executive authority, and the PLO as international representative of the Palestinian people.   |
| DIPLOMATIC RELATIONS          | Reserved to a separate sovereign instrument. The absence of a resident mission does not diminish recognition.                                                          |
| TERRITORY                     | The West Bank, including East Jerusalem, and the Gaza Strip on the 4 June 1967 lines, subject only to changes freely agreed by Palestine.                              |
| ISRAELI RESIDENTS             | Protected as individuals and as potentially lawful residents under Palestinian law. No Israeli sovereignty, armed enclaves, separate law or unlawfully acquired title. |
| ATROCITY CONTEXT              | Kaharagia determines that Israel is committing genocide in Gaza, and that occupation, settlement, persecution and forcible transfer continue in the West Bank.         |

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## COMMON DOCTRINAL BASIS

*A people's right to self-determination is not extinguished by an inherited border. Nor is it fulfilled by foreign occupation, coerced integration, ethnic cleansing, demographic engineering, or a nominal independence maintained under another state's effective control. Recognition of a state is separate from endorsement of its government and from the establishment of diplomatic relations.*

## 1. Executive Position

The State of Kaharagia recognises the State of Palestine as a sovereign state in the West Bank, including East Jerusalem, and the Gaza Strip. Palestinian sovereignty exists now. Occupation, blockade, settlement, annexation and the destruction of governmental capacity restrict its exercise. None of them transfers title to Israel or places statehood in abeyance.

Kaharagia determines that Israel is committing genocide against the Palestinian people in Gaza.

On what Palestine recognises as Israel, and on what boundary changes it accepts, Kaharagia follows the State of Palestine and the Palestine Liberation Organization. Kaharagia retains its own commitments to human rights, democratic government, accountability, and the protection of all civilians, including Israeli Jews who may lawfully remain in Palestine under Palestinian law and negotiated arrangements.

DM-2026-001 requires every case memorandum to name its disposition among five. This one is **Recognition**, the first and least qualified. The territorial formula is not a reservation. It withholds nothing from Palestine, and withholds from everyone else the power to alter the recognised unit without Palestinian consent. Where this publication does reserve, it reserves against claims made by Israel.

### 1.1 What Is Recognised, and Who Speaks for Palestine

Palestine is decided on four questions, and Kaharagia answers each without letting any answer carry the rest.

- **The right of self-determination.** Recognised. The International Court of Justice held at paragraph 243 of its advisory opinion of 19 July 2024 that Israel's policies and practices breach its obligation to respect the right of the Palestinian people to self-determination, and that their prolonged character aggravates the violation.
- **Statehood.** Recognised in full and without condition. This publication records a state that already exists; it does not create one.
- **Government.** The constitutional Government of the State of Palestine is the executive authority. The Palestine Liberation Organization is the international representative of the Palestinian people. Recognition attaches to the state and the people, not permanently to any office-holder or faction.
- **Diplomatic relations.** Reserved to a separate sovereign instrument. The absence of a resident mission does not diminish recognition, and nothing here accredits anyone.

DM-2026-001 expressly permits the third decision to take that split form, recognising a body as the international representative of a people separately from the executive authority of its state. General Assembly resolution 67/19 of 29 November 2012 accorded Palestine non-member observer State status while preserving, in terms, the acquired rights and role of the Palestine Liberation Organization as the representative of the Palestinian people. Palestinian practice already works that way, and Kaharagia adopts it.

## 2. Palestinian Sovereignty Under the Doctrine

DM-2026-001 sorts every case into one of three families before applying any further test, and Kaharagia places this one in the first. That family is fixed by a right of self-determination never freely exercised, and Palestine holds a state while the right remains unexercised. The United Nations has treated Palestine as a non-member observer State since resolution 67/19, and on 10 May 2024 the General Assembly determined by resolution ES-10/23 that the State of Palestine is qualified for membership in the United Nations under Article 4 of the Charter and recommended that the Security Council reconsider the matter favourably. The case sits furthest from the third.

Only the third family requires a claimant to show that internal self-determination was denied and no constitutional remedy remains, and DM-2026-005 puts Kosovo to that proof at length. Palestine is not put to that proof, because Palestine is not asking to leave Israel. The International Court of Justice held on 19 July 2024, by eleven votes to four, that Israel's continued presence in the occupied Palestinian territory is unlawful. Classification is a question of history and neither party may choose it. An occupying power cannot convert an unfinished self-determination into a domestic question by administering the territory for long enough.

### 2.1 Statehood Survives an Occupation Designed to Defeat It

DM-2026-001 lists a permanent population, an identifiable territory, institutions capable of public government and the capacity to conduct external relations, then refuses to apply them mechanically. It provides in terms that a state may survive occupation or the temporary collapse of government, and that a people does not lose its statehood because an occupying power obstructs the ordinary exercise of authority.

The fourth indicium is met on the record of Palestine's own treaty practice. Palestine lodged a declaration under article 12(3) of the Rome Statute on 1 January 2015, acceded to the Statute on 2 January 2015, and the Statute entered into force for it on 1 April 2015. On 22 May 2018 it referred the situation on its territory to the Prosecutor of the International Criminal Court. Resolution ES-10/23 records that Palestine is party to many instruments concluded under United Nations auspices, has joined several specialised agencies as a full member, and is a full member of the League of Arab States, the Movement of Non-Aligned Countries, the Organization of Islamic Cooperation and the Group of 77 and China. A body that accedes to treaties, joins organisations and seises an international court is conducting external relations.

That leaves the strongest technical objection, which is that the Government of the State of Palestine does not exercise the authority a state is supposed to exercise. The premise is conceded, and the Secretary-General's report of 24 June 2026 measures it: Israel has withheld all clearance revenue collected on Palestine's behalf since May 2025, bringing cumulative withholding and deductions to roughly \$5.09 billion by March 2026, and the Palestinian Authority enacted an emergency budget on 31 March 2026 cutting expenditure by 5.8 per cent. The conclusion does not follow from the premise. Effectiveness is read together with legality, and conquest cannot manufacture title merely because it produces effective control. Were it otherwise, a sufficiently thorough occupation would supply its own justification, and the more complete the

destruction the better the title.

Kaharagia therefore rejects any formula in which Palestine is described only as an aspiration, an authority or a future possibility. Security Council resolution 2803 (2025), adopted on 17 November 2025 by thirteen votes to none with China and the Russian Federation abstaining, provides at operative paragraph 2 that after the Palestinian Authority's reform programme is faithfully carried out and Gaza redevelopment has advanced, the conditions may finally be in place for a credible pathway to Palestinian self-determination and statehood. The Board of Peace, reporting to the Council on 15 May 2026, puts it that decommissioning is critical for a credible pathway to Palestinian self-determination and statehood to be pursued. Kaharagia takes the Council's operative authorisations as what they are and declines the characterisation. A pathway to be pursued is the description of a claim. Palestine has a state. Occupation limits the exercise of sovereignty. It does not vest sovereignty in the occupying power, and the Court said so at paragraph 254: Israel is not entitled to sovereignty over, or to exercise sovereign powers in, any part of the occupied Palestinian territory on account of its occupation.

## **2.2 Absorption, and Why the Duty of Non-Recognition Runs Against Israel**

DM-2026-001 requires each memorandum to state the degree of external control it found, on a scale of dependency, effective control and absorption. The scale was written for patrons and clients, and this case does not take that shape: an occupying power holds the territory of another state. The degree found is nevertheless the third. Absorption is the doctrine's name for a relationship being converted into incorporation, and it is the condition the core maxim forbids. The Court found at paragraph 261 that sustained abuse by Israel of its position as an occupying power, through annexation and an assertion of permanent control, renders its presence unlawful.

The record for the reporting period from 14 March to 12 June 2026 is one of incorporation proceeding on schedule. Israeli authorities advanced or approved 4,750 housing units in the West Bank, including East Jerusalem. On 25 March 2026 the Israeli Cabinet approved 34 settlements across Area C, the most extensive such approval to date in a single Cabinet decision. On 25 May 2026 the Civil Administration and the Land Registration Authority opened a platform requiring persons claiming ownership of land in Area C to substantiate their claims before Israeli authorities. On 3 June 2026 the Knesset voted extended tax benefits to dozens of West Bank settlements, which the Minister of Finance described as another step towards the goal of one million residents in the West Bank. Over the twelve months to 31 October 2025 the Office of the High Commissioner for Human Rights counted the advancement or approval of 36,973 housing units in settlements in occupied East Jerusalem and around 27,200 in the rest of the West Bank, together with 84 new outposts, a number it called unprecedented.

The consequence is not discretionary. On 19 July 2024 the Court held, by twelve votes to three, that all States are under an obligation not to recognise as legal the situation arising from Israel's unlawful presence and not to render aid or assistance in maintaining it. That is an advisory opinion and binds no state as a judgment would, but the obligation it identifies is one Kaharagia independently accepts under DM-2026-001. The duty reaches beyond the formal act, governing the acceptance of documents, the

treatment of territory as part of the acquiring state for purposes of trade, procurement, address or origin, and any agreement whose performance would consolidate the unlawful position. Other governments have begun to give it effect in trade: the Dutch Cabinet approved a decree banning settlement goods on 22 May 2026, and the Government of Ireland approved the text of a settlement goods prohibition bill on 26 May 2026. The duty runs against the acquisition and not against the people living on the land. The doctrine adds a rule for any future status process: settlement organised or encouraged by a controlling power shall not decide the question it was designed to foreclose.

### **2.3 Government, Political Unity and Armed Groups**

Kaharagia recognises the constitutional Government of the State of Palestine as the executive authority of the state and the Palestine Liberation Organization as the international representative of the Palestinian people. Consistent with the position of the recognised Palestinian leadership, Kaharagia supports one Palestinian legal order, one legitimate public-security structure, democratic elections, political pluralism, judicial independence, protection of opposition, and the assumption of lawful Palestinian governmental responsibility in both the West Bank and Gaza. Palestinian local elections were held across the West Bank and in Dayr al-Balah on 25 April 2026, and on 4 June 2026 the President ratified the electoral system for the Palestinian National Council, whose elections are scheduled for 1 November.

Hamas and other armed groups do not possess a separate sovereign title, and do not acquire one by controlling territory. That is the same rule which denies title to an occupying power in possession. Kaharagia condemns murder, hostage-taking, sexual violence, indiscriminate attacks and other crimes against Israeli civilians and supports accountability for those responsible. Captives were taken from Israel on that day, and their release and the return of the remains of those who died in captivity have continued since. Those crimes do not diminish Palestinian statehood and cannot justify genocide or collective punishment. The legal personality of a state and the criminal responsibility of persons are separate questions, and the separation runs in every direction.

### **2.4 Deference to the People Concerned, and Its Limits**

DM-2026-001 provides that on questions belonging to a people and not to Kaharagia, Kaharagia follows that people's recognised representative. Kaharagia accordingly follows the State of Palestine in determining what it recognises as Israel, what boundary changes it accepts and what settlement it authorises, and formal Palestinian consent carries decisive weight. Deference runs to the people and to the body recognised as representing them internationally, not to whichever administration holds office, and it is not withdrawn by criticism of that administration. Kaharagia supports the Palestinian state even when it criticises a Palestinian government.

Deference has a limit the representative cannot waive. No consent authorises what peremptory law forbids, and no agreement extinguishes the individual rights of residents, minorities, refugees or displaced people, who are not parties to it. A Palestinian signature could settle a boundary. It could not extinguish one refugee's claim to return,

restitution or compensation, and it could not authorise a reprisal against an Israeli resident. Deference is how Kaharagia avoids speaking over Palestinians, not a device for disposing of the rights of people who were never asked.

### **3. Inside a Sovereign Palestine: Residents, Land, Return and Territory**

Israeli citizens, overwhelmingly Jewish, live in territory recognised as Palestine. Their individual humanity, family life and right to safety are not diminished by the illegality of the settlement policy under which many of their communities were established. They are not collectively liable for the acts of the Israeli state and must not be subjected to revenge, hostage-taking, indiscriminate attack or mass expulsion. Jewish identity is not a lawful ground for expulsion or for the denial of residence.

Their residence also does not transfer sovereignty to Israel. DM-2026-001 keeps the two apart: a person's residence in a territory and a state's sovereign title to it are different questions. A sovereign Palestine may decide, through non-discriminatory law and negotiated arrangements, whether particular Israeli residents remain as Palestinian citizens, permanent residents, foreign residents, dual-status residents, or residents of land exchanged to Israel. Others may relocate voluntarily or through agreed compensation and resettlement programmes.

What cannot remain is the settlement system. No resident has a right to preserve an armed settlement, Israeli sovereign jurisdiction, military protection for territorial expansion, separate law, armed civilian formations, separate roads, segregated infrastructure, unequal access to land or water, the exclusion of neighbouring Palestinians, or title obtained through confiscation. The Court held on 19 July 2024, by fourteen votes to one, that Israel is under an obligation to cease immediately all new settlement activities and to evacuate all settlers from the occupied Palestinian territory. People may remain where Palestinian law and a lawful settlement permit. The machinery of occupation may not. Religious identity shall neither disqualify a person from lawful Palestinian residence nor confer superior title.

#### **3.1 Land, Property and the Asymmetry That Must Not Be Inherited**

Property must be addressed case by case. Good-faith private purchase, inheritance, tenancy, state allocation, military seizure, absentee-property rules and confiscation are not equivalent, and a process treating them as one will produce injustice whichever way it errs. Palestine should establish independent land and claims commissions able to order restitution, compensation, lease conversion, land exchange, relocation or other remedies, with judicial review.

The existing machinery shows what such commissions must not copy. Between 20 and 25 March 2026 Israeli forces evicted fifteen Palestinian households, sixty-nine people including twenty-seven children, from Batn al-Hawa in Silwan, following cases brought by a settler organisation under Israeli legislation that enables restitution of certain properties owned by Jews before 1948 in East Jerusalem. The Secretary-General records that no comparable restitution mechanism exists for Palestinians who lost property in 1948 in what is now Israel. A restitution right available to one

group and withheld from the other is not a property regime. It is a transfer mechanism with a courthouse attached, and a Palestinian commission that mirrored it in reverse would be no better.

Long occupation cannot cleanse title obtained through unlawful expropriation. Time is the occupying power's own instrument, and a rule rewarding its passage would pay for delay. The Court held, by fourteen votes to one, that Israel is under an obligation to make reparation for the damage caused to all natural or legal persons concerned in the occupied territory. Remedy should be directed toward property and state responsibility, and not toward collective punishment based on Jewish or Israeli identity. International financing may be needed to compensate owners, relocate residents where necessary, and prevent a new cycle of dispossession.

### **3.2 Palestinian Refugees and Displaced Persons**

Kaharagia supports the Palestinian position that refugees retain a right to a just solution in accordance with United Nations General Assembly resolution 194, including meaningful options of return, restitution, compensation, resettlement, or combinations agreed by the parties. That position was restated on 19 July 2026 by the head of the Department of Refugee Affairs of the Palestine Liberation Organization, who coupled it with a call for financial support to the United Nations Relief and Works Agency for Palestine Refugees in the Near East. The right must not be reduced to humanitarian charity or erased by the passage of generations. DM-2026-001 adds two rules that run together: displaced persons and their descendants shall not be excluded from a status process because return has not been achieved, and present residents shall not be disqualified from civil and political life on grounds of origin, ethnicity, religion or date of arrival.

The institutions that hold the refugee record are themselves under attack. On 17 May 2026 the Government of Israel approved plans to place an Israel Defense Forces museum and recruitment centre and an office for the Israeli Minister of Defence on the site of the UNRWA compound in Shaykh Jarrah in East Jerusalem, which Israeli authorities had already seized and partly demolished. Implementation of any settlement must protect both peoples and avoid creating a new mass displacement. Recognition of Israel cannot cancel Palestinian refugee claims, and recognition of Palestine does not authorise attacks upon Israeli civilians. A comprehensive settlement should include records, family reunification, property valuation, compensation funds, residency and citizenship choices, and international guarantees.

### **3.3 Immigration, Nationality and Competing Laws of Return**

Israel may establish nationality and immigration rules, including preferential Jewish immigration, within territory lawfully recognised as Israel and subject to equality and human-rights obligations. It cannot project those rules into Palestine to create settlements, displace Palestinians or acquire sovereignty. A right offered by Israeli domestic law does not bind the State of Palestine.

Palestine possesses the corresponding sovereign authority to determine its citizenship, diaspora return, residency and naturalisation policies. Palestinian refugees and

their descendants retain claims to return, restitution and compensation. Implementation must be negotiated with attention to individual choice, safety and the rights of present residents. It cannot be erased because Israel has admitted other populations under its own nationality policy.

### 3.4 Jerusalem and the Indivisibility of the Recognised Unit

Kaharagia recognises East Jerusalem as the capital of Palestine. It supports guaranteed access to and protection of Muslim, Christian, Jewish, Armenian and other holy places and communities, and notes that access has lately been denied in both directions: from 28 February to 9 April 2026 Israeli authorities imposed restrictions on Jerusalem's Old City that barred worshippers during Ramadan, Passover and Easter, and on 29 March 2026 Israeli police prevented the senior Catholic authorities in Jerusalem from entering the Church of the Holy Sepulchre for Palm Sunday Mass. Municipal and security arrangements may be shared or specialised, but they must not deny Palestinian sovereignty or the rights of residents.

Gaza is an integral part of Palestine, and the Court has said why in terms Kaharagia adopts. At paragraph 262 of the advisory opinion the illegality is stated to relate to the entirety of the Palestinian territory occupied in 1967, which is described as the territorial unit across which Israel has acted to fragment Palestinian self-determination and as the territory in relation to which that right is to be exercised, the integrity of which must be respected. Territorial integrity in this case is therefore not a Kaharagian preference laid over the facts. It is the unit in which the right itself subsists. In January 2026 Israeli authorities issued tenders for thousands of settlement units in the E1 area, which the Office of the High Commissioner for Human Rights assesses would sever East Jerusalem from the rest of the West Bank. Severing the unit is the object, and Kaharagia will not treat the result as lawful.

DM-2026-001 refuses ethnic partition as a default remedy, because dividing territory to match populations rewards the coercive movement of people. That refusal governs both directions here. The recognised unit is not adjusted to follow the settlement map, and no Palestinian settlement may be built on clearing Israeli residents out of land that stays Palestinian.

#### PALESTINIAN SOVEREIGNTY

*Palestine is not a future reward to be granted after occupation ends. It is a sovereign state whose territory and people are presently subjected to unlawful occupation, annexation, displacement and genocide.*

## 4. The Atrocity Determinations: Gaza, the West Bank and Those Responsible

Kaharagia determines that Israel is committing genocide against the Palestinian people in Gaza. Recognition of Palestine therefore carries a duty to oppose the destruction of a people and the dismantling of the material, cultural and political foundations through which that people can continue to live in its homeland.

The determination rests on the report of the United Nations Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel of 16 September 2025, which concluded that Israeli authorities and security forces committed four of the five genocidal acts defined by the 1948 Convention, namely killing, causing serious bodily or mental harm, deliberately inflicting conditions of life calculated to bring about destruction in whole or in part, and imposing measures intended to prevent births. The Commission applied the only-reasonable-inference standard set by the International Court of Justice in *Bosnia and Herzegovina v. Serbia and Montenegro*, treated statements by Israeli authorities as direct evidence of intent, and attributed the conduct to the State of Israel. Its chair at that time, Navi Pillay, stated that responsibility lies with Israeli authorities at the highest echelons.

The Commission returned to the question in the paper published on 18 June 2026 and announced on 23 June 2026, which found that Israel continues to commit genocide and other atrocity crimes by deliberately targeting Palestinian children, including after the October 2025 ceasefire, and recorded at least 20,179 Palestinian children killed and 44,143 injured since 7 October 2023. A commission of inquiry finds; it does not adjudicate. The proceedings brought by South Africa before the International Court of Justice, instituted on 29 December 2023, remain pending: the Court has made provisional measures orders on 26 January, 28 March and 24 May 2024 and fixed time-limits for the Reply and Rejoinder on 21 May 2026, and it has entered no judgment on the merits. DM-2026-001 provides for that position. Proceedings pending elsewhere do not suspend Kaharagian judgment, because a duty to prevent attaches to a risk, not to a verdict.

Kaharagia calls for an immediate and durable end to genocidal conduct, unrestricted humanitarian relief, release of unlawfully detained persons, preservation of evidence, medical evacuation based on need, return of displaced Gazans to their communities, and reconstruction under Palestinian sovereignty.

#### **4.1 Gaza: A Transitional Administration Is Not a Transfer of Title**

No state may acquire a right to govern Gaza by destroying it. The scale of the destruction is now measured: the final Gaza Rapid Damage and Needs Assessment published by the United Nations, the World Bank and the European Union on 20 April 2026 identifies approximately \$71.4 billion in recovery and reconstruction needs over the next decade, of which \$26.3 billion falls in the first eighteen months, records approximately 371,888 housing units destroyed or damaged, finds nearly all schools destroyed or damaged, and puts the contraction of the Gaza economy at 84 per cent.

Security Council resolution 2803 (2025) endorsed the Comprehensive Plan to End the Gaza Conflict of 29 September 2025, welcomed the establishment of the Board of Peace as a transitional administration with international legal personality, and authorised Member States working with the Board, and the Board itself, to establish a temporary International Stabilization Force in Gaza and operational entities to implement a transitional governance administration. That administration supervises and supports a Palestinian technocratic and apolitical committee of competent Palestinians from Gaza, which is responsible for the day-to-day operations of Gaza's civil service

and administration. The authorisation is not open-ended. The Board of Peace and the civil and security presences authorised by the resolution remain authorised until 31 December 2027, subject to further action by the Council, and the Board sets the framework for redevelopment until the Palestinian Authority has satisfactorily completed its reform programme and can securely and effectively take back control of Gaza.

Kaharagia takes the position that an arrangement of this kind is capable of being lawful and is not lawful by virtue of its authorisation alone. It is tolerable while it is narrowly defined, temporary, and directed to relief, security transition, reconstruction or elections; while it contains a real transfer of authority to Palestinian institutions; and while it carries no power to surrender Palestinian territory. Kaharagia measures the Board of Peace against those conditions and not against its own account of itself. A transitional administration is an exercise of custody. It confers no title, and it cannot be converted into a standing government of Palestinian territory by the expiry of time or by the failure of any party to perform.

Kaharagia rejects voluntary-sounding schemes that make departure the only way to survive. Relocation produced by starvation, bombardment, destroyed housing, closed borders or the denial of return is not free migration. The plan the Council endorsed states that no one will be forced to leave Gaza, that those who wish to leave are free to leave and free to return, and that Israel will not occupy or annex Gaza. The Secretary-General reports that on 21 and 28 May 2026 Israel's Prime Minister said Israel controlled 60 per cent of the Gaza Strip, up from 53 per cent when the ceasefire was declared, and that he had instructed the Israel Defense Forces to take over at least 70 per cent. The Palestine Liberation Organization warned on 19 July 2026 against the consolidation and expansion of that line as a *fait accompli*. A ceasefire line that grows is not a ceasefire line. No agreement with a third state, including Somaliland or any other state seeking diplomatic benefit, may legitimise the coerced removal of Palestinians from Gaza. DM-2026-007 states the same prohibition from the other end of the series. It does not depend on which state is offered the role, or on what that state is offered in return.

#### **4.2 The West Bank: Annexation, Persecution and a Question Kept Under Review**

In the West Bank, including East Jerusalem, settlement expansion, land seizure, military violence, settler attacks, discriminatory planning, road and movement systems, detention, demolition and the displacement of communities constitute a sustained assault on Palestinian sovereignty and presence. The reported figures are specific. Over the twelve months to 31 October 2025 the Office of the High Commissioner for Human Rights documented 1,732 incidents of settler violence causing casualties or property damage, against 1,400 in the preceding period, and recorded more than 36,000 Palestinians forcibly displaced. In the three months to 12 June 2026 Israeli authorities demolished or seized 333 Palestinian structures, displacing 451 people including 187 children, and the monthly average of people displaced by permit-related demolitions in 2026 stands at 160, higher than any annual average since the United Nations began documenting displacement in 2009. Nine communities were fully depopulated between 14 March and 22 April 2026, bringing to 45 the number fully displaced by

settler violence since January 2023. The refugee camps of Jenin, Tulkarm and Nur Shams remain empty under a renewed military closure order, their residents, more than 33,000 people, displaced in what the Secretary-General describes as the longest and largest displacement crisis in the West Bank since 1967.

Kaharagia regards the system as involving war crimes and crimes against humanity, including persecution and forcible transfer. The characterisation is not Kaharagia's alone. The Office of the High Commissioner for Human Rights reported on 17 March 2026 that the displacement appears to indicate a concerted Israeli policy of mass forcible transfer aimed at permanent displacement, raising concerns of ethnic cleansing, and concluded that the transfer of power from the Israeli military to civilian authorities, land confiscation and related practices amounted to an institutionalised regime of systematic discrimination, oppression and violence violating the prohibition of racial segregation and apartheid. United Nations special procedures mandate holders reported on 19 March 2026 that armed settler groups operate as an instrument of that policy and that arms and vehicles have been supplied to them.

Whether the West Bank campaign also constitutes genocide remains legally arguable and must be evaluated with care. The Commission of Inquiry, in the paper announced on 23 June 2026, characterised Israeli conduct against Palestinian children in the West Bank as war crimes while confining its genocide finding to Gaza, and Kaharagia does not go further than the evidence. Statements and policies seeking Palestinian removal, the systematic destruction of communities and the creation of conditions intended to end Palestinian life in strategic areas may establish genocidal intent in relation to part of the Palestinian people. Kaharagia keeps the question under formal review. What is open is the characterisation. What is determined already is that the conduct is unlawful, that it includes war crimes and crimes against humanity, and that Kaharagia will not treat its results as lawful. Uncertainty about the gravest available label is no reason to soften the response to conduct unlawful on other grounds.

### **4.3 Accountability, Named Individuals and Legal Character**

Kaharagia supports the jurisdiction of the International Criminal Court over the situation in the State of Palestine and impartial investigation of crimes by Israeli and Palestinian actors. The Court's jurisdiction in that situation was held by Pre-Trial Chamber I on 5 February 2021 to extend to Gaza and the West Bank, including East Jerusalem, and the investigation was opened on 3 March 2021. Kaharagia determines, for its own foreign-policy purposes, that Benjamin Netanyahu and Yoav Gallant are war criminals and responsible for crimes against humanity, consistently with the reasonable-grounds findings underlying the warrants of arrest issued by that Chamber on 21 November 2024 for the war crimes of starvation as a method of warfare and of intentionally directing an attack against the civilian population, and the crimes against humanity of murder, persecution and other inhumane acts, committed from at least 8 October 2023 until at least 20 May 2024. Those warrants are warrants: they record that the threshold for arrest was found satisfied, not guilt. No Kaharagian publication may present them as convictions.

Kaharagia also determines that Itamar Ben-Gvir has participated in war crimes and crimes against humanity through incitement, encouragement of settler violence,

forced-transfer advocacy and the use of state power within a widespread or systematic attack on Palestinian civilians. This is an independent Kaharagian governmental finding. No warrant has been issued against him and no court has entered judgment. Its evidentiary base includes the report of United Nations special procedures mandate holders of 19 March 2026, which records that as Minister of National Security he stated that Jews are above the law in the West Bank while granting firearm licences to settlers in occupied East Jerusalem. On 10 June 2025 the foreign ministers of Australia, Canada, New Zealand, Norway and the United Kingdom jointly announced sanctions and other measures against him and against Bezalel Smotrich for inciting extremist violence and serious abuses of Palestinian human rights. That was an executive act of five governments and not a finding of criminal guilt. The finding and its procedural status shall appear together wherever either is reproduced.

These passages will be quoted selectively, so the distinctions carry more weight in this file than anywhere else in the series. A commission of inquiry finds; it does not adjudicate. An advisory opinion answers a question put to a court; it does not decide a case between parties. A pending case is not a judgment. A sanctions listing is an executive act. A Kaharagian determination may govern recognition, terminology, procurement, entry, sanctions and official contact, and it creates no criminal liability and establishes nothing before any court.

Palestinian victims are entitled to accountability regardless of the nationality, religion or office of the perpetrator. Israeli victims are entitled to the same. The forum in which that accountability is sought must itself be lawful. On 30 March 2026 the Knesset adopted legislation lowering the threshold for the death penalty in the military courts of the West Bank, which have exclusive jurisdiction over Palestinians, and on 11 May 2026 it created a special military court to prosecute Palestinians accused of links to the attacks of 7 October 2023, with no jurisdiction over any other person's responsibility for those events or over alleged crimes by Israeli forces. A court constituted to try one nationality is not an instrument of accountability. Equal application of criminal law refuses collective innocence and collective guilt alike, and it claims no equivalence between the scale or structure of different crimes.

#### 4.4 Extremist Organisations and the Graduated Classification

DM-2026-001 requires a graduated classification. An **extremist organisation** advocates or facilitates systematic supremacy, political exclusion, forced population transfer, authoritarian violence or the denial of equal civic membership. A **violent extremist organisation** adds a demonstrated association with violence or its operational encouragement. A **terrorist organisation** is reserved for one constituted around, or committing, directing or knowingly supporting, politically motivated violence against civilians. Applying that scheme to organisations threatening Palestinians and a sovereign Palestine, Kaharagia classifies:

- Kach and Kahane Chai as terrorist organisations.
- Otzma Yehudit as an extremist political organisation. The Israel Democracy Institute records its descent from the Jewish National Front founded in 2004 by Baruch Marzel, and a programme including Israeli sovereignty in the West Bank and a national immigration authority that would work to expel enemies of the state.

- The Jewish Defense League as a violent extremist organisation, in the terms used by the United States Federal Bureau of Investigation in Terrorism 2000/2001, which describes it as a violent extremist Jewish organization in reporting the 2001 plot by two of its members to bomb a mosque in Culver City and the district office of a serving member of Congress.
- Lehava as a Jewish-supremacist extremist organisation. The Council of the European Union listed it on 19 April 2024 as a radical right-wing Jewish supremacist group which uses and incites violence against Palestinians, Christians and Messianic Jews, and held it responsible for systematic advocacy of hatred constituting incitement to discrimination, hostility or violence.
- The Jewish Task Force as a Kahanist extremist propaganda and support network. This classification alone rests on secondary material, no official or primary source having been located, and it is held under review on that account.

Electoral participation cannot cleanse an ideology of ethnic supremacy or forced transfer, so a party holding office may still be classified as extremist. Another government's list is a fact about that government. On 11 May 2022 the United States Secretary of State determined that the circumstances forming the basis for the designation of Kahane Chai and its aliases as a Foreign Terrorist Organization had changed so as to warrant revocation, and the determination was published on 20 May 2022. That delisting is evidence about the decision, not about the organisation.

These classifications are directed at organisations, not at Jews or Judaism, and the doctrine forbids their conversion into collective blame against a religion, nationality or ethnic community. Palestine's security arrangements must equally prevent armed Palestinian groups from attacking Jewish residents or Israeli civilians. Supremacist violence is unlawful regardless of the identity of its claimed beneficiaries.

## 5. The Objections to Recognising Palestine Now

The strongest objection is not that Palestine fails a test of statehood. It is that recognition is the wrong instrument at the wrong moment. Borders, Jerusalem, refugees and security are the subject matter of a negotiation; recognition is the prize the negotiation exists to produce; awarding it in advance removes the claimant's reason to concede anything. Governments holding that view are not defending the occupation. They are defending the sequence.

The sequence hands one party a veto over the other's existence. DM-2026-001 rejects the proposition that territorial integrity confers an unlimited veto, and the reason is not confined to parent states. If recognition may be extended only when the occupying power agrees, the occupying power decides whether the other state exists. Statehood is not a prize bestowed by other governments. Nothing is taken off the negotiating table either. Borders may change by Palestinian agreement and by no other route, and this publication decides nothing about what Palestine recognises as Israel. The argument that the Oslo Accords reserve the question was answered at paragraph 263 of the advisory opinion, where the Court observed that those agreements neither permit Israel to annex parts of the occupied territory to meet its security needs nor authorise it to maintain a permanent presence for such needs.

A second objection is arithmetical: recognition is said to follow the weight of states, and Kaharagia is one of the lightest. The United Nations Regional Information Centre for Western Europe recorded 148 of the 193 Member States as recognising the State of Palestine as at 22 September 2025, before the recognitions announced that week by the United Kingdom, Canada, Australia, Portugal and France. DM-2026-001 answers that recognition is not a poll. The number of states recognising an entity is a fact about those states rather than an answer to the question the doctrine asks, and this file would read the same if the number were smaller.

The objection is right about one thing. Recognition by a small non-territorial state opens no crossing and stops no bombardment. What it settles is Kaharagian conduct: what Kaharagia calls things, what it declines to accept as Israeli, and what it will not sign.

A third objection is that a paper determining genocide against one state and naming three of its nationals cannot be impartial. Kaharagia condemns murder, hostage-taking, sexual violence and indiscriminate attacks against Israeli civilians, supports accountability for those responsible, denies armed Palestinian groups any sovereign title, and requires a sovereign Palestine to protect Jewish residents. The Secretary-General's record for the three months to 12 June 2026 includes one Israeli killed and 31 injured in the West Bank in shooting, ramming and stabbing attacks and related incidents, and Kaharagia records those crimes as crimes. Those commitments cost something on the Palestinian side of the line, and a principle that costs nothing on one side is not a principle.

## 5.1 What the Other Files Do Not Decide for Palestine

DM-2026-005 recognises Kosovo only after putting it to the exhausted-remedy test: dismantled autonomy, exclusion, repression, international administration and failed status negotiations, in that sequence. Palestine is not put to that test, because Palestine is not seeking to leave a state whose sovereignty over it is otherwise unquestioned. A reader treating Kosovo as the template will find the Kosovo reasoning missing here.

DM-2026-006 is the closest case in the series. Both refuse to let settlement by a controlling power manufacture title, both protect the settled population as individuals, and both hold that delay cannot mature into lawful annexation. They divide on the duty of non-recognition. Here the advisory opinion of 19 July 2024 identified an obligation of all States not to recognise the situation as legal, and DM-2026-006 records no instrument of that character in the Sahrawi file, in either direction. Palestine already holds an international status the Sahrawi case is still contesting, as a non-member observer State which the General Assembly has determined is qualified for membership. And DM-2026-006 contains no atrocity determination.

DM-2026-008 declines to recognise the Turkish Republic of Northern Cyprus, in part because the Security Council treated the 1983 declaration as legally invalid and called upon states not to recognise it. This publication applies the same provision in the opposite direction. There the duty of non-recognition operates against a claimant. Here it operates against the acquiring power, and the direction is set by which party is consolidating an unlawful acquisition.

DM-2026-002 recognises Abkhazia with reservations because a population produced by expulsion cannot be the electorate that settles a status question. The same rule bites here on an implanted settlement, and the reservations point elsewhere: in Abkhazia against the recognised state, here against Israel. DM-2026-007 recognises Somaliland and in the same paper refuses any arrangement making it a destination for coerced Palestinian displacement. One people's rights shall not be exchanged for another people's recognition.

## **6. Kaharagian Practice Toward Palestine, and the Limits of the Act**

Kaharagia proceeds from recognition to practical relations with the State of Palestine, subject to a separate sovereign instrument. Even a modest non-territorial state can provide political recognition, publish Palestinian diplomatic statements, participate in humanitarian and educational cooperation, preserve evidence, support cultural institutions and refuse dealings that treat occupied territory as Israeli. Organs of State shall give effect to the following.

- Use "State of Palestine" in official publications and treat the West Bank, including East Jerusalem, and Gaza as one sovereign territorial unit.
- Do not recognise settlement addresses, institutions or goods as located in Israel where they are situated in occupied Palestinian territory.
- Support humanitarian relief and reconstruction through accountable Palestinian and international channels without political conditions extinguishing sovereignty.
- Support refugee records, archives, cultural preservation, education, medical care and legal documentation as elements of national survival.

### **6.1 Palestine, East Jerusalem and Israeli Claims in Kaharagian Usage**

Palestine is a state for Kaharagian purposes in the West Bank, including East Jerusalem, and the Gaza Strip, on the 4 June 1967 lines. Its constitutional Government is the authority entitled to act for it, and the Palestine Liberation Organization is the international representative of the Palestinian people. East Jerusalem is the capital of Palestine in Kaharagian usage. Israeli claims to sovereignty within that territory are not recognised for any Kaharagian purpose, including terminology, publication, procurement, address and origin.

No mission opens, and no accreditation, immunity or privilege is conferred. Neither the administration nor any office-holder is endorsed. Nothing is decided about the recognition of Israel, because that question belongs to Palestine and Palestine has not been asked in this publication. No Kaharagian determination becomes a conviction, and no proceeding anywhere is affected by it. Nothing here relieves Israel of the obligations it owes as an occupying power while its presence continues, which the Court preserved expressly at paragraph 264.

## 6.2 No Licence Against Israelis, Palestinians or Refugees

This recognition is addressed to a state. It grants no latitude against anyone living in Palestine, displaced from it, or living beyond it. Kaharagia records what the act does not authorise:

- The expulsion, denationalisation, dispossession or collective punishment of Israeli residents in Palestine, or the refusal of lawful residence to any person on the ground of Jewish identity.
- Violence, hostage-taking, indiscriminate attack or reprisal against Israeli civilians, or against Jewish communities anywhere.
- The treatment of Palestinian refugees, or of persons displaced from Gaza or the West Bank, as having forfeited return, property, compensation or participation through the passage of time.
- The treatment of any Palestinian as answerable for crimes committed by an armed group, or reprisals against Palestinian communities on account of this decision.
- The use of a Kaharagian classification of an organisation as a finding about Jews, Judaism or Israelis generally, or of a determination about a named individual as a criminal conviction.
- The use of force by any party to alter the recognised territorial unit, or any arrangement severing Gaza from Palestinian sovereignty.

## 6.3 Review and Reversibility

Review follows DM-2026-001. Recognition of Palestinian statehood is not conditional and does not lapse if a condition goes unmet. The conditions set out below are conditions the State of Kaharagia has set upon its own continued reasoning. What follows would reopen this publication, not the recognition.

Reopening is required by a formally expressed change in the position of the State of Palestine or of the Palestine Liberation Organization on territory, representation or a final settlement; a settlement freely agreed by Palestine, which would supersede the territorial formula below; a judgment or further finding by a competent international body concerning genocide, occupation or annexation, including any judgment on the merits in the proceedings brought by South Africa; a material change in the character or scale of the conduct determined here; any step consolidating the annexation of the West Bank or the severance of Gaza, including the conversion of the transitional arrangements under Security Council resolution 2803 (2025) into a standing administration, their reauthorisation beyond 31 December 2027 without transfer of authority to Palestinian institutions, or their expiry on that date without such transfer; and the closure of return, restitution or participation as practical possibilities for refugees and displaced persons. The West Bank characterisation remains under review in its own right, independently of any of these.

## 7. Operative Declaration

- The State of Kaharagia recognises the State of Palestine as a fully sovereign and independent state in the West Bank, including East Jerusalem, and the Gaza Strip, on the 4 June 1967 lines subject only to changes freely agreed by the State of Palestine.
- It recognises the unity of Palestinian territory.
- It recognises the Government of the State of Palestine as executive authority, and the Palestine Liberation Organization as the international representative of the Palestinian people.
- Kaharagia determines that Israel is committing genocide against Palestinians in Gaza and that occupation, settlement, persecution and forcible transfer remain unlawful in the West Bank.
- Israeli residents are entitled to safety, due process and any lawful residence authorised by Palestine, but not to Israeli sovereign jurisdiction, armed enclaves, separate law, discriminatory privilege or property obtained through unlawful dispossession.
- Kaharagia follows Palestine concerning what it recognises as Israel and what final-status concessions it freely accepts.
- Diplomatic relations with Palestine are reserved to a separate sovereign instrument, together with support for accountability, humanitarian relief, reconstruction, refugee rights and the permanent reunification of Gaza and the West Bank under Palestinian sovereignty.

## 8. Publication and Legal Effect

This is a published statement of the foreign policy of the State of Kaharagia. Under Kaharagian constitutional practice, the recognition or non-recognition of a state, the recognition of a government, the establishment of a diplomatic mission, the imposition of sanctions and the entry into formal diplomatic relations are decisions reserved to the Sovereign and implemented through the appropriate instrument. The recognition recorded here has been so decided. A Diplomatic Memorandum explains the grounds, scope, reservations and consequences of a policy; it does not by itself confer accreditation, immunity or privilege, and none is conferred here.

This publication is issued in the Diplomatic Memorandum Series by the Office of the Sovereign's Printer. Its serial reference shall be preserved in every separate or electronic edition, and the passages naming individuals shall not be reproduced apart from the statements of procedural status that accompany them. Organs of State shall conform their terminology, publications, procurement, entry decisions and official contact to the determinations recorded here. Material changes in facts, control, legal proceedings or the formally expressed position of the people concerned shall trigger review under the heading above.

## Selected Authorities and Official Materials

Every authority listed was retrieved and read by the Secretariat of State in the week of publication. Titles are followed by the issuing body, the date and a source link. Judicial judgments, advisory opinions, arrest warrants, commission findings, sanctions listings and governmental determinations are identified according to their actual legal character. Where a source could not be retrieved at the address previously held, the entry gives the address at which the same document was obtained.

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<https://www.un.org/unispal/document/auto-insert-182149/>
2. *Admission of new Members to the United Nations*. United Nations General Assembly resolution ES-10/23, 10 May 2024; determines that the State of Palestine is qualified for membership under Article 4 of the Charter and recommends that the Security Council reconsider the matter favourably.  
<https://www.un.org/unispal/document/admission-of-new-members-10may24/>
3. *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*. International Court of Justice, Advisory Opinion, 19 July 2024; case record and procedural history. An advisory opinion, not a judgment between parties.  
<https://www.icj-cij.org/case/186>
4. *Advisory Opinion of 19 July 2024, full text*. International Court of Justice, as reproduced by the United Nations; paragraphs 243, 254, 261 to 264 and the dispositif at paragraph 285, including subparagraph (7) on the obligation of all States not to recognise the situation as legal.  
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5. *Implementation of Security Council resolution 2334 (2016)*. Report of the Secretary-General, 24 June 2026; thirty-eighth quarterly report, covering 14 March to 12 June 2026. United Nations.  
<https://www.un.org/unispal/document/sg-report-24jun26/>
6. *Security Council authorizes International Stabilization Force in Gaza, adopting resolution 2803 (2025)*. United Nations Meetings Coverage, 17 November 2025; adopted by 13 votes in favour to none against, with China and the Russian Federation abstaining.  
<https://press.un.org/en/2025/sc16225.doc.htm>
7. *Resolution 2803 (2025)*. United Nations Security Council, adopted at its 10046th meeting on 17 November 2025; endorses the Comprehensive Plan to End the Gaza Conflict of 29 September 2025, welcomes the Board of Peace as a transitional administration with international legal personality, authorises a temporary International Stabilization Force and operational entities supervising a Palestinian technocratic and apolitical committee of Palestinians from Gaza, states at operative paragraph 2 that the conditions may finally be in place for a credible pathway to Palestinian self-determination and statehood after the Palestinian Authority's reform programme is carried out and Gaza redevelopment has advanced, and provides at operative paragraph 8 that the authorisation runs until 31 December 2027 subject to further action by the Council.  
[https://documents.un.org/api/symbol/access?s=S/RES/2803\(2025\)&l=E&t=pdf](https://documents.un.org/api/symbol/access?s=S/RES/2803(2025)&l=E&t=pdf)
8. *Implementation of United Nations Security Council Resolution 2803 (2025): Report of the Board of Peace through the Office of the High Representative for Gaza (S/2026/418)*. United Nations Security Council, 15 May 2026; covers 17 November 2025 to 14 May 2026.  
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9. *Israel has committed genocide in the Gaza Strip, UN Commission of Inquiry finds*. Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 16 September 2025. A commission finding, not a judicial determination.  
<https://www.un.org/unispal/document/israel-has-committed-genocide-in-the-gaza-strip-un-commission-finds-16sep25/>
10. *"The essence of childhood has been destroyed": Israel's deliberate targeting of Palestinian*

*children in the Occupied Palestinian Territory since 7 October 2023 (A/HRC/62/CRP.2).* Independent International Commission of Inquiry, conference room paper of 18 June 2026, announced 23 June 2026.

<https://www.un.org/unispal/document/coi-report-23jun26/>

11. *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel).* International Court of Justice; instituted 29 December 2023; provisional measures orders of 26 January, 28 March and 24 May 2024; time-limits for Reply and Rejoinder fixed 21 May 2026; no judgment on the merits.  
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