

THE KOSOVO PRECEDENT – SIMILAR EFFECTS ON OTHER STATES – CASE STUDY: GEORGIA AND UKRAINE

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Kosovo, the battlefield of the last major conflict in the Yugoslav Wars, has undergone radical ethnic changes over the centuries, resulting in inter-ethnic tensions that are still felt today. A region rich in culture, history and minerals, whose hilly configuration forms a logistically defensible border for southern Serbia, Kosovo finds itself in a diplomatic stalemate over the non-recognition of the full independence declared by the Albanian majority in the Republic of Kosovo.

Using the Kosovo precedent, Russia is trying to legitimise its own actions that violate the sovereignty and territorial integrity of Georgia and Ukraine. These are the main aspects that are discussed in the present study, employing the case study of Georgia and Ukraine.

Keywords: Kosovo; legitimacy; Georgia; Ukraine; conflict;

INTRODUCTION

The world wars of the first half of the last century seemed to convince the West that Europe would prosper in peace and tranquillity after the end of the Second World War, given the first-ever transcontinental alliances on the scale of NATO or the European Community. That remained the case until the last decade of the 20th century, when the entire international community was rocked by a series of bloody wars, genocides and ethnic cleansings, reminding humanity of the horrors of the previous world wars. On the European continent, only Yugoslavia experienced a transition from dictatorial communism to quasi-democracy marked by a particularly violent state disintegration caused by several interethnic wars that engulfed almost the entire country (Chomsky, Džalto, Grubačić, 2018, p. 50).

The Kosovo War was the last of these wars, beginning in 1998 and ending a year later with the signing of the Kumanovo Agreement. The latter failed, however, to put a definitive end to the notable inter-ethnic tensions, as there is a perpetual fear in the international community that such a simmering conflict could at any moment turn into a new full-scale war between the two peoples claiming sovereignty over the territory, namely Albanians and Serbs (38 I.L.M. 1217, 1999, art. II; Cox, 2002, pp. 170-171).

Highlighting that Kosovo’s unilateral declaration of independence is not a *sui generis* case, this paper employs the case study method, implementing a multiple-case design and using the comparative synthesis technique to demonstrate the effects of the Kosovo precedent on other states. It focuses on the consequences felt by Georgia and Ukraine due to Russia’s instrumentalisation of Kosovar secession.

Kosovo, Serbia’s southernmost province, is geographically varied, with hilly plains, mineral-rich mountains and fertile, often overworked soils. A popular chant among Serbs is “*Kosovo je srce Srbije/Kosovo is the heart of Serbia*”, and this is true, at least when looking at the history of medieval Serbia. Over time, however, the territory has become the centre of an endless dispute between Serbs and Albanians. The many significant battlefields, churches, monasteries, and palaces remind locals and visitors alike that the history of medieval Serbia was grand. However, historians believe that the province of Kosovo was probably never one in which Serbs enjoyed ethnic exclusivity. At least since the 17th century, Kosovo has undergone constant demographic changes. It explains how the Serbs have become a negligible minority

in this vital region, even though they used to represent the absolute majority of the province's population.

The majority Albanian population began to resist the Serbian administration of the province by a variety of means as soon as the Serbs succeeded in driving out the Turks in 1913, after a long period of Ottoman occupation. A third of the world's Albanian population now lives in Kosovo. For example, while Albania's population barely exceeds three million, Kosovo is home to more than one and a half million Albanians. The province has remained the most underdeveloped in former Yugoslavia, despite massive investment by Yugoslav governments in local industry, and its gross domestic product *per capita* was the lowest in the whole of Yugoslavia.

The present is even bleaker as a direct result of the political repression and violence in the province's recent past. Whereas until the collapse of Yugoslavia's communist regime, many Albanians wanted a greater degree of autonomy within Serbia, today, almost the entire Albanian population of Kosovo aspires to independence. Conversely, the Serbs rule out any possibility of definitively relinquishing control over the province. Apart from its cultural importance and abundance of minerals, the province's hilly configuration is also strategically important to the Serbian state, as Kosovo forms a border through which the Serbs can easily defend the country's south logistically (Cox, 2002, pp. 6-7).

THE PATHWAY TO INDEPENDENCE: THE KOSOVO WAR AND RESOLUTION 1244

In 1991, the Kosovo Liberation Army (KLA), an Albanian group with terrorist origins, was formed. Five years later, it began a series of armed attacks and assassinations on Serbs, whether civilians or government officials. Moreover, the KLA also targeted ethnic Albanians considered to be "*collaborators with the Belgrade regime*". However, the group's first act of terrorism was in 1993 when it claimed responsibility for the murder of two Serb policemen in the very centre of the Kosovo province. A vehement reaction from the Serbian government did not come until 1998 when the KLA killed several Serbian policemen, ambushed in another terrorist attack. Realising that the KLA's inexorable violence would not go away on its own but would escalate unless action was taken, Serbian policemen decided to respond with retaliation by storming a village in Drenica, where they suspected members of the group who were responsible for organising the ambush were living. The fact that Albanian press reports interpreted the Serbian police actions as atrocities committed against Albanian civilians only served to attract a considerable

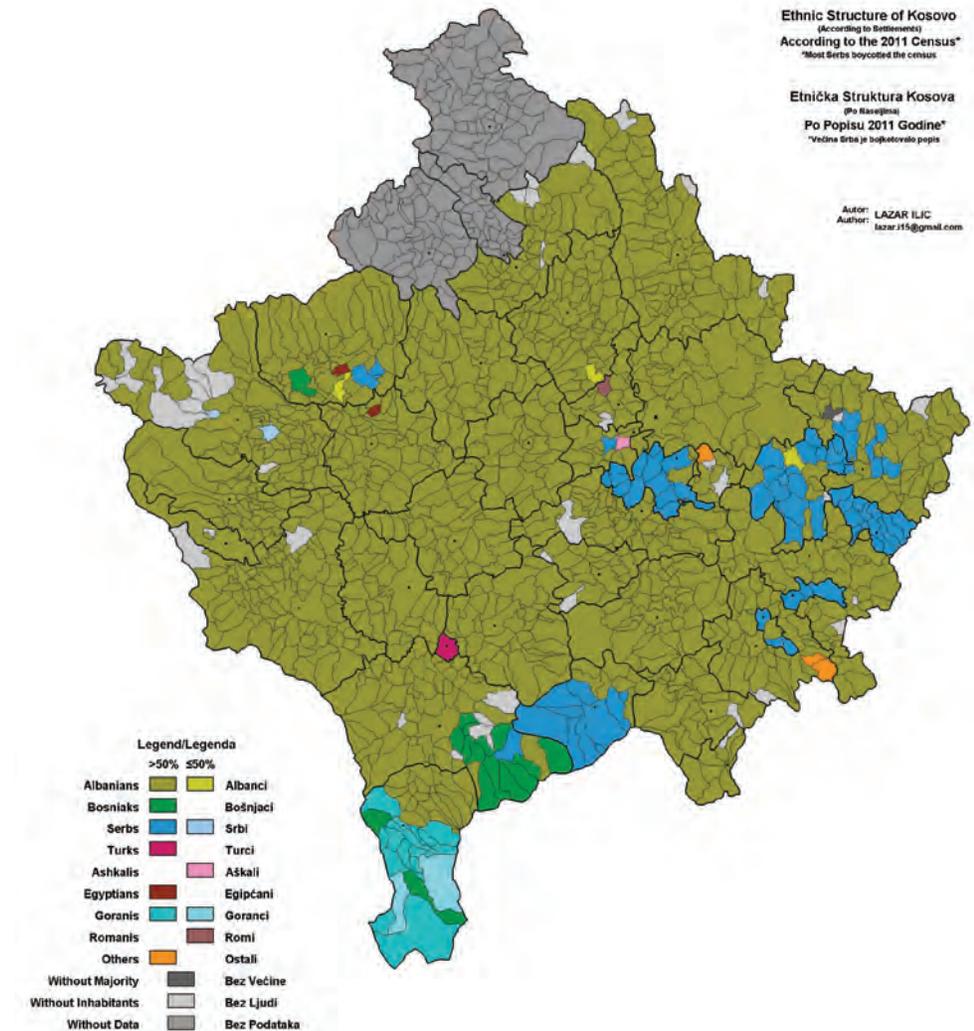


Figure 1: Ethnic map of Kosovo according to the 2011 census (Ilic, 2013)

number of fighters to the KLA. The events in Drenica are thus considered the starting point for the Kosovo War (Achcar, 2023, p. 103; Castan Pinos, 2019, p. 24; Cox, 2002, pp. 166-167; Dietrich, 2010, p. 125; Fella, 2024, p. 10). In the fall of 1998, following the adoption by the United Nations Security Council (UNSC) of Resolution 1203, which called for the withdrawal of Serbian troops from Kosovo and the start of negotiations between Serbs and Albanians, Milošević accepted the proposal of Richard Holbrooke, US Special Envoy to the Balkans, to withdraw 10.000 Serbian troops from Kosovo and to accept the deployment of 2.000 Kosovo Verification Mission (KVM) members by the Organisation for Security and Cooperation in Europe

(OSCE). However, the KLA refused to comply with this UNSC decision, and the war continued (Achcar, 2023, pp. 104-105; Dietrich, 2010, p. 125).

The official US position changed drastically in just a few months since the war began. While the Clinton administration had initially accused the KLA of being nothing more than another terrorist organisation, given its war crimes and the fact that many of its members constituted a *de facto* organised criminal group with, among other concerns, activities such as drug and human trafficking, kidnappings and rape, US officials changed their minds. Suddenly, the KLA became, according to the new US narrative, a military group with the legitimacy to fight against the oppressive Serbian regime (Castan Pinos, 2019, pp. 30-32; Visoka, 2018, pp. 64-66). The media continued to report only the crimes attributed to Serbian troops against the Albanian population, ignoring the fact that these Serbian actions were a direct consequence of violent provocations by Albanian militants and the flagrant and repeated violations of the ceasefire by the KLA. Thus, the West became increasingly hostile towards the Belgrade regime led by Slobodan Milošević, culminating in NATO's bombing of Serbia, starting on 24 March 1999, labelling the intervention as humanitarian, with the official objective of putting an end to Serbian operations of ethnic cleansing of the Albanian majority in Kosovo. The fact that NATO took this decision without obtaining UN permission further angered the Serbian public, resulting in a furious rise in support for Milošević. The Serbs' grievance was that the West was biasedly violating the sovereignty of their state in the name of human rights since both the KLA terrorist attacks and the mass expulsion of Serbs from Croatia only four years earlier went unpunished. The NATO bombing campaign against Serbia lasted 78 days, during which more than 23.000 bombs and rockets were dropped, killing up to 3.000 civilians and soldiers and destroying the entire infrastructure of the country. On the other side, the Serbs did not kill a single NATO soldier.

Initially, the objectives of the bombing campaign were strictly military. Nevertheless, Milošević's refusal to sue for peace turned the campaign's goal into the destruction of civilian morale in order to bring down the regime or achieve peace. It was not only Serbs who were angered by the numerous NATO attacks on civilians, but even some citizens of NATO member states. Almost the entire international community has expressed its disapproval of NATO's aggression against former Yugoslavia since its bombing campaign against the Serbs was a flagrant violation of the prohibition on the use of force. However, Western tactics paid off, and the Serbs eventually signed the Kumanovo Agreement, officially ending NATO's bombing of Serbia on 10 June, the day on which UN Resolution 1244 was adopted.

The resolution reaffirmed Serbia's (then still the Federal Republic of Yugoslavia) sovereignty over Kosovo. It also authorised the deployment of 50.000 KFOR troops to oversee the region's autonomy from the Serbian government and ensure peace. Another important provision was the temporary withdrawal of all Serbian troops from Kosovo, whether military or police. Finally, the Kosovo War was thus coming to an end (38 I.L.M. 1217, 1999, art. II; Baranovsky, 2015, p. 279; Castan Pinos, 2019, pp. 39, 55-56, 73-74; Cox, 2002, pp. 168-170; Dietrich, 2010, pp. 125-126; Dugard, 2013, p. 204; Escudero Espinosa, 2017, p. 108; Fella, 2024, p. 10; Ingimundarson, 2023, pp. 185, 187; Jelesijević, 2023, pp. 29, 31; UNSCR 1244, 1999; Visoka, 2018, pp. 64-66).

UNILATERAL DECLARATION OF INDEPENDENCE: CONTEXT, RECOGNITION AND LEGITIMACY

Over the last 250 years, the development of international law has been marked by the process of state recognition, which began as early as the 17th-18th centuries, when the establishment of diplomatic relations confirmed the mutual recognition of the existence of states. The principle of self-determination, however, gave rise to the process of recognising states' *de jure* independence at the same time as they obtained their *de facto* independence. To date, international law has not formally regulated this process. As a result of the lack of such regulations, states worldwide are increasingly using the withdrawal of recognition of independence as a tool to undermine the legitimacy and international legal personality of states that have unilaterally declared their independence. In this regard, the first historical example was Taiwan. Even if the recognition of the world's states is not among the legal competencies of the UN, their membership in the organisation is often tantamount to acquiring *de jure* universal recognition of independence (Cakolli, 2020, pp. 4, 10).

The 1933 Montevideo Convention established four criteria that the states of the world must fulfil in order to become international legal personalities: they must have a permanent population, a well-defined territory, they must be governed, and maintain diplomatic relations with other states (art. 1). Although the convention originally had regional applicability, its criteria for statehood have come to be accepted as definitive worldwide, not only by jurists and lawyers but, more importantly, by the states of the world. Thus, the Montevideo Convention's criteria now constitute the legal conditions for statehood that states must consider when deciding whether to recognise a separatist entity's independence (Dugard, 2013, p. 27). Whereas at the beginning of the last century, only about 50 states were recognised worldwide, the number of internationally recognised states is now

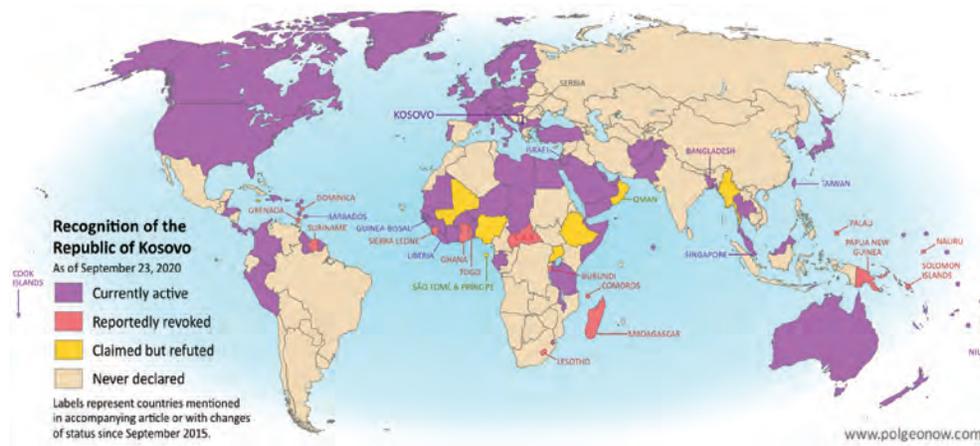


Figure 2: World map of states according to their recognition status of Kosovo's independence (Centanni, 2020)

almost four times higher. The decolonisation process that followed the Second World War alone led to the establishment and recognition of the independence of more than 100 states, a period that would go down in history as the “*era of secessionism*”. The disintegration of the Soviet Union, Yugoslavia, and Czechoslovakia in the 1990s also significantly contributed to the current 193 UN member states. However, apart from the colonial context, states that gained their independence through secession and became UN members belong to a select club since the organisation often opposes secession without the consent of national governments. Bangladesh, Eritrea, South Sudan and, of course, Croatia and Bosnia and Herzegovina are exceptions to the rule (Cakolli, 2020, p. 7; Dugard, 2013, pp. 32, 156-158).

Closely watched by the USA and the most prominent EU member states, the so-called Republic of Kosovo unilaterally declared its independence from Serbia on 17 February 2008, yet another action taken without UNSC consent (Achcar, 2023, p. 152; Almqvist, 2013, p. 180; Boguslaw, 2020, p. 721; Castan Pinos, 2019, pp. 103-104; Dietrich, 2010, pp. 123, 127; Dugard, 2013, p. 205; Džihic, Kramer, 2009, pp. 4-5; Fella, 2024, pp. 14-15; Ingimundarson, 2023, p. 187; Jelesijević, 2023, pp. 30-31; Kosovo Declaration of Independence, 2008; Newman, Visoka, 2018, p. 372; Nte, 2023, p. 5; Richter, Halbach, 2009, p. 223; Visoka, 2018, p. 73). Although initially not even a third of the Kosovar Albanian population identified with the symbols of the new state, less than a decade after the declaration of independence, suddenly, the entire Albanian population of the province began to adore the flag and state anthem of the Republic of Kosovo (Boguslaw, 2020, pp. 722, 731). A new surprise came in 2010 when the International Court of Justice

(ICJ) ruled that the Republic of Kosovo had in no way violated international law when it unilaterally declared its independence from Serbia. This ruling drastically changed Serbia's approach to Kosovo's independence (Almqvist, 2013, pp. 181-184; Castan Pinos, 2019, p. 113; Dugard, 2013, pp. 202, 205-206; Escudero Espinosa, 2017, pp. 123-126; Fella, 2024, p. 39; Jelesijević, 2023, p. 30; Newman, Visoka, 2018, p. 374; Nte, 2023, p. 5; Visoka, 2018, pp. 103-104). Thus, the Serbs, with Russian backing, launched a diplomatic counteroffensive to counter Kosovar diplomatic efforts, which had initially succeeded in getting 117 UN member states to recognise their independence. Today, only 90 states still recognise Kosovo's independence, i.e. 46.63% of UN member states. While 78 countries have never recognised it, 13 have withdrawn their recognition of Kosovo's independence, while the position of other countries remains ambiguous (Cakolli, 2020, pp. 15, 19; Castan Pinos, 2019, p. 111; Fella, 2024, p. 37; Jelesijević, 2023, pp. 34-35; Newman, Visoka, 2018, p. 377; Nte, 2023, pp. 1, 9, 13-14; Visoka, 2018, p. 173).

Of the G20 member states, 11 recognise the independence of the Republic of Kosovo (Australia, Canada, France, Germany, Italy, Japan, Saudi Arabia, South Korea, Turkey, the United Kingdom, and the United States of America), as do 22 of the EU member states (Austria, Belgium, Bulgaria, Croatia, Czechia, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovenia, and Sweden). The reasons 90 UN member states have declared and maintained their position to recognise Kosovo's independence are less well studied since these specific reasons are often considered less interesting. Several authors identify, however, a number of arguments and reasons that these states may have had when they decided to recognise Kosovo's independence: the violent break-up of the Yugoslav state; the violation of Kosovo's autonomy and human rights by the Milošević-led regime; NATO's military intervention; the Serbs' refusal to negotiate in any way the final status of the province; the favourable decision of the ICJ for the unilateral declaration of independence; the fact that the Republic of Kosovo had undertaken to build a democratic and multi-ethnic state; the support coming from the US and the most prominent EU member states; the uniqueness of the Kosovars' case, which could not easily be repeated; the potential for internationalisation of the territory as a result of ten years of international supervision; the completion of the disintegration of the former Yugoslavia and the achievement of sustainable peace in the Balkan region; the right to self-determination of the majority Albanian population; the lack of international law arguments against unilateral declaration of independence; the diplomatic pressure from the West to recognise Kosovo's

independence. It is also worth mentioning that the maintenance of international presence and supervision over the Republic of Kosovo has been stipulated as a sort of condition for the recognition of independence by some states (Almqvist, 2013, pp. 173-176; Newman, Visoka, 2018, pp. 373-375; Nte, 2023, pp. 11-13). Kosovars promptly complied with this requirement, promising to continue cooperation with the UN and the EU (Dietrich, 2010, p. 127).

Eight G20 member states do not recognise Kosovo's independence (Argentina, Brazil, China, India, Indonesia, Mexico, Russia, and South Africa), as do five EU member states (Cyprus, Greece, Romania, Slovakia, and Spain). The most important reasons why these countries have decided not to recognise the Republic of Kosovo's independence are related to the diplomatic context and national interests. The official justifications most often invoked are respect for Resolution 1244, territorial integrity and sovereignty of states, non-interference in the internal affairs of other states, inter-state equality and peaceful settlement of conflicts (Achcar, 2023, pp. 152-153; Almqvist, 2013, pp. 176-178; Dobrokhotov, 2018, pp. 58-59; Kos-Stanišić, Luša, 2018, pp. 242, 244-246, 250-251; Metodiev, 2018, p. 293; Nte, 2023, pp. 9-11). In reality, however, there are almost always other reasons that weigh more heavily in favour of the decision not to recognise the independence of the Republic of Kosovo, such as concerns about domestic movements towards autonomy or secession. Thus, the protection and promotion of moral, diplomatic, and legal values remain only in the background as more acceptable official explanations for non-recognition (Castan Pinos, 2019, p. 182; Dietrich, 2010, p. 123; Ingimundarson, 2023, p. 196; Kos-Stanišić, Luša, 2018, pp. 242, 252; Metodiev, 2018, p. 293; Newman, Visoka, 2018, pp. 376, 379).

The “*silent countries*” have, however, been almost entirely overlooked by most researchers' analyses despite the large number of states that have decided to refrain from deciding on the Kosovo issue. Even five years after the Republic of Kosovo's unilateral declaration of independence, some 60 states were still in this category, mainly from Africa, Latin America, and Asia. The determining factors for these states' neutrality on Kosovo's independence can only constitute the subject of speculation. It should be emphasised that the terms and conditions of Kosovar secession are a dispute whose resolution is in no way a national stake for many of the world's countries. While the unwillingness of some to take an official position may be explained by the fact that they feel constrained by the dominance and pressure exerted by more powerful countries, others may equally well feel that there are more pressing national issues to be prioritised over diplomacy and foreign

affairs, with recognition of the new states thus somewhere at the bottom of the to-do list. Moreover, supporting one side on such a sensitive issue may raise serious concerns about the grave consequences such a stance could have on relations with the other party involved in the conflict. A final and most legitimate explanation is a well-intentioned concern about clarifying the legality of the unilateral declaration of independence of the Republic of Kosovo under the rules established by international law. No less than 30 such states have asked the UN General Assembly for an advisory opinion from the ICJ on the issue of Kosovo's independence (Almqvist, 2013, p. 178).

Just as in the case of Bosnia and Herzegovina, the recognition of Kosovo's independence was premature, and there are many arguments for this. As is still the case today, the Kosovars did not fully control the territory they proclaimed their sovereignty upon, even in 2008. Northern Kosovo became an enclave that rejected Kosovo's statehood in the February 2012 referendum and is still administered mainly by Serbia, which has set up “*parallel structures*” there, i.e. institutions directly financed and controlled by Belgrade. Thus, a significant consequence of the unilateral declaration of independence is the provocation of a *de facto* ethnic partition of the province, constituting a severe violation of the principles in the name of which NATO intervened in the 1999 campaign (Castan Pinos, 2019, pp. 134-135; Dugard, 2013, p. 207; Džihčić, Kramer, 2009, p. 5). Then, the perennial presence of the UN and EU institutions undermines without a doubt any absolute independence of the Republic of Kosovo, which leaves more of the impression that it is, *de facto*, a joint protectorate of the UN, the EU and NATO. Thus, it seems that the states that recognised its independence did so not because they fulfilled the conditions of statehood laid down by the Montevideo Convention but rather to ensure that these conditions would be fulfilled due to the act of recognition of independence. In a world first, dozens of UN member states have recognised the independence of a state that is not at the end of the state-building process but at its very beginning. Moreover, from 1999 until 2008, Kosovars lost their case for independence over Serbia's suppression of autonomy and crimes against humanity. While the declaration of independence immediately after the end of the war might have given them the right to invoke them, by 2008, these arguments had already been lost since the Kosovar province enjoyed a high level of autonomy guaranteed by the UN administration and Serbia itself had already undergone many radical changes, transforming itself into a democratic state where human rights are respected. Furthermore, the roles were reversed in those nine years between the end of the war and the declaration of independence. While the rights of Albanian Kosovars

were protected, the Serb minority in Kosovo became the target of ill-treatment by the Albanian majority (Dugard, 2013, pp. 207-209, 211-212; Jelesijević, 2023, p. 29).

RUSSIA AND THE IMPLICATIONS OF THE KOSOVO PRECEDENT FOR GEORGIA AND UKRAINE

Western states were naïve to think that Kosovo's independence would be accepted as a *sui generis* case that would not serve as a precedent for other movements with secessionist aspirations. The big surprise came, however, when the Russian Federation immediately used the Kosovar precedent to justify its actions in Abkhazia and South Ossetia. On 7 August 2008, Georgia launched a military offensive in South Ossetia, protected by Russian "peacekeepers", although even Russia had recognised the territory as an integral part of Georgia prior to the military campaign. Russia's response was swift, forcing Georgian troops to leave the region after just five days. At the same time, Russian and Abkhaz troops, already occupying most of Abkhazia, forced the Georgian army to withdraw from the Kodori Valley, allowing the Russians and Abkhaz to take control of the whole of Abkhazia. Russia used the Georgian offensive in South Ossetia to justify its actions, forcing Georgia to admit defeat and sign a peace agreement under international auspices. Three weeks into the Georgian campaign, Russia had already recognised the independence of Abkhazia and South Ossetia. As with Kosovo, constitutionally, Abkhazia and South Ossetia were autonomous regions within Georgia, which, after the disintegration of the Soviet Union, sought independence by force with political support from Russia. Both declared independence unilaterally, immediately after the collapse of the Soviet giant, but neither had managed to have their independence recognised by any UN member state, not even Russia, at least until the invasion in 2008. Nevertheless, after the Russian Federation decided, on 26 August 2008, to recognise their independence, several UN member states decided to follow the Russians' lead and recognised the independence of Abkhazia and South Ossetia: Nicaragua, Venezuela, Nauru, Syria, Tuvalu and Vanuatu. The latter two, however, would later withdraw their decision to recognise the independence of the two Georgian regions. Before August 2008, the UNSC had adopted several resolutions reaffirming Georgia's territorial integrity. Although such resolutions could not be adopted after the 2008 war, other organisations immediately condemned the two secessions. The EU, OSCE and NATO reaffirmed their respect for Georgia's territorial integrity in August and September 2008 (Castan Pinos, 2019, pp. 164-165; Dugard, 2013, pp. 212-214; Ingimundarson, 2023, pp. 187-191; Jelesijević, 2023, pp. 31-32,

34; Vakhtangidze, 2011, pp. 402-405; Visoka, 2018, pp. 172, 174, 180). Following Russia's invasion of Ukraine in 2022, South Ossetia expressed its intention to hold a referendum on its integration into the Russian Federation in the summer of the same year. This decision was influenced by the province's failure to demonstrate its viability as a state and North Ossetia's membership of the Russian Federation. Although it dropped this plan for further consultations with the Russian side, South Ossetia's goal of becoming an integral part of Russia has not changed. Abkhazia, the more economically powerful of the two provinces, has shown no such intention and has also rejected any constitutional ties with Georgia. However, Abkhaz citizens remain heavily dependent on the Russian Federation for external representation since Abkhazians without Russian passports are *de facto* stateless (Ingimundarson, 2023, p. 191).

Russia was and still is a particular case in the Kosovar independence equation. A traditional ally of the Serbs, it found itself unable to actively help the latter in the 1999 military conflict, even though it vehemently opposed NATO aggression against Serbia. Nevertheless, Russia remains the Serbs' reliable helper on the issue of Kosovo's independence, with the Russians arguing from the outset that the unilateral declaration violates the norms of international law and does nothing but destabilise the fragile peace in the Balkan region. Its military aggression in Georgia and Ukraine, however, has meant that the intransigence with which the Russian state once rejected Kosovar independence has dissipated both with its recognition of the independence of Abkhazia and South Ossetia (2008) as well as after the recognition of independence and the subsequent official declaration of the annexation of Crimea (2014), Donetsk, Kherson, Luhansk and Zaporizhia (2022) in the name of "denazification", "demilitarisation" or "recovery of Russian territories". Thus, the new Russian discourse asserts that the recognition of each declaration of independence constitutes a separate case (Achcar, 2023, pp. 104, 152-156, 174; Baranovsky, 2015, pp. 275-280; Castan Pinos, 2019, pp. 164, 166-167; Dietrich, 2010, p. 130; Dobrokhoto, 2018, p. 57; Ingimundarson, 2023, pp. 185-187, 193-194; Jelesijević, 2023, pp. 29-31, 35; Kos-Stanišić, Luša, 2018, p. 246; Metodiev, 2018, p. 292; Newman, Visoka, 2018, pp. 377, 379; Rotaru, Troncotă, 2017, pp. 328-329; Visoka, 2018, pp. 174, 181-182). It is worth noting that the Kosovo War marked both the first official, straightforward and blunt anti-Western stance of the new Russian Federation and the first occasion on which the Russian population expressed its indignation at the actions of Westerners. From then until now, Westernophobia has almost become Russia's official line in foreign and domestic affairs alike, both ideologically and practically. Today, Russia positions

itself and operates as an adversary and antagonist to Western countries. At the same time, the “*phenomenon of sincere anti-Westernism*” is increasingly present in Russian society, especially after the invasion of Ukraine and the sanctions it brought on the Russian population (Baranovsky, 2015, pp. 275-277; Ingimundarson, 2023, p. 186). If the Kosovar precedent had not existed, it is unlikely that Russia would have invaded Georgia and Ukraine, let alone recognised the independence and even annexed territories internationally recognised as belonging to other UN member states. The Kosovar precedent has done nothing but give the Russians the power of example and the confidence that they can act as they please while positioning them against the Western world (Baranovsky, 2015, pp. 277-280; Castan Pinos, 2019, pp. 164, 166-167; Dugard, 2013, p. 260; Ingimundarson, 2023, pp. 189-190, 193-194; Jelesijević, 2023, p. 30; Rotaru, Troncotă, 2017, p. 332; Vakhtangidze, 2011, pp. 405-406). For Serbia, however, Russia’s military actions in Georgia and Ukraine represent potent blows against the arguments it has tried to build around respect for international law. Consequently, Serbs refused to recognise their legitimacy (Džihic, Kramer, 2009, p. 6; Ingimundarson, 2023, p. 196).

Contrary to warnings from Serbia and other countries concerned about the possibility of Kosovo’s unilateral independence becoming a dangerous precedent, the world has not seen an explosion of such declarations of independence after 2008. However, various actors in the Balkans and the Caucasus have tried to use the Kosovar precedent, mainly separatist movements, in their efforts to gain international recognition of independence and to consolidate their power over the territories they control or are trying to control, since contemporary international law does not prohibit secession. None, however, proved anywhere near as deft as Russia, a powerful external actor that has explicitly used this precedent to justify its military aggression in Georgia (2008) and Ukraine (2014-present). Equally, where Russia’s foreign interests took precedence, namely in Azerbaijan and Moldova, assurances came from the Kremlin that recognising the independence of Abkhazia and South Ossetia would not constitute any precedent for facilitating the recognition of the independence of the Republic of Artsakh and the Pridnestrovian Moldavian Republic. In 2023, however, Russia withdrew its recognition of Moldova’s sovereignty over the latter, leading to fears that annexation could follow once Russia recognises the Pridnestrovian Moldavian Republic’s independence. Looking again towards the Balkan Peninsula, the political class in Republika Srpska, one of the three administrative entities recognised by the Bosnian state, has also tried unsuccessfully to use the Kosovar precedent in an attempt to leave Bosnia and Herzegovina. There are also fears that the sizeable Albanian minority in North Macedonia could

also follow the path of its Kosovar brothers, given the violent episodes that have continued inter-ethnic tensions even after the end of the 2001 war. However, it remains complicated to predict the medium- and long-term consequences of the Kosovars’ declaration of independence (Castan Pinos, 2019, pp. 158-161; 164-169, 182; Dietrich, 2010, p. 130; Džihic, Kramer, 2009, p. 5; Escudero Espinosa, 2017, p. 107; Hrnjaz, 2020, p. 397; Ingimundarson, 2023, pp. 187, 192-195; Jelesijević, 2023, pp. 29-30; Richter, Halbach, 2009, pp. 228-232, 237).

The Kosovo – Republika Srpska parallel revealed a severe legal double standard when the ICJ cited UNSC Resolution 787 as an example of the UNSC condemning certain unilateral declarations of independence. The ICJ’s failure to identify any prohibition in international law preventing a unilateral declaration of independence by the Republic of Kosovo directly conflicts with Resolution 787 since both the Republic of Kosovo and Republika Srpska were ethnic minority enclaves within federal states of former Socialist Federal Republic of Yugoslavia. If today there is no prohibition in international law on the secession of the Republic of Kosovo, whose majority Albanian population constituted a minority within the former federal state of Serbia, then neither can the unilateral declaration of independence of the Republika Srpska, whose majority Serb population constituted a minority within the former federal state of Bosnia and Herzegovina, be categorised as in any way violating international law (Dugard, 2013, pp. 168-170). As far as North Macedonia is concerned, the Western stance towards the Albanian insurgency in this former Yugoslav state reveals an apparent double standard concerning the actions they have taken about the Kosovo conflict. While the Albanian rebels in the province of Serbia received the full support of the West, the Albanian rebellion in North Macedonia was universally condemned, even though it was encouraged by the very actions of the West in the Balkans, particularly in the province of Kosovo. The same international actors that supported by all possible means the Albanian insurgency in Kosovo in 1999 labelled the Albanian insurgents in North Macedonia as terrorists just two years later. This shift in the official discourse is all the more astounding if we take into account that many of the Albanian militants in North Macedonia had previously fought in Kosovo with the KLA (Castan Pinos, 2019, p. 161).

Kosovo – Ukraine is, however, still the most notable parallel in terms of the blatant double standard we find in both the discourse and the actions of some Western states. Although they accepted, justified and supported the violation of the territorial integrity of Yugoslavia, ignoring the UNSC and international law in favour of geopolitics and the manifestation of power, the same states declared themselves to be outraged by similar actions taken by Russia in Georgia and especially in Ukraine,

the consequences that the Russian state had to face for violating the sovereignty of these states being among the most severe (Achcar, 2023, pp. 168-169; Castan Pinos, 2019, p. 178; Hrnjaz, 2020, pp. 397-398; Jelesijević, 2023, pp. 29-31; Rotaru, Troncotă, 2017, pp. 326, 328-329, 336; Vakhtangidze, 2011, p. 407). The exact parallel also tells us of the double standard applied by the Kremlin on secessionism, as the official discourse of the Russian Federation on this issue reversed in the 15 years from the end of the Kosovo War to the annexation of Crimea. When the province unilaterally declared its independence in 2014, the Russians enthusiastically supported it, describing it as a “*manifestation of the right of peoples to self-determination*”. Nor did Kyiv’s lack of agreement bother Russia nearly as much as Belgrade’s lack of agreement did when the Republic of Kosovo unilaterally declared its independence, which the Kremlin criticised so severely. Moreover, if, in the case of Kosovo, they vehemently opposed any external intervention, the Russians found it imperative in Crimea to use external force in the name of prevention “*so as not to wait until it would already be too late*” (Baranovsky, 2015, p. 278; Castan Pinos, 2019, pp. 166-167; Ingimundarson, 2023, p. 186; Jelesijević, 2023, pp. 29-31). Therefore, both Westerners and Russians apply double standards when it comes to secessionist movements and the recognition of their independence. On the one hand, when Kosovars declared their independence, Russia invoked the strict preservation of Serbia’s territorial integrity, a principle of international law that it abandoned shortly afterwards when it supported the secession and independence of Abkhazia and South Ossetia, the Russians’ arguments being the same ones that Westerners used to justify their support for Kosovo’s independence. On the other hand, the Westerners came to Georgia’s defence, invoking the principle of respect for territorial integrity, the same principle they refused to respect when they violated Serbia’s sovereignty (Castan Pinos, 2019, pp. 166-167; Džihic, Kramer, 2009, pp. 6-7; Jelesijević, 2023, pp. 29-31).

Equally, in 1991, when the Chechens unilaterally declared their independence from the Russian Federation following the disintegration of the Soviet Union, the international community condemned Russia’s violation of territorial integrity just as strongly, even though the same Western states fervently supported or even participated in the violation of Serbia’s territorial integrity by the Kosovars. Therefore, if the ICJ has determined that Kosovo’s unilateral declaration of independence in no way violates international law, then the Chechens would not violate it if they declared independence again today (Dugard, 2013, pp. 174-176; Ingimundarson, 2023, p. 196). A parallel can also be drawn between Kosovo, Abkhazia and South Ossetia. Just as in the case of the Western powers with the Republic of Kosovo, Russia

decided on a premature recognition of the independence of these two Georgian regions, even though South Ossetia did not fully control the territory over which it had proclaimed its sovereignty, while Abkhazia’s policies and structures were still mainly under the control of the Kremlin, especially in terms of defence and security institutions, reminiscent of the Western protectorate over the Republic of Kosovo. Nor could the two Georgian regions claim that their right to autonomy had been violated or that the Georgians had committed crimes against humanity on their territory. On the contrary, in the 1990s, the Abkhazians were responsible for the expulsion of Georgians from the region. However, this process of ethnic cleansing was not caused by any human rights violations by the Georgian majority. Moreover, applying the same tactics that the Kosovars used, it was the Ossetians who initiated the military clashes, provoking Georgia’s reaction to launch a military offensive in South Ossetia, which provided the Russians with the ideal pretext for intervention (Dugard, 2013, pp. 215-218; Ingimundarson, 2023, pp. 190-191; Vakhtangidze, 2011, p. 413). Taking all these aspects into account, the actual Russian position on secessions can be summarised as follows: if secession affects Russian territory, as was the case with Chechnya, then it is unacceptable; if there are specific interests at stake, it can be used as a bargaining tool, as was the case with the Kosovar province; if strategic partners suffer because of political instability or military conflict, it can be used to their advantage, as was the case in the post-Soviet space; and, of course, if it results in territorial gains for the Russian Federation, then secession is perfectly acceptable (Baranovsky, 2015, p. 279).

CONCLUSIONS

The final status of the Albanian community in the province of Kosovo, which they wish to transform into a new state, has not been resolved by the policies related to recognising the unilateral declaration of independence of the Republic of Kosovo. In the absence of guarantees and certainty that recognition of statehood can be achieved at some point in the future, these policies are marked by a strong incongruity with the notion of a standardised procedure. The political struggle can only end when statehood is achieved beyond doubt, but this *status quo* may remain only a chimaera. Indeed, it will still be in the political sphere where the fierce negotiations on the recognition of the independence of the Republic of Kosovo and any other new entities that unilaterally aspire to statehood will continue. Even though, in an ideal world, strong arguments should be the decisive factors in shaping an outcome accepted by both sides at the end of these negotiations, the reality of international affairs has repeatedly shown us that lobbying and pressure

from powerful states determine the direction of the negotiations, which does not always lead to a final result (Almqvist, 2013, p. 186). Consequently, despite the high number of UN member states recognising Kosovo's independence, Kosovo can become a member of the organisation only with Serbia's consent and only if Russia and China stop using their veto. Equally, the chances of survival of unilaterally declared states with Russia's backing at the expense of Georgia and Ukraine are difficult to predict (Dugard, 2013, pp. 201-202).

The analysis of the politics of recognising the independence of the Republic of Kosovo revealed that, on the one hand, the motives for supporting Kosovo's independence are mainly common to most of the states that have supported and maintained their recognition of the Kosovars' state: the portrayal of Kosovars as martyrs of Serbian cruelty, support for the human rights and aspirations of the Albanian majority, and the inescapable influence of both the major European powers and the USA. On the other hand, the facts of the non-recognition of Kosovo's unilateral declaration of independence are much more complex. Although the official motivation of the states that have taken this diplomatic stance towards the independence of the Kosovars falls, at least at a declaratory level, within the sphere of respect for UN decisions, the territorial integrity of states, and the principles of non-interventionism, peaceful resolution of conflicts and support for international law, the geopolitical realities are more likely to indicate that internal factors prevail, since almost every one of these states is also facing problems caused by various movements seeking autonomy or even secessionist objectives.

Although it has historically been both a strong ally of Serbian interests and rights in international politics, often demonstrating implacable and seemingly disinterested support for Serbia's cause, thus being the most crucial ally the Serbian state has had against Kosovar separatists, these considerations did not prevent Russia from tempering its rhetoric against recognising the independence of the Republic of Kosovo when national interests demanded it, cleverly using the Kosovar precedent to justify its separatist gains and aspirations in Georgia and Ukraine to annex the territories mentioned above. Russia used the West's support for Kosovo's independence as a pretext to instrumentalise the contested international norms to further its geopolitical and territorial aspirations. In order to achieve its foreign policy objectives in Georgia and Ukraine, Russia has sought, on the one hand, to exert its authority and power over the spheres of influence it claims by using euphemisms such as "post-Soviet space", "near neighbourhood" or "regions of privileged Russian interest" and, on the other hand, to compete geopolitically with the West either by imitation or by categorising its actions as mere replication of those attributed

to the West (Ingimundarson, 2023, p. 186). Therefore, the policies of recognising Kosovo's independence depend on the national interests of each state. It is demonstrated unequivocally by the fact that each of the 13 G20 and EU member states that do not recognise the Kosovars' right to independence have either recently had to deal with or are still dealing with various notable movements with autonomist or secessionist aspirations.

To sum it all up, despite the frequent warnings from UN representatives who intransigently express that the organisation's position is that the Republic of Kosovo is a particular case that should not be adopted as a benchmark by other separatist movements (Dietrich, 2010, p. 130), the unilateral declaration of independence of the Republic of Kosovo has lost its *sui generis* status, since, *de facto*, the Kosovar precedent significantly influences international politics by providing a model for secessionist movements everywhere to follow, the Kosovar path to independence becoming for them a kind of guide whose steps must be followed in order to achieve their separatist goals. Thus, in order to gain international sympathy and credibility, secessionist movements need to demonstrate not only that there is some form of discrimination in the country of which they are part but also that there are a significant number of atrocities committed against their members, who are usually a minority at the national level. However, if governments do not commit such acts against them, members of separatist movements will provoke them to achieve their aims. Once these steps have been taken, all that is left for the representatives of these movements to do is to attract as many international actors as possible to their side, and this often proves to be the most challenging step of all. Of course, national governments are also aware of these steps. They will try to demonstrate that they democratically represent the entire population of their country without committing any inhumane or discriminatory acts. Less powerful states will try to attract international support, justifying their cause as "fighting terrorism". In the end, the final status of the community aspiring for independence and the territorial integrity of the state in question is decided by who manages to win this diplomatic war between the secessionist movement and the national government (Hrnjaz, 2020, pp. 399-400).

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