



January 17, 2025

Two-President Problem: Recognition of Head of State of Georgia after 29 December

Written by [Toni Selkälä](#) and [Shorena Nikoleishvili](#)



In recent months, Georgia has faced a deepening constitutional crisis. After elections [marred with irregularities](#), the legality and legitimacy of the rule of the present powers-that-be have been questioned domestically and increasingly also internationally. These challenges to its authority have not barred the ruling party – Georgian Dream – from beginning parliamentary sessions as the sole party present and, consequently, nominating a government and electing a president. On the inauguration of the president elected by Georgian Dream, Mikheil Kavelashvili, on 29 December 2024, the predominantly domestic political crisis transformed into a matter of international concern. Salome Zourabichvili, Georgia's fifth president, declines to recognize the legality of the parliament and, hence, the legality of Kavelashvili, allowing her to declare herself as the only legitimate president of the country. It is this two-president problem that has made domestic politics an international affair and recognition of a head of state a matter of interest.

Traditionally, international law has drawn [a distinction between political and legal recognition](#) of governments. [Stefan Talmon notes](#) that a withdrawal of political recognition or non-recognition of a new government in established states has only limited practical effects on international law. The state continues to exist as is with its international legal personality intact. All interaction with the state is carried out with the ostensible government, even though other state(s) would refuse to recognize it. In recent years, Venezuela has provided a clear example of the impact of political non-recognition. Although [other governments do not recognize](#) de jure the rule of Nicolás Maduro, the state of Venezuela continues to exist, and other states need to interact with its de facto government on all matters related to Venezuela. Yet, the decision of other states to [recognize a competing head of state](#) implies non-recognition of Maduro, as [according to customary international law](#) a state can only have one government or head of state at a time.



Toni Selkälä

[@TSelki](#)

Dr. Toni Selkälä is a postdoctoral researcher at the University of Turku. He has been an exchange research fellow at Vrije Universiteit Brussels and the Uehiro Oxford Institute at the...



Shorena Nikoleishvili

Dr. Shorena Nikoleishvili is a postdoctoral researcher at the Centre for European and International Studies (CEIE) at the University of Strasbourg and an affiliated postdoctoral researcher at the University of...

After Kavelashvili's inauguration, other states had to weigh in on which head of state they decided to recognize. Thus far, state reactions fall into three categories. In the first group are five states that have recognized Kavelashvili and treated him as the sole head of state of Georgia. For these states, a regular transition of power occurred on 29 December, and Zourabichvili's opinions and views are immaterial. For example, [Armenia](#), [China](#), and [Serbia](#) treat Kavelashvili as the new head of state with a right to represent Georgia in relations with them. Serbia even extended an invitation to visit Kavelashvili. The second group is formed by states that endorse the mainstay of contemporary international law in not specifically recognizing new governments. These states do not issue any statements but let their actions speak for them – and for example, with most African and Asian states, these actions may emerge first after notable delay as they have limited diplomatic relations with Georgia. Thus, the absence of reaction from the majority of states to the Georgian constitutional crisis can signal either customary practice of recognition, indifference, or reluctance to contest the government openly.

A third group of states have distanced themselves from the ostensible government and, therefore, from Kavelashvili, who was elected by it. United Kingdom's Foreign Secretary [David Lammy said](#) that the UK will 'limit engagement with representatives of Georgian government until there is a halt to [the] move away from European democratic norms and freedoms,' a statement echoed in [European Commission's proposal](#) to suspend visa facilitation within the bloc for holders of Georgian diplomatic passport as well as for key supporters of the ostensible government, making it more difficult and subject to case-by-case assessment for these persons to attend diplomatic events in the EU. On 20 December, thirty-eight members of the Organization for Security and Cooperation in Europe triggered the Vienna [\(Human Dimension\) Mechanism](#), demanding [a response to the perceived impunity of police officers and limitations imposed on political freedoms](#). [Many European states](#) have signalled that for as long as these concerns persist and there are no new elections, [they will limit their cooperation](#) with Georgia's ostensible government. These statements are often paired with an intentional refusal to nominate the ostensible government as the government of Georgia, but, like the [Foreign Ministers of the Weimar Triangle](#), refer to it as the Georgian Dream or authorities.

This divide also reflects the attitudes of states towards Zourabichvili after 29 December. For long, she has been the preferred interlocutor with Georgia's European and U.S. partners, a fact she highlighted by her December appearances before the European Parliament and in discussions with heads of state at the reopening of Notre Dame. After Kavelashvili's inauguration, the [Nordic Baltic Eight](#) (NB8) referred to her as President, and on 6 January, French President Emmanuel Macron referred to her in like manner in his [speech to ambassadors](#), suggesting that at least for some governments, she continues to be seen as a president. This should not cloud the fact that no state has thus far declared her as de jure head of state, albeit [a group of U.S. congressmen have presented an act](#) to that effect. But without effective means to effectuate her policy choices to the Georgian state, her political recognition and consequent non-recognition of Kavelashvili carry limited practical effect for international law.

From Political to Legal Recognition

Legal recognition of government has significant international legal ramifications that are closely associated with a state's capacity to entertain relations with other states and with the question of who retains responsibility for state actions. Like with the recognition of states themselves, the legal recognition of government hinges on facts on the ground: the one who effectively controls the territory controls the state. On a peaceful transition of power control, its effectiveness is rarely challenged. Also, as [noted by a legal adviser of the U.S. Department of State](#), states are reluctant to withdraw their legal recognition from a government to hold them responsible for their actions and for the same reasons, they are reluctant to recognize entities that do not control full territory as they would be responsible for areas they do not control. The problem over legal



recognition of governments is, for the most part, avoided by states as [they simply no longer recognize governments](#).

[On a speech to the nation on 22 December](#), President Zourabichvili reiterated her decision to stay in power even after the inauguration of Kavelashvili. She insisted on her status as the sole legal and legitimate president of Georgia, a message she underlined in a [9 January speech from her new 'presidential office'](#). These acts of Zourabichvili in and of themselves carry little legal meaning. Of greater significance is the growing ineffectiveness of the ostensible government. Demonstrators are [openly disobeying](#) new, more stringent laws set for protestors, [civil servants have joined](#) the protests in demand for new elections, and high-ranking [legal, diplomatic,](#) and [security](#) officials have resigned. This has led to [diminishing pool of suitable candidates](#) to act as high-ranking officials. Many in Georgia also read the absence of armed forces on Kavelashvili's inauguration [a sign of lack of control over the army](#). Yet, such challenges to the effectiveness of government are not enough to set into question the legal government of a country for international law—there is control over the territory, even if challenged in limited ways.

Only significantly more debilitating demonstrations or greater failure of the ostensible government could challenge its status as the legal government. A more profound challenge for the ostensible government is its limited capacity at present to entertain any relations with its Western partners that have supported it and been main source of foreign investments in the country. A sign of the ill-tidings is the fact that media close to government reports any communication from Georgia's Western partners to the ostensible government as news – from [NATO SG New Years Greetings](#) to a private [phone call with OSCE PA president](#). The effectiveness of the ostensible government's foreign policy towards its European and U.S. partners has diminished both due to sanctions on many central figures of Georgian Dream and the apparent refusal to openly entertain relations on government level by other states. The outlined wish of the ostensible government for [a 'reset' in relations with Trump's](#) presidency has failed to materialize, with [Zourabichvili being the only Georgian politician invited](#) to his inauguration. At present, Georgia's foreign relations with its Western partners are minimal, and in many ways, these relations are dictated by the opposition through Zourabichvili.

A sign of these challenges is the [OSCE PA's decision to withdraw a visit](#) to the country after sustained criticism of the visit by Georgian civil society and foreign politicians. That domestic opposition can relatively effectively demand non-recognition of the government from Georgia's Western partners and, to an extent, from international organizations illustrates the relative ineffectiveness at present of Georgia's ostensible government in its external relations. At the same time, it remains a truth universally acknowledged that the ostensible government has the permanent upper hand through its control over state apparatus. For a while, the strategy of Georgian Dream has been to [outlast the protestors](#), and hope that the saliency of Georgia as a policy question will dwindle for the Western politicians. Once the timing is right, it can merely ignore Zourabichvili and the opposition without hampering its domestic or international status too much.

There are first signs of its [preferred approach](#) to achieve the permanency of status quo, shown in its willingness to negotiate the content of the law on transparency of foreign influence – a law that it passed despite significant domestic and international consternation. The ostensible government perceives these concessions as its route back to negotiation tables with its Western partners. The scenario where the ostensible government outlasts the opposition has also been a common outcome elsewhere, as seen in Venezuela and, until recently, in Syria. Despite the relative position of power of the legal government, already the present two-president problem creates a plausible scenario where the domestic constitutional quandary undermines the ostensible government's international status, resulting in a chilling effect to its actions, as anyone who entertains relations with it must take into account the non-negligible risk that due to its inherent

ineffectiveness, the government cannot put into effect or live up to its new obligations.

Material Implications

There is ample evidence that even a political (non-)recognition of a government carries legal repercussions for the capacity of the state to fully enjoy its rights and carry its obligations in international law. A recurrent concern for international law has been the question of how to treat acts of politically or legally non-recognized government before the courts of another state. These concerns have traditionally emerged as a consequence of the formation of new states that have not yet been recognized either politically or legally, such as [post-1917 Soviet Russia](#), [Taiwan](#), and [North Korea](#). But they are also commonplace with regard to governments that states have, for political reasons, refused to recognize, as with the cases of [Cuba](#), [Cyprus](#), and [East Germany](#). It is with these latter cases that the situation in Georgia bears the closest resemblance. Some plausible legal ramifications of the two-president problem can be inferred from the judgment of the Supreme Court of the United Kingdom in [Maduro Board](#).

In *Maduro Board* the concern was 'the recognition of a foreign head of state, the foreign act of state doctrine and their interrelationship.' According to the Supreme Court (and later [Commercial Court](#) and [Court of Appeal](#)), while the effectiveness of control and implied recognition carry significance for international law, those doctrines have no weight in domestic proceedings before UK courts. Also, the later revocation by the UK government of the *de jure* recognition of a head of state does not invalidate earlier decisions made by said head of state when still enjoying recognition by the UK government. Thus, while for international law, the recognition of government might be a matter of effectiveness, such effectiveness is not required by national jurisdictions that may hear cases that stem from the presence of two heads of state.

In the Georgian context, this means that the final assessment of the validity of acts of Zourabichvili and Kavelashvili after 29 December depends ultimately on how the governments of other states treat them. As the example of Venezuela indicates, even short-lived and vague claims of *legal* recognition by foreign governments have been sufficient to wrestle long-standing control over significant state assets. In *Maduro Board*, the UK courts found that the judgments of the Supreme Tribunal of Justice of Venezuela do not carry legal value for the courts in the United Kingdom due to procedural shortcomings of those decisions. [According to its dissenting members](#), the same could be said of the Constitutional Court of Georgia.

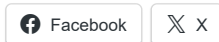
Zourabichvili enjoys no presidential rights domestically, but her actions can still have a legal effect on the Georgian state abroad. While the Georgian Constitution demands cooperation between the government and the president, [Zourabichvili ignored such demands](#) for a long during her tenure without losing her status as the legal head of the state. That her actions were treated as representative of the Georgian state by, for example, the European Union, despite the lack of government backing, merely accentuates the point of the present quandary: the past animosity of a government that was deemed both legal and legitimate was not sufficient to withhold her legal rights in the eyes of other states, hence the current animosity by largely the same authorities, but this time with openly contested legality and legitimacy of rule, hardly fares any better if they so decide.

The Georgian two-president problem seems enduring. The status granted to acts of Zourabichvili and Kavelashvili is ultimately in the hands of foreign governments, a fact that seriously imperils the Georgian state's capacity to act internationally. Georgia's domestic standstill between the ostensible government and the people on the streets has made the constitutional quandary an international headache for the state. Sanctions on [persons behind the ruling party](#), heads of [state security apparatus](#), and [leading politicians of the ostensible government](#) are all attempts by foreign

governments to solve the standstill. The standstill will eventually dissolve, but it remains clouded at present who will stand triumphant in the end. If history is to guide, the ostensible government is the last one standing, and Zourabichvili's fate is that of Guaidó's. Yet, it might be the figure of Zourabichvili and her challenge to legitimacy and legality to the ostensible government that leads to reconciliation, as her very presence in the talks and acts of foreign politicians and diplomats erodes the effectiveness of the ostensible government to govern.



Share this:



Related

[On the Occasion of the Five-year Anniversary of the Russian-Georgian War: Is Georgia Occupied?](#)

Natia Kalandarishvili-Mueller is a Lecturer in Humanitarian Law at Tbilisi State University, Institute of International Law, Faculty of October 1, 2013
In "EJIL Analysis"

[Strasbourg Censures Georgia over Detention of Former Prime Minister – the impact of an Article 18](#)

[violation](#)
In December 2013, former Georgian Prime Minister Vano Merabishvili was hauled out of his Tbilisi prison cell in the middle of the night, and, August 2, 2016
In "EJIL Analysis"



[Air Navigation in Abkhazia: Another Inter-State Litigation between Georgia and Russia in the Making?](#)

February 4, 2021
In "EJIL Analysis"

CATEGORIES

EJIL Analysis **Government** **International Law and Domestic Law**
States and Statehood

TAGS

Georgia **international law and domestic law** **non-recognition**
recognition of governments **United Kingdom** **Venezuela**

LEAVE A COMMENT

Comments for this post are closed

COMMENTS

Matthias Zechariah says

January 17, 2025

This is an excellent work! Please, can we have some case law from municipal and International courts and arbitral bodies on recognition of de jure and de facto governments. This will guide us further and shed some light on the constitutional and international law quandary in Georgia.

Sign up to receive updates on our latest posts.

Email address *

SUBSCRIBE!



EJIL:Talk!

Blog of the European Journal of International Law

Categories

Symposia

EJIL: Live!

Announcements

Analysis

Editorials

EJIL: The Podcast!

About EJIL: Talk!



Advanced Search

