

**Vol. 1, No. 2 (2009)****Editorial**

Article 15 (4) of the Constitution of the Russian Federation indicates that “[t]he universally-recognized norms of international law and international treaties and agreements of the Russian Federation shall be an essential part of its legal system. If an international treaty or agreement of the Russian Federation fixes other rules than those envisaged by law, the rules of the international agreement shall be applied”.<sup>1</sup>

Since 1993, when Russia enacted its Constitution, international scholars heralded Article 15 (4) of the Constitution as a clear break from the Soviet Union’s cautious approach to the incorporation of international law into domestic law.<sup>2</sup>

Russia has changed enormously since 1993. Today Russians remember the spirit of the early post-soviet years with horror rather than with nostalgia. Did this have the effect of relativizing the strong constitutional commitment to international law? During the past months, certain activities of the Russian Federation that are of concern to international law might indicate such a development: The Russian-Georgian Conflict escalated a year ago and is still not resolved. The territorial dispute over the North Pole goes on: Russia’s claims have been opposed by the other states bordering the Arctic Ocean.

On the other hand, since 1996, when Russia signed the European Convention on Human Rights (ECHR) of the Council of Europe, it committed itself to comply with international standards of Human Rights

<sup>1</sup> Constitution of the Russian Federation of 12 December 1993, *Rossijskaja Gazeta*, 25 December 1993, no. 237 (Конституция Российской Федерации, 12 декабря 1993 г., Российская газета, 25 декабря 1993, N 237).

<sup>2</sup> G. M. Danilenko, ‘Implementation of International Law in Russia and Other CIS States: Theory and Practice’, 10 *European Journal of International Law* (1998) 1, 51-69; T. Långström, *Transformation in Russia and International Law* (2003); B. Tuzmukhamedov, ‘The Implementation of International Humanitarian Law in the Russian Federation’, 85 *International Review of the Red Cross* (2003), 385-396.

and to allow its citizens to bring individual claims to the Strasbourg Court. Of 104,100 claims currently, (as of 1 April 2009) pending before the court 29,000 of those claims, 27,9 % of the total, have been brought against the Russian Federation. However, Russia still insists on having certain reservations to the ECHR (as do other States). Furthermore, it has neither ratified Protocol 6 on the prohibition of the death penalty in peacetime nor Protocol 14 containing the necessary modifications to the control system of the Convention that are critical for the Court's ability to cope with its increased workload.

Thus, the question remains: How should we evaluate named incidents in and outside of Russia? Is the Russian Constitution's spirit of openness toward international law still convertible currency today?

This edition of the GoJIL examines a wide range of issues regarding Russia and its approach to international law. The title of this special issue sets the track. We would like to invite you on an expedition through "Russia and International Law – From the North Pole to the Caucasus".

We commence our journey up North with the article by Nele Matz-Lück, "Planting the Flag in Arctic Waters: Russia's Claim to the North Pole". She examines the claim of Russia and the other Arctic rim states to the North Pole and the related disputes about the jurisdictional claims to parts of the ocean and the seabed between Russia, Canada, the United States, Denmark and Norway.

In the second contribution, "Russia and Human Rights: Incompatible Opposites?", Bill Bowring raises the question of whether Russia's obligations under the European Convention on Human Rights are at a breaking-point. Based on a description of the history of law in Russia, he proves that human rights discourse has a long tradition in Russia.

The review essay, "International Law in Russian Textbooks: What's in the Doctrinal Pluralism?", written by Lauri Mälksoo, examines the four leading Russian textbooks of Public International Law. Mälksoo seeks to demonstrate that the authors' understandings of human rights are an expression of their attitude focused on the Soviet legacy and Russia's role in International Law.

In "Protection against Indirect Expropriation Under National and International Legal Systems", Max Gutbrod, Steffen Hindelang and Yun-I Kim elaborate on direct expropriation through states and its challenges to foreign investment by presenting six scenarios based on Russian legal regulations.

"Geopolitics at Work: the Georgian-Russian Conflict", by Peter W. Schulze, analyses the Russian-Georgian War from a political science point

of view. He highlights the role of the United States and the European Union in the conflict and its settlement. Furthermore, he incorporates these procedures in their broader geopolitical context.

Our intellectual “expedition” ends in the Caucasus with the article, “The War between Russia and Georgia – Consequences and Unresolved Questions”, by Angelika Nußberger. She examines the divergent views and legal assessments of Georgia and Russia with regard to the breakaway regions South-Ossetia and Abkhazia. By approaching the conflict from a historical perspective, Nußberger analyses whether these regions’ right to secession could be based on the right to self-determination.

This special issue of the *GoJIL* is intended to contribute to a broader understanding of the role of international law in Russia’s politics and Russia’s role in international relations. A nation as versatile as Russia and its complex positions on many issues merit such a broad view. Having regained considerable political and economic strength, Russia’s position will be of weight in any appraisal of the present international order. However, we forgo jumping to premature conclusions here. Rather, we hope that the contributions in this issue might give to our esteemed readers enough food for thought and discussion on such “big” questions.

The Editors

