



Resolution 1832 (2011)¹

National sovereignty and statehood in contemporary international law: the need for clarification

Parliamentary Assembly

1. The Parliamentary Assembly observes that a number of territorial entities in Council of Europe member states are aspiring to be recognised as independent states.
2. It notes that the criteria for statehood remain a contentious issue in contemporary international law.
3. The lack of clear criteria for statehood and for lawful secession on the one hand, and violations of minority and human rights as well as the lack of democracy and participation on the other hand, have encouraged the emergence of numerous secessionist movements and thereby threaten peace, stability and the territorial integrity of existing states, including in Europe.
4. The Assembly notes that the notions of national sovereignty and statehood have evolved in recent years. Key developments were summed up in 2001 by the high-level International Commission on Intervention and State Sovereignty (ICISS) under the aegis of the United Nations and supported by Canada. Its findings were taken up by the United Nations General Assembly.
5. A multilateral approach to the “responsibility to protect”, as advocated by the ICISS, is taking the place of arbitrary unilateral interventions and bilateral guarantees:
 - 5.1. military interventions such as those by Turkey in Cyprus in 1974, by the North Atlantic Treaty Organization (NATO) in the Federal Republic of Yugoslavia in 1999 and by the Russian Federation in Georgia in 2008, whilst motivated – justifiably or not – by the need to stop serious human rights violations, have themselves led to numerous human rights violations and have not produced lasting solutions for the underlying problems;
 - 5.2. bilateral guarantees such as those in the context of the independence of Cyprus have not prevented conflicts. On the contrary, in the case of Cyprus they were used as an excuse for unilateral military intervention, conflicting with Article 2.4 of the Charter of the United Nations and a peremptory norm of international law prohibiting the use of force.
6. European integration and co-operation have led to a voluntary transfer of certain aspects of national sovereignty, in particular:
 - 6.1. the rights and freedoms of individuals are protected by the supervisory mechanism of the European Convention on Human Rights (ETS No. 5 – the Convention); States Parties to the Convention have accepted the duty to implement the judgments of the European Court of Human Rights, with considerations of national sovereignty being of secondary importance;
 - 6.2. European integration, in particular the introduction of the euro, the official currency of the eurozone, has entailed the transfer to the European Union of a number of sectors which were traditionally under national sovereignty, particularly in matters of economic and monetary policies, and is increasingly affecting choices of fiscal and social policies. Increasing economic integration is having similar effects even on countries which are not members of the eurozone or the European Union.

1. Assembly debate on 4 October 2011 (31st Sitting) (see Doc. 12689, report of the Committee on Legal Affairs and Human Rights, rapporteur: Ms Schuster). Text adopted by the Assembly on 4 October 2011 (31st Sitting).

7. The Assembly considers that even if international law were to recognise a right of national or ethnic minorities or even, in some cases, national majorities, to self-determination, such a right would not give rise to an automatic right to secession. The right to self-determination should first and foremost be implemented by way of the protection of minority rights as foreseen in the Council of Europe Framework Convention for the Protection of National Minorities (ETS No. 157) and Assembly Resolution 1334 (2003) on positive experiences of autonomous regions as a source of inspiration for conflict resolution in Europe, as well as in other relevant instruments of international law.
8. The Assembly therefore:
 - 8.1. reiterates its invitation to those member states which have not yet done so to sign, ratify and implement the aforementioned framework convention and to respect the basic principles set out in Assembly Resolution 1334 (2003) as soon as possible;
 - 8.2. will continue to analyse the origin and trends of self-determination movements by addressing the most salient factors, in particular instances of growing tensions among minority or ethnic groups, and to support national parliaments in addressing these demands for self-determination through dialogue and reconciliation, in order to prevent recourse to violence and secession;
 - 8.3. invites all member states to refrain from recognising or supporting in any way the *de facto* authorities of territories resulting from unlawful secessions, in particular those supported by foreign military interventions;
 - 8.4. notes that conflicts should be solved exclusively by peaceful means on the basis of international law;
 - 8.5. proposes that the criteria for statehood, including those for the emergence of new states by legal secession, and the modalities of protection of national sovereignty and territorial integrity of states be examined thoroughly in the framework of a follow-up conference to the International Commission on Intervention and State Sovereignty.