

ПОЛИТИЧЕСКИЕ ПРОБЛЕМЫ МЕЖДУНАРОДНЫХ ОТНОШЕНИЙ, ГЛОБАЛЬНОГО И РЕГИОНАЛЬНОГО РАЗВИТИЯ

СОВРЕМЕННЫЕ ПРОБЛЕМЫ ЕВРОПЕЙСКОЙ БЕЗОПАСНОСТИ

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THE YOUNGEST SEMI-INDEPENDENT STATE IN EUROPE

Kosovo as international problem separate from that of Albania was initially created in 1913 on the ruins of the Ottoman Empire when the Kingdom of Serbia conquered and occupied the land with an Albanian majority. Between 1918 and 1999, Kosovo had been part and a nagging security problem of three multinational Yugoslavias. The kernel of the problem was in the political conflict between the Kosovar Albanians' striving for national emancipation and self-determination and the Serbian elites' strenuous endeavours for rule in Kosovo. Kosovo's forceful separation from Serbia was effected in 1999 by NATO's military intervention. By 2008 it was followed by Kosovo's proclamation of independence. The new semi-independent state has remained however a less than universally recognized member of the international community. Refs 24.

Keywords: Kosovo, Serbia, Yugoslavia, UN, NATO, EU.

Proclaimed independent in February 2008 the Republic of Kosovo resulted from a relatively long standing conflict between several Serbian and Yugoslav states and a part of the Albanian nation. This conflict has not been however from a time immemorial. In the famous battle at Kosovo Polje (1389), which proved to be fateful for the medieval Serbian state, Albanian tribesmen fought against the Ottomans on the side of the Serbian king Lazar. Later the competitions for land, conflictual attitudes and interests developed steadily on the territory of Kosovo over four and a half centuries of Ottoman rule. The Islamization of the majority of Albanians deepened the existing cultural divide, adding the religions divide to the wider language divide between Serbs and Kosovar Albanians. The latter as Muslims enjoyed privileges and favors from Ottoman rulers while the former suffered discrimination. The Ottomans had on many occasions used Kosovar Albanians as allies in suppressing Serbian revolts and uprisings. All these circumstances increased the element of conflict in the mixture of relations between the two ethnic communities, which had for several centuries included also peaceful coexistence, and cooperation at the local level [1, pp. 45–76].

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The elements of conflict gained momentum with the growth of Serbian and Albanian nationalism in the second half of the 20th century and with the waning of Ottoman imperial rule in the Balkans. At the turn of the 20th century, the destiny of Kosovo constituted only a small part of the Oriental question and a subchapter in the Albanian national question. Several decades earlier Kosovo had found itself at the intersection of competing interests of great European powers and of four conflicting regional national projects. Each of them implied overlapping and conflicting territorial aspirations. The Serbian national project has included since, at least, 1844 the inclusion of the whole of Kosovo into the Serbian state. The Montenegrin project had been directed towards acquiring Western Kosovo (Metohija), while the Bulgarian project aimed at a part of Eastern Kosovo. The all-Albanian national project was adopted by the League of Prizren in Kosovo, in November 1878. It obviously included also Kosovo as part of a desired autonomous Albanian entity within the Ottoman Empire.

Kosovo as Serbia's war booty and nagging problem

As a sharp clash between the Serbian state and the community of Kosovar Albanians the conflict exploded about a century ago during the First Balkan War (1912–1913). The governments of the Kingdoms of Montenegro and of Serbia [2, pp. 7, 13–14] had then as their key geostrategic ambitions territorial expansion into Ottoman possessions and an unimpeded permanent territorial access to the Mediterranean Sea. The annexation of what is now the Northern part of the Republic Albania and of its sea port Durrës (Serb. Drač) [2, pp. 94–110] would have made Serbia a maritime nation. The conquest of Shkoder (Serb. Skadar) and of the fertile land in the estuary of the Bojana River would have very considerably expanded the territory of Montenegro and made it economically more viable.

At the time of the Austro-Hungarian annexation of Bosnia and Herzegovina in 1908, Serbia tried to entice the Russian Empire to join in undertaking a military counteraction. Following Russia's refusal, the Serbian government waited for another chance to gain territory at the expense of Ottoman possessions in the Balkans, including those with Serbian minorities only or even without a Serbian population. The much smaller Kingdom of Montenegro followed the same expansionist line. The Russian Empire in its competition with the Austro-Hungarian Empire for influence in the Balkans had actively encouraged and supported the territorial ambitions of Serbia, Montenegro and other predominantly Christian Orthodox states. Russian diplomacy initiated secret meetings of these states' representatives from which an interstate conspiracy developed. Aware of and hostile to the Albanians' strivings for national self-assertion and emancipation the governments of Serbia, Greece and Montenegro secretly plotted to occupy and partition Ottoman possessions with a predominantly or entirely Albanian and Muslim population. The conspirators' clear intention was to preempt the appearance of an Islamic state on the ruins of the "Sublime Porte" in the Balkans [3, pp. 56–60].

In October 1912, according to coordinated war plans, the Montenegrin army first and soon afterwards the Serbian army invaded and quickly conquered territories in what is today Northern Albania. By the end of October 1912 the Montenegrin army "liberated" Western Kosovo (Metohija) and on November 4 entered Djakovica, simultaneously with the Serbian army. The Serbian conquest of Kosovo was then only a secondary objective

while the 'liberation' of Kosovo's medieval Christian monuments and of its Serbian minority from 'Ottoman bondage' served as a convenient propaganda cover internally and for the international community [2, p. 119].

The Serbian government claimed that its right to occupy Kosovo was justified (1) by the Serbs' superior level of civilization compared with that of the Albanians, (2) by the Serbian state's historic possession of the province in the 13th to 15th centuries and (3) by the numerical majority then enjoyed by the Serbs' Slavic ancestors. By modern standards however all three arguments have long since become unacceptable as justification for aggressive behaviour against a neighbouring state. Serbia then grossly violated the principle of territorial integrity of a neighbouring state when its armed forces attacked and occupied Kosovo. The Sublime Porte and its legal successor the Republic of Turkey never recognized the cession of Kosovo and no corresponding international treaty was concluded. Thus Serbia's occupation of Kosovo was illegal and also illegitimate since Serbia carried it out against the will of its majority Albanian population. The Serbian military conquest was accompanied by grave violations of international humanitarian law and caused about 25,000 deaths among Albanian Kosovars and Turks. The atrocities against Kosovo's civilian population were vividly described by Leon Trotsky (then a Russian correspondent in the Balkans) and were thoroughly documented by an international commission of enquiry [4].

The attainment of the ultimate Serbian and Montenegrin strategic objectives was however foiled then by Austro-Hungary (and Italy) who resisted Russia's and its proxies' penetration into the Adriatic. The Russian imperial command felt that Russia was still insufficiently prepared for a major war. The Serbian government consequently bowed to an Austro-Hungarian war ultimatum. The Serbian Army was ordered to withdraw from Northern Albania. Montenegro persisted longer but by May 1913 its troops were also forced to leave Shkoder. However the European powers (Great Britain, Austro-Hungary, Germany, France and Italy) at a conference in London, at Russia's insistence, agreed to accord Serbia and Montenegro occupied Kosovo, Sandzak and Vardar Macedonia as war booties. In 1912–1913 Kosovo was not even properly legally annexed to Serbia, according to the valid Serbian constitution of 1903 and later to the Kingdom of Serbs, Croats and Slovenes according to its 'Vidovdan' constitution.

The European powers thus knowingly allowed Serbia to keep Kosovo occupied against the wishes of its majority population. The host of the London conference, British Foreign Secretary Sir Edward Grey frankly admitted this fact during a debate in the House of Commons. Like Cyprus and several Arab lands Kosovo was then forcefully amputated from the Ottoman Empire and immediately subjected to another foreign rule. The Ottoman possessions in the Near East and North Africa were subjugated by France, Great Britain and Italy [5, pp. 71–76], while Kosovo became *de facto* annexed by small Montenegro and Serbia. The Kingdom of Serbia, which only several decades earlier became liberated of Ottoman rule, was thus allowed by the European great powers to create its own mini-colonial empire in the Balkans. In November 1918 Montenegro lost its sovereignty, ruling royal dynasty, and its very name. Together with Western Kosovo (Metohija) it became absorbed by the Kingdom of Serbia before being included by fiat into the "Kingdom of the Serbs, Croats and Slovenians".

The two brutal Serbian conquests of Kosovo in 1912 and again in 1918 left a bitter imprint on the collective memory of the Kosovar Albanians. The subsequent harsh Serbian

rule under the Karadjordjevic dynasty was also so painful that in April 1941 the Kosovar Albanians massively greeted the invading Italian and German troops as liberators. During the Second World War the largest part of Kosovo was occupied by Italy and incorporated into the satellite 'Kingdom of Albania' with the Italian king as head of state. The rest of Kosovo was then divided between the "Third Reich" and Bulgaria, the latter having annexed its occupation zone in Eastern Kosovo. The Italian, German and Bulgarian policies of occupation crisscrossed and partly overlapped in Kosovo. On the other hand, the Yugoslav and Albanian resistance and liberation movements, dominated by the Communists, made their tangible inroads into Kosovo only from 1943. Prior to the Italian capitulation in September 1943, only very few Kosovar Albanians joined the Communist-led resistance. The Kosovo National Liberation Council which met at its first session at Bujane in January 2, 1944 adopted a resolution according to which Kosovo after the war would be reunited with Albania [6, p. 34].

The third conquest ('liberation') of Kosovo by Serbian units of the Yugoslav Army in autumn 1944 was again accompanied by armed violence against the Kosovar Albanians. The act of absorption of Kosovo into Yugoslavia was passed in April 1945 under the conditions of martial law, by an appointed 'Kosmet Regional People's Assembly'. The composition of the Assembly was utterly unrepresentative consisting of 142 appointed members, among them only 33 Kosovar Albanians. All appointed deputies were Communists and mostly Serbs. The latter represented then only about 20% of Kosovo's population. The annexation was adopted by acclamation, without a vote and without a single speech, let alone a debate. There was no preceding election or a referendum in Kosovo [7, pp. 315–316]. This Stalinist parody of legality thus totally lacked democratic legitimacy.

Talks related to the future post-war status of Kosovo took place since 1944 between the leaderships of the Yugoslav and Albanian communist parties. After the war Soviet, Bulgarian, Yugoslav and Albanian communist leaders discussed, on a number of occasions and behind closed doors, a project of a Balkan Federation. In 1947–48 this project became one of the controversies, which contributed to the Soviet-Yugoslav quarrel and was subsequently abandoned [8, pp. 39–41].

Kosovo as Yugoslavia's thorny problem

Between 1918 and 1999 Kosovo remained part of three multinational Yugoslavias, for most of the time as a non-self-governing province subordinate to the Serbian officialdom in Belgrade. The overt political discrimination of non-Slavic national groups was built into the very foundation of the first Yugoslavia since its inception in 1918, named symbolically the 'Kingdom of the Serbs, Croats and Slovenians' only. Between 1919 and 1941 the treatment of the Yugoslav Albanians, in majority Moslems, had been much worse than that of the German, Hungarian and other Christian minorities. In the communist-ruled second Yugoslavia (FPRY, SFRY) the Kosovar Albanians' position had improved considerably compared with that under the wartime monarchy. However, contrary to the Yugoslav communists' belief and their public pronouncements, 'the socialist revolution' did not resolve numerous national questions in that multinational state, the Kosovar Albanian one included. The Kosovar Albanians' situation had been adversely affected by the Tito-Stalin conflict and by Albania's participation in hostile actions against Yugoslavia, including bor-

der incidents. These actions had given a pretext for harsh repression in Kosovo, which was relaxed after the dismissal of Aleksandar Rankovic in 1966.

The Kosovo problem in all three Yugoslavias had contained at its kernel a political conflict between the Kosovar Albanians' desire for national emancipation and self-determination [6, pp. 41–50] and, on the other hand, the Serbian elites' strenuous endeavours to rule Kosovo. As a result of general liberalization of Yugoslavia's political system, in 1963 Kosovo had gained a higher measure of internal autonomy and the enhanced legal status of an Autonomous Province.

Furthermore, with the adoption in 1974 of the last SFRY constitution, Kosovo became an almost full-fledged member of the federation. The Autonomous Province of Kosovo had been, according to the last SFRY constitution of 1974 an integral part of the Yugoslav federation. It was represented in its collective Presidency and in other federal institutions on an equal footing and in many respects enjoyed equal rights with the six republics, including Serbia. By then the Kosovar Albanians became the third largest ethnicity in Yugoslavia (after the Serbs and Croats). This demographic change and the liberal evolution in Yugoslav politics made politically untenable the Kosovar Albanians' obvious inequality in rights with a Slavic nation that was several times smaller, the neighbouring Montenegrins. However the Kosovar Albanians' desire for full equality in collective rights with Yugoslavia's Slavic nations, if granted and implemented, would have, among other things, put into question Yugoslavia's very name ('The Land of the Southern Slavs'), its anthem ('Hey, Slavs'), the privileged legal status of Slavs, and the existing power relations and the Belgrade bureaucracy's pivotal position in the federal state.

As a constant source of political and security troubles, Kosovo tangibly contributed in 1941, 1991 and 2003 to the dissolution of all three Yugoslavias: the Kingdom of Yugoslavia (KY), the Socialist Federal Republic of Yugoslavia (SFRY) and the Federal Republic of Yugoslavia (FRY). The dismantling of the SFRJ started when on March 28, 1989 the Serbian People's Assembly effectively abolished Kosovo's autonomy. By adopting constitutional amendments the Serbian parliament subjected the province to direct rule from Belgrade. The Provincial Assembly of Kosovo was disbanded by the Serbian Assembly on July 5, 1990. This action was accompanied by brutal police intimidation and numerous arrests of Kosovar Albanian deputies in the Provincial Assembly, buttressed visibly by the presence of JNA tanks in the streets of Pristina¹. Kosovo's subjugated majority population had been exposed to outright discrimination and harsh treatment by the Serbian police and Serbian courts. By its unilateral action and by severe anti-Albanian repression the Serbian government gravely undermined the Yugoslav constitutional order. It raised not entirely unfounded fears in Croatia and Slovenia that the Serbian leadership, aligned with the federal military, would attempt subsequently to undertake similar actions elsewhere in Yugoslavia. The repression in Kosovo consequently badly soared Serbia's relations with Croatia and Slovenia and deepened the boiling Yugoslav crisis.

The sinister events in Kosovo in 1988–89 had taken place in the already shaky federal state while outside Yugoslavia's borders a political upheaval swept Eastern Europe. The massive geopolitical change on the continent had accelerated the demise of the

¹ JNA (Yugoslav People's Army) was the federal armed forces in the second Yugoslavia, which disintegrated in 1991–92. In 1992 JNA's remnants were legally reorganized into the Army of Yugoslavia (VJ) and the armies of the Serbian secessionist para-states in Bosnia and Herzegovina and Croatia. After the separation in 2006 the Army of Yugoslavia was divided into the armies of Serbia and Montenegro.

authoritarian communist regime in the SFR Yugoslavia as well. The crisis in Kosovo was followed soon by armed violence in Croatia's Serbian Kraina instigated from Belgrade. By 1991–1992 the ultranationalist policy of the Milosevic regime, supported by the Serbian Orthodox Church and by majority public opinion among the Serbs, ruined the second Yugoslavia and the achievements of the Serbian national project from 1918. In the following 17 years the Yugoslav federal state created by the Communists in 1945 disintegrated into seven separate states.

Kosovo as an issue of international politics since the 1990s

As long as the second Yugoslavia existed, Kosovo represented predominantly an internal problem in Yugoslavia. Only occasionally was this issue raised by neighbouring Albania. The repression and blatant violations of human rights and fundamental freedoms in Kosovo had thus long gone on unopposed by the Council of Europe and other international organizations, largely because Kosovo was regarded as an internal affair of a sovereign state. The breakdown of SFRY, to which the conflict in and over Kosovo substantively contributed, had had, however, appreciable wider international reverberations and implications. It attracted exceptional international attention and raised serious worries among the Western powers about its domino effect on ex-Soviet space. Due to this fear (which turned out to be highly exaggerated) the Yugoslav drama was catapulted to the top rank of acute international problems.

The Kosovo problem surfaced as a distinct and contentious international issue only when it became clear to the Western powers that the pacification of the ex-Yugoslav space would be incomplete without resolving it as well. In spring 1997, after the forceful imposition of peace on Bosnia and Herzegovina, the Kosovo problem was finally explicitly raised in several international fora, including the UN and the OSCE. However all attempts by the Western powers to reach a satisfactory peaceful solution through bilateral talks with the Federal Republic of Yugoslavia (FRY), diplomatic pressure and clear military threats brought no desirable results. The final failure of these efforts at an international conference at Rambouillet, France was followed in March 1999 by the first armed attack by NATO against a UN member state. The FRY filed then a complaint against the NATO members' 'illegal use of force'. The International Court of Justice rejected the motion and declined to examine the legality of NATO's 'humanitarian intervention' [9].

Already prior to the NATO intervention the Milosevic regime decided to exploit a "historic" opportunity and to get rid for good of most Albanian and other Muslim population of Kosovo. The displacement of about 350,000 Kosovar Albanians, Turks and other non-Serbs was carried out by the Yugoslav Army and by the militarized Serbian police already in summer 1998. The beginning of NATO air attacks in March 1999 was followed by a still more massive wave of terror and of organized mass expulsion of Kosovar Albanians and Turks to Macedonia and Albania. The Serbian regime's attempted act of genocide provided legitimacy to NATO's 'humanitarian intervention' [10, pp. 115–128] as an expression of the 'responsibility to protect' [11, pp. 535–539; 12] Kosovo's civilian population. A small group of NATO member states participated in the operation directly while a half dozen other members indirectly. Like earlier in Bosnia and Herzegovina, the Kosovo problem would not have been even half-resolved without a determined military action by USA and NATO.

The Operation Allied Force raised Kosovo to the rank of burning international problems. This intervention, undertaken without a UN Security Council's authorization, resulted in the second foreign occupation, after Bosnia & Herzegovina, of a part of ex-SFRY's territory. Under the terms of the Kumanovo protocol signed with NATO in June 1999 FRY/Serbia removed from Kosovo its army, police and civilian administration. Thus in summer 1999 FRY/Serbia lost three key elements of sovereignty in Kosovo: the control over its territory, its population and borders. The NATO peace-enforcing intervention physically detached Kosovo from Serbia and placed the province under temporary UN administration ('UN Interim Administration Mission in Kosovo' (UNMIK)). After the retreat of the Yugoslav army, Serbian police and civilian administration from Kosovo, international organizations, notably the UN High Commissariat for Refugees and the International Migration Organization, undertook a large scale operation of humanitarian assistance. During the second half of 1999 about 1.3 million refugees and displaced Albanian Kosovars and Turks returned to their homes in Kosovo [13; 14; 15]. They found mostly ruined and burnt-out homesteads without roofs, vandalized and often mined houses, apartments, schools and other public buildings.

With the adoption of the seminal UN Security Council Resolution 1244 of 10 June 1999, Kosovo became an international protectorate with various security, surveillance, control, assistance and other roles played by several international organizations (UN, NATO, OSCE, EU, Council of Europe, World Bank etc.) [16].

Resolution 1244, *inter alia*, established UNMIK and the international military presence in the form of the NATO-led *Kosovo force* (KFOR). At its height in 2001 UNMIK was the largest civilian peacekeeping mission to date in the history of the United Nations. It consisted of over ten thousand international staff and local staffers. UNMIK was tasked with organizing and overseeing the development of provisional institutions for democratic and autonomous self-government pending a political settlement and transferring its administrative responsibilities, as these institutions would be created. Initially UNMIK established the *Joint Interim Administrative Structure* (JIAS) consisting of Pristina-based administrative departments for delivery of services and revenue collection as well as local administrations and councils at the municipal level. The Police service had been then a solely UNMIK responsibility. Since that high point, the competencies of UNMIK were gradually reduced. The role and the size of the UNMIK Police has been correspondingly steadily fallen from the initial high of about 4,700 to only six policemen in 2014. This reduction has been due to the development of Kosovo self-governing institutions and the presence and activities of other international organizations.

The NATO-led force KFOR at the time of its deployment in summer 1999 was composed of nearly 50,000 troops, provided by 19 NATO members and 19 non-NATO members. The territory of Kosovo was divided then into five zones of responsibility with lead-contingents provided by the USA, UK, France, Italy and Turkey. The Russian Federation endeavoured to obtain its own zone of responsibility but was refused by the Western powers who feared a repetition of a Transnistria-like Serbian secession under Russian protection. Russian units were deployed in several KFOR zones, including the U.S.-led zone of responsibility on the south-eastern periphery of Kosovo. One Russian company had participated in joint U.S./Russian vehicular patrols along the border with Macedonia. Russia withdrew its contingent from KFOR in June 2003, handing over the facilities it had occupied to the local Kosovo Serbs rather than to UNMIK which was the legal admin-

istrator. KFOR's original tasks were defined as (a) deterring renewed hostilities; (b) demilitarizing the Kosovo Liberation Army (KLA); (c) establishing a secure environment; (d) ensuring public safety and order; (e) supervising demining; (f) conducting border monitoring; (g) ensuring the protection and freedom of movement of all international organizations. Effectively KFOR has undertaken control of Kosovo's external borders, air-space, key communication channels as well as the protection of Serbian religious monuments and enclaves. Since then the numbers of soldiers and of contributory nations were steadily reduced. This process was temporarily interrupted in March 2004 as a reaction to an outburst of interethnic violence and later resumed.

The OSCE Mission in Kosovo has operated under the mandate of UNSC Resolution 1244 and the decision of the OSCE Permanent Council from July 1999. It has been the largest OSCE field operation running a wide range of activities: developing democratic institutions and civil society, promoting human rights and the rule of law, organizing five rounds of elections, helping the Central Election Commission, assisting the Assembly of Kosovo and other public institutions, monitoring the work of Kosovo institutions, providing training of public officials, developing an independent media environment etc. The Mission has employed some 550 people in its various units and around 2,330 in its field operations.

The European Union Rule of Law Mission in Kosovo (EULEX Kosovo) was established in February 2008, started operating in December 2008, and by May 2010 comprised 2,814 staff (1,717 international staff and 1,097 local staff). It has been supported by the 28 EU member states and five contributing non-member states. The Executive Division of EULEX investigates, prosecutes and adjudicates sensitive criminal cases, while the Strengthening Division monitors, mentors and advises local counterparts in the Kosovo police, judiciary and customs service.

The government of Serbia had maintained on its own territory a 'Ministry for Kosovo and Metohija', outposts of Serbia's ministries, security organs, customs and tax authorities, postal services, courts, extraterritorial offices of the Kosovo municipalities located to the South of the Ibar River etc. It has exercised a considerable measure of control through its proxies over the predominantly Serbian municipalities in the North of Kosovo and in the enclaves to the South of the Ibar River.

Kosovo's proclamation of independence and its present status

Legally Kosovo has remained under the UN authority, although this UN role became a legal fiction. A system of multilevel governance combined with international protectorate over Kosovo operated officially for about twelve years (1999–2012).

All Serbian and former Yugoslav laws became invalid on its territory, most legal archives and other administrative documentation have been missing (evacuated to Serbia proper) while the new UNMIK legislation was widely incomplete, resulting in a legal limbo in most of Kosovo.

The model of Kosovo's enhanced autonomy with Serbia had been for several years a solution preferred by Western powers. However the psychological fallout of Serbian repression in 1988–1991 and of the armed conflict in 1999 made its application politically impossible. The former President of Finland Marti Ahtisaari's 'Comprehensive Proposal for the Kosovo Status Settlement' commissioned by the UN Secretary General was sub-

mitted to the UN Security Council in March 2007. Its key recommendation reads 'Kosovo is a unique case that demands a unique solution. It does not create a precedent for other unresolved conflicts' [17, p. 4]. The Ahtisaari plan envisaged an internationally supervised (and thus limited) independence for Kosovo, with its distinct national symbols, the right to conclude international treaties and to seek membership in international organizations. Kosovo had to provide high level protection of the rights of national minorities and additional security for the Serbian Orthodox Church. The international community were to supervise, monitor and have all necessary powers to ensure effective and efficient implementation of the conflict settlement. However the adoption of Ahtisaari's blueprint was blocked by the Russian Federation and by the People's Republic of China.

After considerable vacillation the Western members of the Contact group (USA, Great Britain, France, Germany and Italy) had by 2007 concluded that the restoration of even only formal Serbian sovereignty over Kosovo would be totally politically unacceptable to and violently resisted by its majority Albanian population. Hence Kosovo's limited and supervised independence was considered to be the least objectionable among all available alternatives. The acute international problem was then only formally resolved. The proclamation of Kosovo's independence on February 18, 2008 *ex-post facto* legalized, by an internal act, Kosovo's previous *de facto* detachment from Serbia. In its VIIIth principle, the Helsinki Final Act of 1975 allowed for a peaceful change of state borders on the basis of democratically expressed self-determination. The Kosovo proclamation had indeed been preceded by several referenda and was carried out in a peaceful, orderly and civilized manner. The only acts of violence were committed then by the protesting Serbs, mostly in Serbia proper. Although the act of proclamation was carried out without an authorization by the UN Security Council, this body has not subsequently annulled Kosovo's independence, as Serbia demanded. The Kosovo proclamation has presumably completed the almost two decades' long dissolution of SFR Yugoslavia. Similarly as the neighbouring Albania in 1912–1913 Kosovo was emancipated with the explicit support of Western powers and against the stiff opposition by Serbia, supported on both occasions by Russia.

The Belgrade government angrily responded to Kosovo's declaration not only by an official refusal to acknowledge its independence but also by closing Serbia's borders to trade with Kosovo. During demonstrations in Belgrade the Kostunica government more than tolerated the mob violence against several foreign embassies, accompanied by downtown looting and arson. Serbia also temporarily recalled its ambassadors from most states which recognized Kosovo as an independent state. The latter action was a Serbian variation of the Hallstein doctrine which was applied in the past by the Federal Republic of Germany to punish selectively some states which recognized and established diplomatic relations with the German Democratic Republic.

Following Kosovo's proclamation of independence the government of Serbia started an action which initially looked as a shrewd diplomatic manoeuvre. Its immediate political objective was to mollify Serbian public opinion, to gain time and slow down the process of Kosovo's international recognition. In early October 2008 the Serbian delegation succeeded in obtaining an UN General Assembly's resolution demanding ICJ's advisory opinion on the accordance of Kosovo's 'unilateral declaration of independence' with international law [18]. Serbian diplomacy however unwisely formulated the request. Namely, declarations of independence are facts which concern the internal constitutional and political orders of states. International law is mute on this subject, neither permitting nor

prohibiting such declarations. In addition, the declaration was not really an unilateral act by Kosovo as its substance, wording and very timing were coordinated beforehand with the five Western members of the Contact group, including three permanent members of the UN Security Council. By adopting this document Kosovo only declared its intention to gain independence, voluntarily accepted numerous limitations of its sovereignty and did not in fact become an independent state.

According to the submitted Serbian statement [19] the presumed illegality of the Kosovo declaration resulted from:

1. its violation of the principle of the respect for the territorial integrity of states;
2. the inapplicability of the principle of self-determination to Kosovo; and
3. its violation of the UN Security Council Resolution 1244 (which presumably affirmed Serbia's continuous sovereignty over Kosovo).

It took ICJ about a year and a half to decide on the UN General Assembly's request. The ICJ opinion was expected to fall somewhere between the two opposite sets of arguments satisfying fully neither of the two sides. Having examined the statements on the subject submitted by 32 states the International Court of Justice delivered its non-binding advisory opinion on July 22, 2010 [9]. The Court surprised many observers by its conclusion adopted by the strong majority of ten to four votes. Following the procedural decision to limit its task to strict consideration of the submitted request the Court avoided dealing with wider issues of external self-determination which were raised in Serbia's submission, in the comments by Kosovo and by other states. Within this narrow legal framework the ICJ straightforwardly determined that the declaration of Kosovo's independence did not violate the norms of general international law, the UNSC Resolution 1244 and the Constitutional Framework enacted by the UN Interim Administration. The ICJ intentionally avoided to pronounce on or imply the legality and legitimacy of all declarations of independence. Very importantly, the ICJ did not base its opinion on the right to self-determination and did not at all deal with the question of Kosovo's international recognition. The Court has been criticized for having missed the opportunity to clarify a hotly contentious issue in international law [20, pp. 135–144]. The political effects of the ICJ decision were however immediately and abundantly clear: a painful defeat for Serbian diplomacy and a vindication of Kosovo's position.

Since summer 1999, Kosovo has developed a parliamentary political system separate from Serbia, a free market economy and adopted a different currency (the Euro). The economic, social and political situation in Kosovo has appreciably improved since separation from Serbia in 1999. It was largely due to international assistance (around 21 % GNP) and to the Kosovars' remittances from abroad (roughly 15 % of GNP). However the Pristina government still lacks control over Kosovo's entire territory, borders and population. The country has deficient economic viability, suffers from excessive external financial dependence and has been burdened by the region-wide problems of corruption, illegal trafficking and organized crime. A number of Kosovo's burning political and social problems have remained unresolved. Poverty (about 50 % of the population) and very high unemployment (about 45 % generally and about 75 % among the females and the young) [21, pp. 17–22], poor governance, malfunctioning rule of law and the obstacles to free travel pose daunting problems to Kosovo's majority population.

While reflecting the benevolent involvement and good will by the international community the multilevel system of governance in Kosovo had proven to be too cumbersome,

confusing and rather ineffective in providing for the normalization of inter-ethnic relations and for healthy social and economic progress in Kosovo. On 10 September 2012 the International Steering Group for Kosovo officially terminated the supervision of Kosovo's limited independence and closed the Office of the International Civilian Representative. However these symbolic acts have so far brought only moderate change in the real functioning of international tutelage over Kosovo. Its entire system is comprised at present of over 7,000 international military, police and civilian personnel, without counting the foreign diplomatic personnel also involved in overseeing Kosovo and, at least, two thousand persons of local staff. A reduced Contact Group consisting of five Western ambassadors, supplemented by the EU Special Representative has reportedly held regular, weekly meetings with members of the Kosovo government.

The continuation of the UN mission (UNMIK) in its present form and size of 130 international staff has remained highly questionable in view of its greatly reduced scope of activities and of importance. At least its renaming and redefinition of tasks have been long overdue. Any substantive reduction, let alone discontinuation of UNMIK, and a recommendation by the Security Council to the UN General Assembly to admit Kosovo as a member state have been prevented by the likelihood of the Russian Federation and China exercising their veto power in the matter. EULEX has been, so far, the biggest, presently about 1,200-strong EU mission in the framework of the EU Common Security and Defence Policy. The EU mission's results in fighting wide-spread corruption and organized crime in Kosovo have been meagre and hardly commensurable with the annual investment of over €110 million in its functioning. The EULEX mandate was however extended by two years. KFOR's present strength of under 5,000 soldiers, provided by 31 NATO members and non-members, and its tasks have been under regular review by the North Atlantic Council.

By March 2016 Kosovo has been officially recognized by 112 member states of the Organization of United Nations. Included into this tally are three permanent members of UN Security Council, more than two thirds of the Council of Europe's membership and all Kosovo's immediate neighbours and all former Yugoslav republics with the exceptions of Serbia and Bosnia and Herzegovina. This evolution allowed for Kosovo's membership in some international organizations, such as the International Monetary Fund and the World Bank and in several regional bodies. However so long as Serbia maintains its opposition and the Russian Federation (firmly) and the People's Republic of China (more flexibly) support Serbia's position, Kosovo cannot gain a seat in the Organization of United Nations and to enter such bodies as the Organization for Security and Cooperation in Europe, Council of Europe and others. Although Kosovo's existence has been protected by international forces and its political survival secured, this newcomer in the family of European nations remains an incomplete structure and an 'unfinished state' [22, pp. 111–120].

Relations between Kosovo and Serbia

The conflictual relations between Serbia and Kosovo have been symbolically reflected in the different ways the latter is officially called. When Kosovo became a single administrative unit in 1945, after its annexation into the second Yugoslavia (FPRY) it was given a double official name 'Kosovo and Metokhia'. Since the Albanian Kosovars have rejected its second half as smacking of colonialism, the shortened single word designation was

adopted in 1963. It reflected the enhanced status of an autonomous province within Serbia. When in 1989 Kosovo's autonomy was *de facto* abolished by the Serbian regime under Slobodan Milosevic the double-word name was correspondingly and symbolically reinstated by Belgrade. The present first constitutional name of the land is Kosova with the Serbian variation Kosovo as the official second name. The state authorities in Serbia and defiant members and organizations of the Serbian minority in Kosovo however still use the double name while other states and international organizations utilize the one-word name Kosovo or Kosova.

The detachment and "loss" of Kosovo caused a painful psychological, political and existential trauma to its Serbian minority and continues to produce difficult problems to over a hundred thousand Serbian and Roma refugees in Serbia proper. For Serbia Kosovo has represented a problem of psychological and political readjustment, a financial "black hole" of several hundred million Euros annually, a considerable source of illegal smuggling and of organized crime (often related to drugs).

The UN General Assembly's resolution of September 2010 officially sponsored jointly by Serbia and the 27 EU members paved the way to a dialogue between Belgrade and Pristina on practical matters, under the auspices of the European Union [23]. While Kosovo has sought recognition and the establishment of normal relations with Serbia the former Prime Minister and at former Foreign Minister and current Foreign Minister Ivica Dačić had advocated a "readjustment" of borders. It would detach from Kosovo the area of around 1000 sq. km to the North of the Ibar River with four municipalities (Mitrovica North, Zvečan, Zubin Potok and Leposavić) and up to 40 thousand Serbs. The Western powers, on the other hand, stand firmly by the principle of maintaining the internal borders between the former federal units of ex-Yugoslavia, including those of the two autonomous provinces. They reject redrawing of any of them for the concern that it would open a Pandora's box of territorial revendication elsewhere in the ex-Yugoslav space. Secondly, it is realistically feared that the detachment of Northern Kosovo would unleash a mass exodus from the Serbian enclaves to the South of the Ibar River and decimate the Serbian minority in Kosovo.

Another conceivable solution of the conflict has been suggested: a condominium in Northern Kosovo, resembling the Good Friday agreement between Ireland and the United Kingdom over Ulster. Pristina has rejected any power sharing arrangements between Kosovo and Serbia or a tripartite power sharing arrangement with EU as they would compromise Kosovo's independence and territorial integrity. In addition a condominium would open the question of the adjacent Preševo-Bujanovac area in Southern Serbia which historically used to be part of Kosovo. This area has been predominantly inhabited by ethnic Albanians. The last census for the area gave the figures of about 57 thousand Albanian residents who constituted close to 90 percent of the total population in the Preševo municipality and about 55 percent in the Bujanovac municipality. The present absolute figures and percentages of the Albanians are probably still higher. In 1992 in an unofficial referendum about 95 percent of Albanian residents voted for unification with Kosovo [24, p. 2].

The overcoming of obstacles on the thorny road of reconciliation and accommodation between the two states has been eased greatly by Serbia's desire to obtain the status of a candidate country, to open pre-admission negotiations and eventually to join the European Union. The subterranean evolution of Serbian public opinion has allowed former Serbian ultranationalists, notably the current President Tomislav Nikolić, Prime Minister

Aleksandar Vučić and Deputy Prime Minister Ivica Dačić to radically change the course and to admit the “loss” of Kosovo. Responding to the European Union’s pressure and inducements Serbia agreed in 2010 to start bilateral talks with Kosovo on outstanding practical problems. Since March 2011 they had been conducted under the EU auspices at the level of Prime Ministers and. Serbia’s government took a positive step in August 2012 and stopped boycotting regional gatherings at which Kosovo was also present. Six rounds of talks in Brussels resulted by April 2013 in the conclusion of several agreements on normalization of relations without however Serbia’s recognition of Kosovo as an independent state.

On the basis of these agreements a *de facto* self-governing Community of Serbian Municipalities was to be created in Northern Kosovo, integrated into Kosovo’s constitutional and legal system as well as a Northern police region. The agreements obliged Serbia to dissolve its concealed security structure in Kosovo and to integrate Serbian policemen in the North into the Kosovo police force. These and other relevant provisions in the agreements might open the way to and facilitate a revision of the UNSC Resolution 1244 or adopting a new one. Following the conclusion of the agreements, the European Council granted Serbia the status of a candidate for EU membership and authorized the opening of negotiations with Kosovo on a Stabilization and Association Agreement (SAA). In April 2013 the two Prime Ministers Ivica Dačić and Hashim Thaci signed in Brussels the “First Agreement on Principles Governing the Normalization of Relations” which was hailed as a historic achievement. It was concluded with the European’s Union facilitation and allowed for EU’s further positive steps and relations with both Serbia and Kosovo. However some agreed upon solutions of practical problems have not be yet implemented. By 2015 there were several positive developments in the normalization process — the conclusion of an agreement on judiciary and the first visit in Pristina of the Serbian Foreign Minister Ivica Dačić. The implementation of the normalization agreements, particularly the establishment of the Community of Serbian municipalities, has been met with considerable resistance on the Kosovar Albanian side and consequently stalled.

The *de facto* normalized coexistence of Serbia and Kosovo, even without Kosovo’s formal recognition by Serbia has already had positive effects on the political climate in the region. By its reasonable and constructive behaviour the Republic of Serbia has improved its standing with the European Union as a candidate country and contributed to the stability in the Western Balkans. There was a constructive proposal according to which Serbia and Kosovo would regulate their bilateral relations along the model of that between the Federal Republic of Germany and the German Democratic Republic.

Since 1998: in 1998 the Kosovo issue split the international community, cutting across the former East-West divide. It posed a serious challenge to NATO’s inner political cohesion and badly worsened relations with the Russian Federation. The Alliance was able then to bridge the differences among its members and to reach a consensus concerning the pending military action against FRY and the KFOR’s subsequent deployment since 1999. Eight years after the establishment of international protectorate the problem of Kosovo has again divided the EU and NATO members. In 2008 twenty-two EU and NATO Member States recognized Kosovo’s independence. A minority, notably Greece, Cyprus, Spain, Slovakia and Romania, have however followed Serbia’s rejectionist position, largely for their internal political reasons. On the question of the recognition of Kosovo, Abkhazia and Southern Ossetia most EU and NATO member states as well as the Russian

Federation have applied double standards honouring the right to self-determination in one case and disregarding in the other(s). Since the proclamation of Kosovo's independence in February 2008 the Kosovo problem has remained on the agenda of UN Security Council, NATO's North Atlantic Council, the European Union's Council, the Council of Europe and the OSCE.

On September 10, 2012 the International Steering Group for Kosovo officially terminated the supervision of Kosovo's limited independence and closed the Office of the International Civilian Representative. However these symbolic acts have so far brought a limited change in the functioning of the 'de facto' international protectorate. Although the Kosovar Albanians (supported by the Kosovar Turks and several other smaller ethnic groups) achieved, with the West's direct support, their historical goal of being rid of Belgrade's rule, Kosovo still remains a controversial regional and European problem. The young and weak semi-independent state will for many years require assistance from the international community.

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