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THE ISSUE OF RECOGNITION OF KOSOVO IN THE INTERNATIONAL ARENA

Abstract

On February 17, 2008 the Assembly of Kosovo adopted the text of unilateral declaration that proclaimed Kosovo as “an independent, sovereign and democratic country”¹. The declaration of independence enacted by Kosovo has instantaneously gained its numerous supporters, as well as opponents. The problem of Kosovo's final status is a crucial issue for the stability on the Balkan Peninsula. Other entities claim that the legitimacy of recognition or non-recognition of an independent Kosovar state is motivated, on the one hand, by compliance with international law standards and on the other hand by states' own individual interests in the international arena.

Key words: Kosovo, international relations, international recognition

Introduction

The fact that Kosovo's parliament proclaimed independence triggered a variety of reactions by states in the international arena. The status of Serbian province was being unregulated since the North Atlantic Treaty Organization's (NATO) military intervention ended. Adopting declaration of independence by Kosovo's Parliament on February 17, 2008 ended a period of ineffective negotiations between Kosovars and the Serbian government. The creation of a new state on the Balkan Peninsula entails political and legal consequences. Kosovo's subjectivity under international law is affirmed by recognizing this state by the international community. This issue raises a lot of contradictory reactions among the

¹As quoted in: *Kosovo Declaration of Independence*, <http://www.assemblykosova.org/?krye=news&newsid=1635&lang=en/>, 17.02.2008. Unless otherwise noted, all translations are by my own.

participants of international relations. States justified their decisions by referring to issues related both to the creation of a new state and the possible consequences that may arise from the recognition in the international arena. Numerous states opted for recognizing Kosovo and supported President Martti Ahtisaari's plan² as a viable solution that would restore the stability on the Balkan Peninsula. Opponents of Kosovo's independence quoted the principle of respecting Serbian territorial integrity and were anxious about the safety of Serbian minority in the Kosovar state. These states held such a position mostly as a result of fears of intensification of separatist attitudes on their own territories.

Historical background of the establishment of the Republic of Kosovo

The creation of an independent state of Kosovo was, among others, a result of separatist trends among Albanians living in the autonomic province of Serbia. The term "Kosovo" needs to be defined using geographical and administrative criteria. It is an area of over ten thousand square kilometres situated on the Balkan Peninsula³. In the north-west it borders with the Republic of Montenegro, and the northern and eastern borders are shared with a part of the Republic of Serbia, while in the south Kosovo is bordered by the Republic of Macedonia as well as the Albanian state to the south-west. From the administrative perspective, "the Province of Kosovo and Metohija" (Albanian: *Kosovë e Metohi*, Serbian: Косово и Метохија) was an autonomous region on the Serbian territory under an international government, prior to its adoption of a declaration of independence. The Republic of Kosovo (Albanian: *Republika e Kosovës*, Serbian: Република Косова) was proclaimed as a consequence of declaring a unilateral independence by the province's parliament. Serbian authorities did not recognize the establishment of a new state as they saw it to be contradictory to international law standards. Historical experiences of countries in this region, in particular the Albanian and Serbian nations should be taken into consideration when analysing the issue of creation and recognition of an independent Kosovar state.

The Balkan Peninsula is one of the most dangerous trouble areas in the world. A disadvantageous geographical situation influences destabilization in this region.

² Martti Oiva Kalevi Ahtisaari was the President of Finland between 1994 and 2000. He was a European Union negotiator during Kosovo conflict in 1999. Between 2000-2004 he was in charge of International Crisis Group with a head office in Brussels. On October 10, 2008, he became a Nobel Peace Prize laureate.

³ S. Wojciechowski, *Konflikt w Kosowie*, [in:] W. Malendowski (ed.), *Spory i konflikty międzynarodowe. Aspekty prawne i polityczne*, Wrocław 2000, p. 377.

The Balkans is a part of communication route between Europe and the Arab world. These lands have been a conflict zone for ages, mainly with a religious or ethnical background. The clash of Christian and Islamic civilizations was a source of antagonism between the nations of the Balkan Peninsula⁴. The cultural variety is significantly conditioned by the character of relations between each nation.

Kosovo together with southern Metohija has been a part of Serbia since the end of the First Balkan War, as a result of the Treaty of London of May 30, 1913. Local Albanians, known as Kosovars, constituted around 60 percent of province's inhabitants then, while Serbians were only 30 percent of the population⁵. The First World War changed the situation on the Peninsula. On October 28, 1918 the State of Slovenes, Croats and Serbs was proclaimed as the fights ended. A significant part of Kosovo was still a part of Serbia at that time. The King-Regent Alexander I Karadjordjevic changed the name of the state from the Kingdom of Serbs, Croats and Slovenes to the Kingdom of Yugoslavia⁶. During the Second World War, Albanians living on the territory of Kosovo collaborated with states occupying Yugoslavia⁷. After defeating Yugoslavia, Italian authorities were supposed to make a decision to annex Kosovo to so called "Great Albania". However, the defeat of Axis countries thwarted Italian plans. Great Albania was not created, but Kosovo gained autonomy as a result of Serbian authorities' decision. Thus, the Socialist Autonomous Province of Kosovo with the capital in Pristina was founded. It was a part of the Socialist Federal Republic of Yugoslavia ruled by Marshal Josip Broz Tito. In the beginning, the neighbourly relationships between Serbian and Kosovar Albanians were good. There were plans to create a communistic Balkan federation. However, a growing conflict between J. B. Tito and Josef Stalin, the leader of the Union of Soviet Socialist Republics (USSR), had an impact also on Serbian-Albanian relations. There was no willingness to continue cooperating with Albania, a Soviet Union ally. Yet again, the status of Albanian minority became a problematic issue.

After twenty years, first Kosovo-Albanians' riots occurred. They demanded obtaining a status of the seventh republic of the Yugoslavian federal state for Kosovo, as well as the removal of the second element from the official name

⁴ Bilski R., *Kocioł bałkański*, Warszawa, 2002, p. 22

⁵ As in: M. Waldenberg, *Kwestie narodowe w Europie Środkowo-Wschodniej. Dzieje i idee*, Warszawa 1992, p. 97.

⁶ Ł. Wróblewski, *Kwestia Kosowska*, <http://www.psz.pl/tekst-2827/Kwestia-kosowska>, 14.05.2006.

⁷ Ibid.

“Kosovo-Metohija”⁸. The leader of Yugoslavia died on May 4, 1980. In the aftermath of his death the antagonism between Yugoslavian nations developed. This led to an intensification of an ethnical conflict. There was also a split among the population of Kosovo. The Albanian society aspired to increase the autonomy of the province, whereas the Serbian minority wanted to deepen the relations with Serbia. The public feeling of discriminated Albanian population was deteriorating due to Kosovo’s difficult economic situation, where unemployment rate reached 30 percent. The leader of Albanian minority, Enver Hoxha renewed the demand of annexing Kosovo to Albania.

As a result of elections on December 5, 1989, former chairman of the League of Communists of Yugoslavia Slobodan Milošević became the President of the Republic of Serbia. The most important motto of his government was strengthening Serbian nationalism⁹. Milošević, who was at the same time the head of Serbian Socialist Party, strived to unite Serbians within one state¹⁰. Creating Serbian enclaves in Yugoslavian republics contributed to an outbreak of a civil war. One of the elements of Slobodan Milošević's policy was the Kosovar issue. His activities were aimed at full integration of Kosovo’s territory with the Serbian state. On March 23, 1989 under threat of a military intervention, the Assembly of Kosovo approved changes to the constitution which removed the province’s autonomy¹¹. This caused bloody clashes between the police and Albanians all around Kosovo's territory.

Albanians held a referendum between September 26 and 30, 1991. Its results confirmed that vast majority of the inhabitants of Kosovo (98 percent) opts for seceding that territory¹². Serbian authorities did not recognize the voting and increased repressive measures against Albanians living in Kosovo. Belgrade’s strategy was to implement a campaign of so called “serbization” of Kosovo. Over hundred thousand Albanians were removed from government offices and enterprises in the province. The authorities supported the influx of Serbian refugees from Croatian and Bosnian territories to Kosovo. This was supposed to change the demographic structure of the province.

⁸ W. Walkiewicz, *Jugosławia. Wspólny byt i rozpad.*, Warszawa, 2000, p. 87.

⁹ M. Korzeniewska-Wiszniewska, *Serbia pod rządami Slobodana Miloševicia: serbska polityka wobec rozpadu Jugosławii w latach dziewięćdziesiątych XX wieku*, Kraków, 2008, p. 23.

¹⁰ *Ibid.*, p. 25.

¹¹ F. Gołembski, *Balkany w latach 1989–1993. Problemy bezpieczeństwa regionalnego*, Warszawa, 1994, p. 67.

¹² A. Balcer, *Kosowo – kwestia ostatecznego statusu*, „Prace Ośrodka Studiów Wschodnich”, 2003, no 10, p. 19.

Albanians all the time limited their activities to passive resistance, yet the international community was aware of the fact that there was a threat of an armed conflict in Kosovo. Faced by no progress in restoring the independence, Kosovar supporters of passive resistance began losing influence among Albanians. Radicals that called for armed conflict were gaining popularity. Serbian acts of violence strengthened the position of an armed organization known as Kosovo Liberation Army (Albanian: *Ushtria Çlirimtare e Kosovës – UÇK*). This group originated from People's Movement of Kosovo whose member was Hashim Thaçi, a later leader of UÇK. It points to a pro-independence and anti-Yugoslavian character of this organization. The members of the organization dominantly consisted of Albanian emigrants¹³. At the same time, Kosovar authorities decided to form Armed Forces of the Republic of Kosovo (*Forcat e Armatosura të Republikës së Kosovës – FARK*). UÇK did not accept the formation of another armed unit within the territory of the province. An internal conflict between Albanian fighters and the armed organization of the president of the republic at that time Ibrahim Rugova was growing.

Serbian offensive against increasing independence of Kosovo exacerbated between 1997 and 1999. There were a growing number of clashes between UÇK members, the police and the Serbian Army. Repressions directed at Kosovar Albanians more often became of interest and at the same time worried the international community. On March 9, 1998, Ministers of Foreign Affairs from the states comprising the Contact Group on the Former Yugoslavia gathered in London. Representatives of the United States, Russian Federation, France, Germany, the United Kingdom and Italy took part in the proceedings. The government of Yugoslavia was called on to stop the pacification of Kosovo within ten days¹⁴. It was a time for humanitarian organizations to reach with help to the needful population that stayed on the territory of the attacked province.

¹³ Ł. Wróblewski, op. cit.

¹⁴ On September 23, 1998, UN Security adopted Resolution 1199 in which it expressed the concern of the international community about the development of conflict in Kosovo. The provisions of the resolution called for suspending war activities in the province and complete withdrawal of Serbian military and police units. It was also emphasized that not undertaking any of these action may lead to using additional measures in order to keep peace and stability in the region. On September 28, 1998, authorities in Belgrade declared the end of military operation against Kosovo Liberation Army. There was a meeting of UN Secretary-General Javier Solana, US Special Envoy Richard Holbrook, Chairman of the NATO Military Committee Klaus Naumann and Supreme Allied Commander Europe of NATO gen. Wesley Clark planned in Belgrade. The objective of the meeting was to bring together Serbian and Kosovar representatives. See more: M. Mihajić, *Balkański kompleks niestabilności bezpieczeństwa*, in: *Bezpieczeństwo międzynarodowe po zimniej wojnie*, (ed.) R. Zięba, Warszawa, 2008, p. 318.

Additionally, preparations to start negotiations between the sides of the conflict were supposed to be made. During the autumn of 1998, a series of diplomatic initiatives were taken in order to end the repressions.

On September 28, 1988, the government in Belgrade announced the end of armed operation against Kosovo Liberation Army. On October 8, 1998, UÇK was to official ceasefire¹⁵, however, the fights did not stop. On October 13, 1998, North Atlantic Council (NAC) of NATO issued orders for the execution of air strikes against Yugoslavia. Under the pressure, the President of Serbia agreed to reduce the number of army units in the province. He also allowed the entry of OSCE peace monitors known as the Kosovo Verification Mission. NATO forces began an aerial observation of the province's territory. Special units that were to ensure potential evacuation of OSCE monitors from the danger zone were concentrated on the territory of Macedonia and Bosnia¹⁶. Both Serbian authorities and Albanians from Kosovo did not fully adhere to the recommendations of international organizations. Armed operations in the region were still in progress.

The Contact Group on the Former Yugoslavia once again called on the sides of the conflict to open negotiations. Their talks began at the Château de Rambouillet outside Paris on February 6, 1999. The Deputy Prime Minister of Serbia Ratko Marković led the Serbian delegation. The Albanian side was represented by President Ibrahim Rugova. Additionally, a representative of Kosovar Albanians Party – Raxhep Qosja took part in the talks. Also five members of UÇK arrived in Paris. Serbians refused to directly negotiate with UÇK members. Delegations stayed in rooms situated away from each other. The mediators' role was fulfilled by: US Special Envoy of the President of the USA William J. Clinton to Kosovo Christopher Hill, European Union representative Wolfgang Petritsch, Russian representative Igor Majorski, as well as delegates of the United Kingdom Robin Cook and France Hubert Vedrine¹⁷. The base for discussion was a plan of an American diplomat Christopher Hill. Its aims were to establish province autonomy within Yugoslavia, disarmament of UÇK, withdrawal of Serbian army and police from the province, presence of NATO forces in the province and holding a referendum on the future of Kosovo. These conditions were rejected by Slobodan Milošević. The negotiations were suspended as a consequence of this. Secretary-General of NATO J. Solana announced that if the Serbian authorities do

¹⁵ R. Bilski, *Nie strzelajcie do nocnego ptaka. Balkany 1997–1998*, Warszawa, 1998, p. 102.

¹⁶ *Ibid.*, p. 118.

¹⁷ M. Mihajić, *op. cit.*, p. 243.

not agree to introduce NATO's peacekeeping forces in Kosovo, the Atlantic Alliance armed forces will commence military operations. J. Solana's demand was not met. On March 24, 1999 at around eight o'clock NATO's military operation "Allied Force" against the Federal Republic of Yugoslavia (FRY) was commenced¹⁸.

On the day the airstrikes began, the President of the USA Bill Clinton declared that "we act to prevent a wider war [...]. If President Milošević will not make peace, we will limit his ability to make war"¹⁹. One of the reasons behind the decision on intervention was a threat of a humanitarian crisis. Moreover, the fact that Yugoslavia rejected the conditions of temporary agreement from Rambouillet was worrying and there were fears of the stability of the region and the safety of the European continent. The following official objectives of the intervention were stated: to express NATO's opposition to aggressive policy of FRY government in the Balkans and to prevent President Milošević from continuing attacks on Albanian civilians.

On June 3, 1999, a day after the international community presented the resolutions of a peace plan to authorities in Belgrade, the Serb parliament approved it. On June 10, J. Solana gave the order to suspend "Allied Force" air campaign. The airstrikes could have been resumed if Serbians would not have begun the withdrawal from the territory of Kosovo. On the same day, UN Security Council adopted Resolution 1244. It became the grounds for establishing United Nations Interim Administration Mission in Kosovo (UNMIK).

The air forces intervention led to a ceasefire and allowed the refugees to return. However, the issue of final status of the province was not resolved. Kosovo remained an autonomous area in the territorial borders of Serbia. United Nations Security Council Resolution 1244 of June 10, 1999 sanctioned a formation of an international administration of the province. UNMIK was created pursuant to annex 1 to the resolution. Its objective was to provide basic administrative functions on the territory of the province. Additionally, an international administration was to strive to establish a stable autonomy and self-governance in Kosovo. It was a unit responsible for coordinating humanitarian actions run by international agencies, and a supervising body for the reconstruction of infrastructure on the territory of the province. The primary task

¹⁸ S. Wojciechowski, op.cit., p. 377.

¹⁹ As quoted in: President Clinton's speech at a press conference, March 24, 1999, in: Pawłowski K., *Kosowo. Konflikt i interwencja*, Lublin, 2006, p. 83.

of the mission was to ensure public order and safety, while keeping international human rights standards²⁰. The ratification of *A Constitutional Framework for Provisional Self-government in Kosovo*²¹ brought to life interim province's governing bodies, such as: assembly, president, government, courts and other institutions established in the UNMIK document²².

On October 13, 2003, direct talks between representatives of Kosovo and Serbia were held. Serbian leaders and Kosovar Albanians met in Vienna. The talks were possible thanks to the determination of EU diplomats. Prime Minister Zoran Živković and Deputy Prime Minister Nebojsza Čović led the Serbian delegation. President Rugova and Speaker of the Assembly Nexhat Daci came from Kosovo. Once again, Serbian minority expressed its protest against an independent Kosovo. Serbian authorities took the view that they acknowledge province's autonomy and expect it to return under the administration of Serbia²³. The consensus that was reached assumed that "Pristina's acceptance not to talk about independence means Belgrade's acceptance not to talk about reinstating Serbian authority"²⁴. On November 1, 2005, UN Secretary-General Kofi Annan appointed former President of Finland Martti Ahtisaari as a UN Special Envoy for the negotiations of the future status process of Kosovo²⁵.

On September 20, 2006, the Contact Group appointed Martti Ahtisaari to prepare a plan for the final status of Kosovo. On February 2, 2007, the so called M. Ahtisaari plan was presented. The UN Security Council Meeting on the settlement of the Kosovar issue based on the proposal by the former President of Finland was held on March 26, 2007. It stipulates granting the province such attributes of statehood as a flag, an anthem, a constitution, an army or the right to join international organizations. The author, however, did not anticipate the province to immediately obtain sovereignty. Serbia rejected President Ahtisaari's proposal, while Albanians from Kosovo supported it with some reservations. Serbian authorities acquired Russian support, which declared that it will block all solutions imposed on Serbia without its approval.

²⁰ Ibid.

²¹ *Constitutional Framework for Provisional Self-government in Kosovo*, http://www.unmikonline.org/pub/misc/FrameworkPocket_ENG_Dec2002.pdf, 15.05.2001.

²² Ibid.

²³ M. Zawadzki, *Serbowie i Albańczycy z Kosowa rozmawiają w Wiedniu o przyszłości Kosowa*, <http://serwisy.gazeta.pl/swiat/1,34174,1721450.html>, 14.10.2003.

²⁴ As quoted in: S. Parzymies, *Unia Europejska wobec problemu*, „Rocznik Strategiczny. Przegląd sytuacji politycznej, gospodarczej i wojskowej w środowisku międzynarodowym Polski 2003/2004”, Warszawa, 2004, p. 114.

²⁵ Ł. Wróblewski, op. cit.

Faced by an impasse M. Ahtisaari announced the end of Albanian-Serbian negotiations on March 10, 2007. In the report submitted to the UN Security Council, the UN Envoy recommended independence as the only possible solution for a politically stable and economically efficient Kosovo. The work on preparing a suitable UN Security Council resolution began. Moscow expressed its objection and insisted on opening further talks with Serbia. On the other hand, on June 10, 2007 during a visit to Albania, the President of the USA George W. Bush stated that Kosovo should obtain independence “sooner rather than later”²⁶. On September 27, during a speech on the forum of UN General Assembly Serbian president Boris Tadić warned that unilateral declaration of independence by Kosovo could become a dangerous precedence that would destroy international legal order and may lead to destabilization of many regions in the world.

On November 17, 2007, there was a parliamentary election held in Kosovo, in which the largest support was achieved by a strongly pro-independence Democratic Party of Kosovo (DPK) led by Hashim Thaçi. On November 29, Serbian Minister of Defence Dragan Sutanovać explicitly declared that Belgrade do not intend to commence a military intervention if Albanians from Kosovo declare independence. On December 19, 2007, UN Security Council held a debate on Kosovo during which Serbian Prime Minister Vojislav Kostunica and the President of Albania Fatmir Sejdiu gave speeches. After the debate the representatives of the USA and European states released a joint declaration stating that “negotiations potential has been depleted”²⁷ and it is time to start implementing Ahtisaari plan. Russian ambassador Witalij Czurkin had a different opinion. On December 14, 2007, leaders of European Union states decided to deploy a police and administration mission called European Union Rule of Law Mission (EULEX KOSOVO) to Kosovo. The goal was to send 1800 personnel to Kosovo²⁸. On January 9, 2008, the leader of DPK Hashim Thaci was elected as Prime Minister of a coalition government by the Kosovar parliament and announced that the province will be declared independent.

²⁶ As quoted in: Ibid.

²⁷ As quoted in: Speech by NATO General Secretary Jaap de Hoop Scheffer’a, *Kwestia kosowska – bezpieczeństwo dla wszystkich*, <http://www.nato.int/docu/speech/2007/s071130a.html>, 30.11.2007.

²⁸ As in: *Wspólne działanie Rady Unii Europejskiej 2008/124/WPZIB, w sprawie misji Unii Europejskiej w zakresie praworządności w Kosowie*, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:042:0092:0098:PL:PDF>, 4.02.2008.

On January 16 at the forum of UN Security Council, President Tadić said that Serbia will never recognize the independence of Kosovo. However, activities aimed at maintaining Serbian territorial integrity and sovereignty were limited to democratic, legal and diplomatic measures²⁹. At the same time, the Serbian government declared *a priori* to recognize Kosovar declaration of independence as void and invalid.

Kosovar parliament unanimously passed a 12-point *Declaration of Independence* at an extraordinary assembly meeting on February 17. The document includes a point stating that Kosovar state shall adhere to democratic standards, respect human rights and follow the rule of law in accordance with the principles of UN Special Envoy on Kosovo Martti Ahtisaari's plan. The first point of the declaration included the will of the people, who strived to create a sovereign and independent Kosovo. It was also noted that the Assembly that proclaims Kosovar independence agrees to the presence and supervision of international community during the process of creating organs of a new state. Both EULEX KOSOVO mission sent to Kosovo, as well as NATO corps are to help state institutions in executing their tasks in the province. The sixth point affirms that because of "reasons of culture, geography and history [...] Kosovo's future lies in the European family"³⁰. Being a member of the international community, the new state pledges, point eight of the declaration, to abide by all the principle of the Charter of United Nations, the Helsinki Final Act and other principles of OSCE. Respecting sovereignty of other states and their territorial integrity is also a duty that Kosovo is to obey through their own foreign policy. Point eleven of the declaration states a desire to establish good relations with neighbouring states. Relation between Kosovo and the Republic of Serbia, in particular, shall be appropriate as these states are bound together by historical, social and economic ties³¹.

Immediately after declaring independence, the biggest challenge for local authorities but mostly for international forces was preventing outbreak of clashes between Albanians and Serbians as it could destabilize the situation in Kosovo. The most important test for efficiency of UE actions was maintaining stability in the region. Despite existing discrepancies between EU member states in terms of

²⁹ A. Kamińska, *Plan Ahtisaariego traci na aktualności?*, <http://www.psz.pl/tekst-5589/UE-Plan-Ahtisaariego-traci-na-aktualnosci>, 10.08.2007.

³⁰ As quoted in *Kosovo Declaration of Independence*, <http://www.assembly-kosova.org/?krye=news&newsid=1635&lang=en>, 17.02.2008.

³¹ Ibid.

recognition of Kosovo's independence, they have maintained unity in the pursuit of ensuring stability. The European Union decided to oversee Kosovo's independence by maintaining the judicial and stabilizing mission EULEX KOSOVO and a special representative. The main objective of the EU mission was not administering Kosovo as it was in the case of current UN representation – UNMIK, but controlling how its authorities function. The shape of the independence process was consulted with the EU and the USA. Since for Kosovar Albanians the most important was international recognition of the independence of the new state not just the sheer fact of proclaiming it³².

The international community anticipated the reaction of Serbian authorities and society to the declaration of independence by Kosovo. Instantaneously, Serbia expressed a strong protest against Kosovo's sovereignty. There were fears that Belgrade will use force to defend its territorial integrity. However, this did not happen. Diplomatic measures were supposed to be undertaken in order to gain control over the province. On February 18, Serbian parliament unanimously enacted an act which annuls "each and every unilateral acts of declaring independence by the province"³³. Losing Kosovo means that Serbia loses around fifteen percent of its territory and two million citizens.

While Belgrade authorities were protesting, the Republic of Albania gave its support to the newly created state. The Prime Minister of Albania Sali Berisha declared a desire to establish diplomatic relations of ambassadorial rank with the Kosovar state already on February 18, 2008³⁴. It was treated as a willingness to formally recognize Kosovo in accordance with international law standards. Authorities in Tiran supported the establishment of the Kosovar state and saw it as a historical moment in the history of the Balkans. The Prime Minister stated that the independence of Kosovo is an event that ends a long-lasting process which was the breakup of Yugoslavia. Albanian government committed itself to establish good-neighbourly relations with the new state on the basis of its historical ties. In his statement, the Prime Minister Berisha also expressed the respect for the international borders of Kosovo³⁵. Albanian elites see opportunities for northern Albania in the development of Kosovo. There will be a new road

³² R. Sadowski, W. Stanisławski, M. Kaczmarek, W. Górecki, A. Balcer, *Kosowo proklamuje niepodległość*, „Prace Ośrodka Studiów Wschodnich”, <http://www.osw.waw.pl/pub/BiuletynOSW/2008/0802/080220/best01.htm>, 20.02.2008.

³³ As quoted in: *ibid.*

³⁴ *Oświadczenie premiera Albanii Sali Berisha w sprawie uznania niepodległości Kosowa*, <http://www.keshilliministrave.al/index.php?fq=brenda&m=news&lid=7323&gj=gj2>, 18.02.2008.

³⁵ *Ibid.*

between Dures and Pristina that will become a Kosovo's passage to the sea coast³⁶.

International recognition and the issue of Kosovo's legal status

Proclamation of Kosovo declaration of independence triggered diverse and often emotional reactions in the world. Russia and some EU member states with ethnical minority issues supported uncompromising position of Serbia. Polish diplomacy followed the USA, Berlin, Paris and London by responding to Pristina's declaration with recognition of a state newly created in the Balkans. What kind of international consequences could this situation cause? Kosovo precedence in the international law may trigger a domino effect and encourage other ethnical groups that do not have their own statehood to fight for national independence. This could lead to further destabilization of the Balkan situation. Perhaps Kosovo's independence will be the beginning of region's normalization process and be the basis for new solutions to hard problems of contemporary world.

The legitimacy of recognizing or not recognizing an independent Kosovar state by other entities is being analysed. On the one hand, it is investigated from the perspective of compliance with international law standards. On the other hand, it is seen from the angle of individual interests in the international arena. One key issue is also an analysis of international law factors behind the establishment of the Republic of Kosovo. There is a need to reflect on the problem of subjectivity of the Kosovar state in international law, which affirmation is recognition by other international relations participants.

International law doctrine does not include regulations on creation and collapse of a state. International law points at the requirements that need to be met by a newly-created state to become a fully-fledged entity in contemporary international relations. A distinctive characteristic of international system is the lack of an executive body. Thus, there is no authority that could arbitrarily rule whether a particular entity can be treated as a state. International practice proves that there are many various processes that may lead to a creation or fall of a state. In order to distinguish them there is a need to select a classification criterion. In the most general manner we can claim that "states are created by separation or emergence from existing entities, breakup of such entities, their merger or they

³⁶H. Rigels, *Wielkiej Albanii nie będzie*, <http://wyborcza.pl/1,76842,4969845.html?as=1&ias=2&startsz=x>, 27.02.2008.

could be created on a territory which is *res nullius*³⁷. Thus, unification of states leads to the creation of a completely new entity in the international arena. Incorporation of one state by another also leads to the creation of a new international situation. A breakup of one political organism can be the cause behind the establishment of a few new states with each becoming a separate entity in international law.

In our times, the principle that is invoked by societies that aspire to create their own state is the right of nations to self-determination. It has been included in numerous supranational documents and thus defining one of the development paths for international community. Article I paragraph 2 of the *Charter of the United Nations* (CUN) ratified in San Francisco on June 26, 1945 says that one of the United Nations objectives is to “develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace”³⁸. Even though CUN does not include a definition of self-determination, the declaration presented in this paragraph imposes on states a duty to support and respect peoples' will, as well as duty to refrain from any activities that could prevent its execution. A limitation to this principle is respect of territorial integrity of states that have effective governments.

On October 24, 1970, the international community in New York adopted the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations. According to its provisions “by virtue of the principle of equal rights and self-determination of peoples [...] all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development”³⁹. The declaration names three methods of realizing the principle of self-determination. These are as follows: the establishment of a sovereign and independent state, the free association or integration with an independent state or the emergence into any other political status. An example of unification is the integration of Tanganyika and Zanzibar into Tanzania in 1964. A new entity in the international arena was created as a

³⁷ As quoted in: R. Bierzanek, J. Simonides, *Prawo międzynarodowe publiczne*, Warszawa, 2005, p. 124.

³⁸ *The Charter of the United Nations*, <http://www.un.org/en/documents/charter/>, 26.06.1946.

³⁹ *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States* in accordance with the Charter of the United Nations, <http://www.un-documents.net/a25r2625.htm>, 24.10.1970.

result of this process. The Declaration does not unambiguously define the political form that can be established through self-determination of peoples.

In practice, the realization of the principle of self-determination is carried out in two ways. First one is based on adopting a declaration of independence by authorities that have effective control over a given territory and its population. Despite the fact that the conditions for establishing a new state are fulfilled, the views among international community participants may be divided. To large extent, it is connected to the principles of their foreign policy and national interests. The state of Turkish Cypriots is an example of a newly-created entity that has not been universally accepted by the international community. This ethnic group proclaimed the creation of the Turkish Republic of Northern Cyprus on November 15, 1983. Another unrecognized event was the declaration of independence by Moldavian territory of Transnistria on September 2, 1990, which was not recognized by any international bodies except for South Ossetia and Abkhazia. The second way of realizing the principle of self-determination is to establish own state through general approval of the international community. For example, the Republic of Montenegro proclaimed independence on June 3, 2006. It was a result of referendum that had been carried out among Montenegrins, whose majority wanted to create their own state. The international community supported both the declaration of independence and its development process. A similar situation took place in East Timor which independence is a consequence of a referendum carried out on August 30, 1999.

Whether principle of self-determination of peoples is realized, depends on peoples' consolidation and appointment of a government that is capable to represent its interests in the international arena. Sovereignty is based on a capability to decide on the future of the whole nation. Self-determination can be a method of opposition against unjust authority. Do international documents such as CUN give nations a right to a legal secession? Realizing the principle of self-determination can create favourable conditions for conflicts between states to arise, if there is no approval of the international community or consensus of stakeholders. The nature of the conflict between state authorities and a group on its territory that deems its position as unjust can be ethnical, religious, cultural as well as social, economic or political.

The principle of self-determination of peoples is contrary to another fundamental principle of international law. Self-determination may violate the

obligation to respect the territorial integrity of a state⁴⁰. This principle is also included in many international acts. After the Second World War, inviolability of territorial integrity became a key issue. It is affirmed in article II paragraph 4 of CUN in which use of force, or even such a threat, against the territorial integrity or political independence of a state is prohibited. Territorial integrity was also ensured by regulations in such international agreements like *Helsinki Final Act* from Conference on Security and Co-operation in Europe. In part I of the Act, one can find, for example, declaration on principles guiding international relations. Among them one can list such principles as: inviolability of frontiers, territorial integrity of states, peaceful settlement of disputes, non-intervention in internal affairs⁴¹.

Repercussions of adopting declaration of independence by Kosovo definitely go beyond the Balkan region. A territory of 11 thousand square meters, inhabited by around two million people formally remained a part of Serbia; however, pursuant to United Nations Security Council Resolution 1244 of June 10, 1999, it is administered by the United Nations through United Nations Interim Administration Mission in Kosovo (UNMIK). Establishing the Kosovar state by an ethnic group, which in the perspective of the whole country is a small minority, is perceived as a dangerous precedence by many states. Especially that it was done in opposition to sovereign authority of this particular territory, in this case Serbia. The status of this contentious territory had to be finally regulated but there are views that granting ethnical minorities living on a territory of a state the principle to self-determination does not guarantee permanent peace.

A new geopolitical entity, such as Kosovo after unilateral declaration of independence, requires a full recognition of its entity to be able to enter the international system.

There is no body in the international system that decides whether an entity can be acknowledged as a state. The fact of establishing a new entity is confirmed by other states by recognizing the entity in the international arena. The issue of recognition in international law doctrine has a declarative character. Although, it is a *sine qua non* condition if a new state wants to take part in international relations. Recognition allows the development of interdependencies and ties between states which are inevitable in contemporary world. Thus, it is also a key

⁴⁰ A. Łazowski, A. Zawidzka, *Prawo międzynarodowe publiczne*, p. 95.

⁴¹ As quoted in: *Conference on Security and Co-Operation in Europe Final Act*, <http://www.osce.org/mc/39501?download=true>, 1.08.1975.

element in the process of shaping statehood. Apart from recognition of the state by other international relations participants, joining UN can be a proof that confirms an establishment of a new state⁴².

International recognition is, however, one of the most problematic issues of international law. It can be defined as a unilateral act in which one international law entity explicitly or implicitly announces that a situation or an actual state is in accordance with the international law⁴³. In other words, the recognizing entity is accepting a certain fact and is ready to respect legal effects related to it⁴⁴. Once recognition is given “one cannot question the legality of the ensuing situation”⁴⁵. One of the controversies related to recognition is the fact that it is an issue that combines politics and law while its character is optional. It means that to large extent it depends on the status of relations between states. This happens, even though states should use recognition in good faith⁴⁶. Recognition of a state does not create a new legal situation. This was emphasized during International Convention on Rights and Duties of States from December 26, 1933. The state exists regardless whether other entities recognize it or not.

In legal and law international doctrine, there is a division into two types of recognition: *de facto* or *de iure*. The first one is recognition in practice which is incomplete and temporary. A state expresses a willingness to recognize an entity subject to some preliminary conditions. It is a conditional and revokable recognition. It will not be exercised if the preliminary condition is not fulfilled. Fulfilling this requirement by a state aspiring for recognition confirms this act. Expressing a *de facto* recognition does not exclude *de iure* recognition - legal recognition - expressed at a later time. This type of recognition has a complete and irrevocable character. The recognizing state does not impose conditions which the recognized state would have to fulfil. In principle such recognition is final and irrevocable. There are no restrictions for a *de iure* recognition. It is a contentious issue, because it is often the case that states are guided by political considerations and not only by international law standards. If there were no violations of fundamental principles of international relations, the existing and

⁴² A. Łazowski, A., Zawidzka, op. cit., p. 95.

⁴³ B. Wiewióra, *Uznanie nabytków terytorialnych w prawie międzynarodowym*, Poznań, 1961, p. 106.

⁴⁴ W. Góralczyk, S. Sawicki, *Prawo międzynarodowe publiczne w zarysie*, Warszawa, 2007, p. 149.

⁴⁵ As quoted in.: A. Potyrała, *Uznanie międzynarodowe państwa – uwagi teoretyczne*, [in:] A. Potyrała (ed.) *Współpraca-Rywalizacja-Walka. Studia przypadków z zakresu współczesnych stosunków międzynarodowych*, Poznań, 2008, p. 21.

⁴⁶ *Ibid.*, p. 22.

governing entity should also be legally recognized⁴⁷. The state which recognizes or refuses to recognize should take into consideration ensuing situation of a new state and not assess it in regards to political repercussions⁴⁸. Thus, we distinguish recognition of a state from recognition of insurgents or belligerent rights of party in a conflict.

Another classification criterion is the form of recognition. It can be explicit or implicit. The first method of recognition is executed in an unambiguous and official way that does not raise doubts. For example, it can be done by preparing an official note by the state which is unilaterally recognizing a new state. The second option is implicit recognition that is *per facta concludentia*. In such a case the recognizing entity does not express it in an unambiguous way, however, it results from consequent actions that do not raise doubts about willingness to recognize a new state. Implicit recognition of a state or government is a consequence of establishing diplomatic relations or concluding a bilateral agreement between the recognizing and the recognized state⁴⁹.

The timing of recognition is also of a significant importance. It may be expressed prematurely or too late⁵⁰. The first situation occurs when there are no reasons to substantiate recognition, but despite this fact it has been done. It happens when the government of a new state do not exercise effective control over particular state territory, but other states officially recognize this entity. Such an affirmation of statehood by other participants of international relations may be considered as interfering into internal affairs of a state which is a violation of international law principles.

The basis for recognition of a state is the efficiency criterion. It is dependent on emergence of a stable and efficient authority. Other more traditional conditions are also taken into consideration, such as: exercising effective territorial control or governing particular population inhabiting the territory of a state. If these objective conditions are fulfilled it can be decided whether a state should be recognized or not. An entity that becomes a sovereign state, as defined under international law, may be recognized by the international community. Each and every state that is to recognize another state has to individually assess the level at which conditions of subjectivity in international law are fulfilled. "At the same

⁴⁷ R. Bierzanek, J. Symonides, op. cit., p. 140.

⁴⁸ D. T. Grant, *The Recognition of states. Law and practice in debate and evolution*, Westport–Connecticut–London, 1999, p. 87.

⁴⁹ B. Wiewióra, op. cit., p. 104.

⁵⁰ A. Łazowski, A. Zawadzka, op. cit., p. 109.

time, the recognition of a state cannot be executed if it violates basic principles of international law for example, the principle of territorial integrity of a state or the principle of refraining from threat or use of force⁵¹. Therefore, any condition for recognition of a state that is not compliant with the international law standards cannot be considered as valid.

These attributes, however, do not oblige any state or international organization to execute automatic *ad hoc* recognition. There is no obligation to recognize a geopolitical body even if it possesses the attributes of statehood. To large extent, recognition has a political character.

A lot of newly-created entities aspire to receive recognition from other members of the international community, even though the recognition is not a condition that needs to be fulfilled to establish new statehood. It happens because recognition influences how the entity functions in the international arena. Lack of recognition prevents an entity from establishing ties with other states. A new political unit does not fulfil one of the requirements of establishing a state if it does not partake in international affairs. Such functions of foreign policy as membership in international organizations, concluding supranational agreements or law of legation and consulate cannot be utilized.

An important ramification of international recognition is legal effects caused by it, both in international law and in internal law of recognized entity. Two competing approaches regarding the effects of international recognition has been formed in international law doctrine, declaratory and constitutive. The first one claims that a state becomes a fully-fledged entity in view of international law only *ex nunc* from the point when it is recognized by the international community or at least by a majority of it. The assertion of states becomes a source that grants subjectivity. The criticism towards this approach stresses its infeasibility and lack of confirmation in contemporary practice. The second approach, the declarative one, claims that a state is established intrinsically through the validity of its own declaration, while international recognition only asserts this status *ex tunc*. The predominant view is that recognition has a declaratory character. It should be noted that according to the declaratory theory, a state not recognized by the international community shall be considered an entity under international law. However, in reality it will not be able to function in the international plane and

⁵¹ As quoted in: A. Potyrała, op. cit., p. 23.

will not even have a possibility to conclude international agreements if the entity that wants to sign such an agreement does not recognize the state.

International recognition causes legal and political effects. It is the basis of relations between states which in the era of globalization and deepening interdependencies are inevitable. A state that has received recognition in the international arena becomes its full participant. Nobody can deny the existence of that entity. It possesses a defined set of competences: concludes international effect with legal effects, belongs to international organizations and is internationally liable and responsible. Nowadays, recognition should be dependent on compliance with international law standards. It is hard to unambiguously pronounce whether a new state was established with due regard to international law⁵². This is connected with three opposing principles, that are: the principle of sovereign equality and territorial equality of states as well as the principle of self-determination. In practice, however, decisive factors are political considerations since recognition of state is an issue dependent on politics rather than on law⁵³.

In accordance with the opinion of the Arbitration Commission on Former Yugoslavia, recognition is a discretionary act that a state can execute in such a manner as the state considers appropriate⁵⁴. The practice shows that nowadays there is no obligation to recognize a newly-created state. The reasons behind this are difficulties in unambiguous definition of recognition criteria and the status of relations between two political entities. The lack of an arbitrary organ in the international system which would evaluate actual recognition elements lead to a situation where the decision on recognition is left in the discretion of each state.

Kosovar parliament proclaimed *Declaration of Independence* on February 17, 2008 and it triggered various reactions among the international community. The European Union, which was involved in the Kosovar conflict, expressed its approval of Kosovar's aspiration to obtain "supervised" independence by accepting president Ahtisaari plan which was announced on February 2, 2007. On February 18, 2008, the Council of the European Union (CEU) adopted official conclusions on the Kosovar issue during an extraordinary meeting. The document stressed that the values included in Kosovo declaration of independence and the

⁵² A. Potyrała, *op. cit.*, p. 24.

⁵³ Compare: Rich R., *Recognition of states: the collapse of Yugoslavia and the Soviet Union*, „International Journal of International Law” 1993, vol. 4, no. 1, p. 21–42.

⁵⁴ R. Bierzanek, J. Symonides, *op. cit.*, p. 141.

European standards are identical. The key issue for EU authorities was the inclusion of the principles of democracy and equality of all citizens without regard for ethnical minority and the protection of cultural heritage. These became the building blocks of stability as well as law and order in Kosovo. At the same time, CEU noted that EU member states will individually determine their relations with a new state in accordance with international law and national practice⁵⁵. This statement proves that there is a split among EU member states as some of them opted for recognition of a new state, while others opposed to recognition in fear of growing independence aspirations in other parts of the continent.

The European Union has been involved in activities in Kosovo since 1999. Both political and financial efforts were made in order to build a long-lasting peace and security⁵⁶. On February 4, 2008, the Council of European Union established an EU mission for peace and order in Kosovo – EULEX KOSOVO. Under article two of EU document, mission's activities shall "assist the Kosovo institutions, judicial authorities and law enforcement agencies"⁵⁷.

Straight after authorities in Pristina declared independence, France became the first EU member state to recognize the independence of Kosovo. In the opinion of French authorities independent Kosovo means the end of instability in Balkans and a solution to a conflict that broke out in 1999. Immediately after the Kosovar state was established, such states as the United Kingdom, Italy, Germany, Poland, Austria, Finland, Denmark, Belgium, the Netherlands, Luxembourg, Slovenia, Sweden, Hungary, Ireland, Lithuania, Latvia and Estonia announced that they will recognize Kosovo⁵⁸. Bulgaria declared that their position towards Kosovo is subject to how Kosovar authorities will implement UN Special Envoy Martti Ahtisaari plan, build institutions and observe ethnical minority's rights.

Some EU member states were reluctant or even opposed to the independence of Kosovo, because they were in good relations, based on historical and cultural ties, with Serbia, which categorically opposed to the establishment of an

⁵⁵ *EU Council Conclusions on Kosovo*,

http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/gena/98818.pdf, 18.02.2008.

⁵⁶ Communication from the Commission, *A European Future for Kosovo*, <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005DC0156:PL:HTM>, 20.04.2008.

⁵⁷ Art. 2, *COUNCIL JOINT ACTION 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO*,

http://www.europarl.europa.eu/meetdocs/2009_2014/documents/sede/dv/sede260410jaeulex2008124_/sede260410jaeulex2008124_pl.pdf, 04.02.2008.

⁵⁸ Parzymies S., op. cit., p. 125.

independent Kosovo. Some multi-ethnic member states were worried that the Kosovo case precedence may threaten their territorial integrity. Cyprus, Greece and Romania announced that they will not recognize the new state. It can be explained partly by a fear that it would encourage separatist movements and partly by a fear for the stability of the region. This proved to be correct as representatives of Hungarian expatriates claim that the independence of Kosovo may be used by them as precedence. Slovakian Minister of Foreign Affairs Jan Kubisz expressed his fear that Kosovo independence case may be an incentive for the aspirations of large Hungarian minority that lives on the territory of his state⁵⁹. Therefore, authorities in Bratislava did not establish relations with the Kosovar state by not recognizing it in the international arena. Similarly, Spanish government expressed its opposition to the declaration of independence. According to Madrid, the unilateral act of secession of the Kosovo province was unlawful under international law. Spain was afraid that Kosovo precedence will intensify independence aspirations of the Basque. Opponents of an independent Kosovo state claim that recognition of the international community may contribute to the destabilization in European states that have separatist movements. Both Serbians living in Mitrovica, as well as the leaders of Transnistria, a separatist province of Moldavia, could hold acceptance of secession of a Serbian province as an example for themselves.

On February 18, the United States of America formally recognized Kosovo as an independent and sovereign state. Establishing diplomatic relations between the United States and Kosovo was an expression of friendship between those two states. A statement from February 18, 2008 stated that the Kosovo case is unique and cannot be treated as precedence for other areas in the world. At the same time, the USA policy does not exclude the development of relations with Serbia⁶⁰. Belgrade authorities categorically opposed to the establishment of a new state and recalled its ambassador from Washington. This way they wanted to express their disapproval of USA activities aimed at the recognition of Kosovo. The USA did not decide to end the mission of its diplomats in the Serbian capital. Further involvement of American forces into building peace in Kosovo was announced. This was to be done through their participation in KFOR units and the stabilization mission EULEX KOSOVO.

⁵⁹ Ibid., p. 126.

⁶⁰ *U.S. Recognizes Kosovo as Independent State*, <http://2001-2009.state.gov/secretary/rm/2008/02/100973.htm>, 18.02.2008.

While President Bush's administration decidedly and unambiguously recognized the establishment of new state in the international arena, Russian Federation strongly opposed to the Kosovar state. Different positions of these two states resulted from different connections with West Balkan states. As a Serbian ally, authorities at Kremlin condemned the declaration of independence by Kosovo authorities on the same day it was adopted, claiming that it does not comply with international law standards. As early as on January 28, 2008, Aleksandr Bocan-Harczenko⁶¹ presented an action plan during a meeting of the International Affairs Committee at the Russian State Duma. It included actions that are to be undertaken by the Russians if Kosovo proclaims independence. The measures were adequate to former Kremlin policy which opposed to the adoption of independence by Albanians in the province. A. Bocan-Harczenko explained "Russia closely coordinates all its activities with authorities in Belgrade"⁶². Some experts claim that the Russian support of the Serbian position on Kosovo is a part of rivalry with the United States⁶³. Kremlin wanted to play the role of a regional superpower which influences reaches Balkan states. Russian opposition to independent Kosovo was an element of policies towards the USA and NATO.

On July 22, 2010, International Court of Justice (ICJ), following the request of UN General Assembly, presented an advisory opinion that settled the issue of Kosovo declaration of independence compliance with international law. ICJ opinion prompted comments both from the representatives of state that recognized Kosovo and those that strongly opposed to the independence of a new state. During the proceedings both international law standards of general and special character were referred to. According to the opinion prepared by ICJ judges in 2010, the declaration of independence by Kosovo does not violate any standards in international law⁶⁴.

States that recognized Kosovo gained a legal argument proving the legality of their actions and allowing them to reject accusations about premature recognition. These states argue that if proclamation of independence is consistent with the

⁶¹ Aleksandr Bocan-Harczenko – former Deputy Director of the Department of European Cooperation in the Ministry of the Foreign Affairs of the Russian Federation. He took part in "Troika" talks on the Kosovo status.

⁶² As quoted in: Kobeszko Ł., *Szczegółowy plan Moskwy w kwestii Kosowa*, http://www.psz.pl/?option=com_content&task=view&id=8499, 29.01.2008.

⁶³ As quoted in: Śmigielski R., *Federacja Rosyjska wobec statusu Kosowa*, „Biuletyn Polskiego Instytutu Spraw Międzynarodowych”, http://www.pism.pl/biuletyn_content/id/499, 16.11.2008.

⁶⁴ *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion*, International Court of Justice, 22.07.2010.

international law and Kosovo fulfils the requirements for new state entities that aspire to obtain international acceptance, there is no justification to refuse recognition. Since states should exercise their recognition powers in good faith with respect for international law standards. States on the other side of the debate on Kosovar issue cite the freedom of recognition of state that arises from international law. Recognition has an optional character and no state can be forced to internationally acknowledge other state. Accordingly, Russian and Cypriot representatives reaffirmed their position on non-recognition of Kosovo and stressed their respect for Serbian sovereignty and territorial integrity, which includes Kosovo.

It should be noted that even though ICJ's advisory opinion is a binding ruling both for the United Nations and member states, it does not pertain to the issue of Kosovo's recognition. The Tribunal considered relating Kosovo declaration of independence to legally binding international law standards that define the legality of the proclamation act⁶⁵. Despite the fact that international recognition does not create a new legal situation and it is not a condition of statehood, functioning of a new state in the international arena is dependent on obtaining it. States recognized by a limited number of states “have difficulties in exercising rights it is entitled to on the basis of international law”⁶⁶.

On September 10, 2012, International Civilian Office and International Civilian Representative for Kosovo were dissolved which means a formal end of Kosovo's “supervised independence” period. In reality, the international community will still possess tools with which they can exert influence on Kosovar authorities. This is possible because there are still NATO and EU missions present in the state – civilian EULEX and military KFOR. Kosovo also depends on economic aid from the EU and international financial institutions. The change of the nature of international presence in Kosovo did not cause its wider international recognition. Apart from Serbia, there are five EU member states (including four NATO members), Russia and China, to name a few, that do not recognize the independence of Kosovo. Kosovo's urgent problems are the issue of unsettled relations with Serbia, lack of control over a part of territory inhabited by Serbian minority and bleak perspectives of economic development of the state.

⁶⁵ A. Potyrała, *Kosovo's Independence in the Advisory Opinion of the International Court of Justice*, „Środkowoeuropejskie Studia Polityczne” 2010, no 3, p. 44.

⁶⁶ *Zarys Prawa międzynarodowego*, (ed.) M. Muszkat, t. II, Warszawa 1956, p. 6.

Currently, Kosovo can count on recognition from 107 out of 193 UN member states, 23 out of 28 European Union states and 24 out of 28 NATO members (as of July 3, 2014)⁶⁷. Even though, Kosovo can rely on support of 107 states, it is not enough for it to be acknowledged as a full member of the international community. There might be problems for the young state to obtain membership in international organizations. The United Nations membership depends on being granted an approval by UN Security Council; however two states that oppose to Kosovo independence, the Russian Federation and People's Republic of China, are permanent members of the Council with the power of veto. European Union membership also requires an approval of all member states out of which Cyprus, Greece, Spain, Romania and Slovakia are against the independence of Kosovo. Despite the fact that recognition does not create a new legal situation and it is not a condition of statehood, real functioning of a new state in the international arena is dependent on recognition. The polarization of opinions among member states of international communities leads to a situation where Kosovo does not have any chance to be fully active in the international life.

⁶⁷ *Statement by UK Ambassador Michael Tatham of the UK Mission to the UN, to the Security Council meeting on Kosovo*, <https://www.gov.uk/government/speeches/kosovo-is-recognised-by-over-half-of-the-un-member-states>, 27.05.2014. The Republic of Togo recognized the Kosovar state on July 2, 2014.

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