

# Not-recognizing policy within the minority EU members - Challenge for Kosovo's Integration and Regional Peace-building

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## Abstract

Act of Recognition is the matter regulated by international law. After declaration of independence, Kosovo's path toward EU integration is going to be problematic for Kosovo institutions and challenging for EU foreign policy. Even though Kosovo was recognized by major international actors as *sui generis* case, some of them see this case as precedent and harmful for supposed developments within their jurisdictions, especially by 5 EU not recognizing countries. The article aims to justify the proclamation of independence by Kosovo institutions and to analyze the possible negative effects deriving from non-recognition policy for Kosovo and its new fragile democracy, hampering the democratic peace. The policy of minor EU member states, contesting Kosovo's statehood based on the assumption that the act of recognition will open a dangerous path for secession-minded national minorities in their own countries, taking into account that through (non)recognition, states attempt to continue or change the existing order at international relations. Postponing Kosovo's recognition by the rest of EU members will accumulate negative potentials within the new state, with possible consequences for the region.

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**Key Words:** Kosovo independence; Recognition; Sovereignty; EU integration; Peace-building

## 1. Introduction

The ethnocentric Serbian official policy continuously ignored the idea of providing Kosovo an equal political status within the ex-Yugoslav Federation. In contrary, powers of 1974 Kosovo's autonomy were dismantled, physical and structural violence against its population increased, triggering a gradual dissociation from Serbia and evolution towards an independent Albanian entity. Insufficient patience by international community toward peaceful approach applied for ten years by the Kosovo population, redirected the society to an extreme approach - the armed Liberation War. Eight years after the war, Kosovo declared independence from Serbia. After the act of declaration, Kosovo's path toward EU, considering the actual level of recognitions, is going to be problematic for Kosovo and a tough challenge for EU foreign policy. Although Kosovo was recognized by major international actors as *sui generis* case, some of them see this case as precedent and harmful for supposed developments within their jurisdictions, especially by 5 EU not recognizing countries. "Independence for Kosovo has done little to clarify the very ambiguous legal process of recognition and constitutes a unique constellation of factors which militate against emulation. Fears that Kosovo would have a domino effect are thus misplaced to the extent that states, such as Spain, Russia and China, which currently harbor disgruntled minorities, are highly unlikely to ever have to counter Western support for the secession of one of these regions" (Hehir, 2009).

## 2. The same International Law-differently interpreted on Kosovo's Recognition

Recognition, "respect for the equal dignity of autonomous beings" (Stanford Encyclopedia of Philosophy, 2013), is an institution of State practice that resolves unpredictability related to status of newly created international actor. Recognition as a unilateral act or practice by the states has both a normative (equality) and a psychological (feedback) dimension for relations between recognizer and recognized. "The question is whether the denial of recognition to an entity otherwise qualifying as a state entitles

the non-recognizing state to act as if it was not a state-to ignore its nationality, to intervene in its affairs, generally to deny the exercise of state rights under international law. The answer must be no, and the categorical constitutive position, which implies a different answer, is unacceptable.” (Crawford, 2010, p. 27). “A state conducts its relations with another state in coherency with systemic order, in accordance with other states, and, sometimes contrary to existing order. In practice a strong presumption favors the continuity and disfavors the extinction of an established state” (Crawford, 2006, 701). The Montevideo Convention of 1933 states that “the political existence of the state is independent of recognition by the other states.” About one hundred twenty new countries were created and recognized by other states since the end of World War II, most of them as result of process of decolonization, in accordance with Declaration on the Granting of Independence to Colonial Countries and Peoples of 1960. The issue of creation the new states is a matter of fact and not of individual state political will, and their recognition “... require different legal criteria and different legal results” (Worster, 2009, p. 116). On the issue of recognition and the legal effects of recognition, of state existence or not, are developed two most debatable theories. According to the older one, constitutive theory, a state exists exclusively via recognition by others states. To the declaratory school of thought, recognition is acknowledgement of the existing statehood status, and that the act of recognition does not confer status (Worster, 2009, p. 118). Declaratory theory, developed on shortcomings of older one, holds that the entity exists as a state before recognition, it means that before the act of recognition, recognized state must enjoy an international personality.<sup>1</sup>

Declaratory theory, prioritizing the “fact” of existence, consist of four empirical criteria as stated in the 1933 Montevideo Convention, while Constitutive theory prioritize the “law” criterion of state existence. According to the declaratory theory, recognition of a new state is a political act, which is, in principle, “independent of the existence of the new state as a subject of international law” (Crawford, 2010, 22). Debates over nature of recognition did not produce clear conclusion whether it is in accordance with constitutive or declaratory theory; however, most of the researchers

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<sup>1</sup> See Sloane D.R. 2002. The Changing Face of Recognition in International Law: A Case Study of Tibet, 16 *Emory International Law Review* 107, 117; Brierly L.J. 1963. *The Law of Nations: An Introduction to the International Law of Peace at Humphrey Waldock 6th ed.*

give priority to that of declaratory. "States, in the forum of the United Nations or elsewhere, may make declarations as to status or 'recognize' entities the status of which is doubtful: depending on the degree of unanimity and other factors this may be evidence of a compelling kind" (Crawford, 2010, p. 27). Wilde distinguishes two related law aspects to recognition process: a state is or is not a state because, among other things, other states have decided to treat it as such; and, the recognition itself is regulated by international law, in the sense that states are sometimes constrained in their choices when comes to recognition (Wilde, 2010, p. 2). There is no doubt that statehood itself is independent of recognition. International Law does not say that a State is not in existence as long as it is not recognized, but it takes no notice of it before its recognition.

After the period of recognition of "Third World" countries, post-Cold War practice included new criteria for statehood. To the process of recognizing the new states, except population, territory, government, and capacity to enter into relations with other states, attached are new principles such as respect for human rights, democracy, commitment to disarm, and peace-loving. Kosovo, with limited internal sovereignty is recognized by major world states; by 3 of 5 Security Council permanent members; by 23 of 28 EU member states, recognized by three of four its neighbors; is in good way to conclude the demarcation of the territory, did not complete yet full international personality as a result of non-recognizing states policy. Kosovo's statehood and prosperity claimed in accordance with independence declaration, is hostage of "(non) recognition war" by minor representing states at Security Council and at European Union. Refusing to recognize Kosovo's sovereignty, the new state could have further consequences "because without international legal personality, that entity would lack many of the important protections granted to states by international law" (Eckert, p. 2002, p. 24). Why the same issue, in this case Kosovo, is differently accepted by the states absolute political discretion, if there is the same international law applicable? It is because of different approaches toward international law adopted for inner or shared group states interests. Facts' stipulated in this article, try to argue in favor of recognizing Kosovo's full international legal personality by all states and possible derived consequences by non-recognizing policies for Kosovo and the region. Kosovo's internal challenges, related to rule of law, can be easy improved in case of recognitions by all EU members and followed also by inclusions in

international organizations. Inclusion, not only declaratory and constitutive school of thoughts, but also the elements of humanitarianism in state justifications of eventual acts of recognizing will contribute in reconciliation of existing antagonisms on this issue.

### **3. Complexity of Kosovo independence**

Obtaining Kosovo's independence was a complex political process heavily influenced by Serbia's atrocities against majority in Kosovo, the Albanian peaceful and, later on, by armed endeavors, the international humanitarian intervention and state-building efforts by both, locals and internationals. The unique circumstances in Kosovo's case require a unique international behavior without affecting the outcome of other international disputes.

Kosovo responded against Serbia's violent nationalist acts during the 90s initially with a gradual dissociation from Serbia, and later by setting-up peaceful self-sustaining institutions, which lasted for almost ten years. Since the beginning of negotiations - from the Carrington process to the Dayton agreement - the Kosovo issue was excluded in order to make Serbia willing to participate in the process (Weller, 2008, p. 5-95). The intervention of the international community was focused on the war arenas in Croatia and Bosnia and Herzegovina. Only after the Dayton Peace Accords, did the issue of Kosovo start featuring on their agenda, categorized as a case of human rights violations. In parallel, with their peaceful strategy and after understanding that "if lacking the guns", the internationals could not be engaged in solving the situation, the Kosovo Albanians became radicalized. The Serbian policy of extreme aggressiveness against everything that was Albanian stimulated the growth of radicalism within the Albanian population, shifting their peaceful attitude towards armed resistance as the last resort for surviving<sup>2</sup>. International attention on the Kosovo issue

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<sup>2</sup> During the 80s Serbian regimes applied a policy of creating the conditions for changing the former Yugoslav Constitution of 1974, according to which Kosovo was a constitutional part of the Federation. After the abrogation of the Constitution of Kosovo, Milosevic's policy of physical and structural violence against Kosovo Albanians culminated with genocidal acts of ethnic cleansing, massive killings, raping, in order to change the ethnic structure in Kosovo. Under Yugoslav-Serbian regimes, the Albanian population suffered all forms of abuse. After WWII, Albanians spent 666.7 centuries of prison for political reasons; around 12.000 people were killed during 1998-2000; more than 800.000 people were expelled from their homes during the war and around 20.000 women were raped (See more at: Keçmezi-Basha 2009; Malcolm 1999; Mertus, 1999).

culminated only after a number of massacres occurred in Kosovo<sup>3</sup>. That also raised the Albanians' awareness of their inherent right to freedom from Serbia and settling the democracy which had lacked for a long time on this territory. The international humanitarian intervention – a lesson learned by results of prior Serbian behavior toward Croatia and Bosnia, the daily violent events in Kosovo and the lack of an agreement at Rambouillet – was a "sui generis" in the practice of international relations, "illegal but legitimate", saved the Kosovo Albanian population from extinction, necessity from the ethical and humanitarian perspective. As Oppenheim stated, "...it cannot be denied that public opinion and the attitude of the Powers are in favor of such interventions, and it may perhaps be said that in time the Law of Nations will recognize the rule that interventions in the interests of humanity are admissible provided they are exercised in the form of a collective intervention of the Powers" (Oppenheim, 1912, p. 195-196).

Three main developments parts of Kosovo's path toward recognition should be taken into consideration by non-recognizers: Kosovo's Earned Sovereignty, the opinion of The International Court of Justice, and The Agreement on Normalization of the Relations with Serbia. Alternatives of independence cannot prevent harmful outcomes to peacebuilding processes started at the beginning of the new millennia in Kosovo and the region. "As recognition for Kosovo steadily grows, so does implied acceptance of the distinguishing factors of its independence: concerted international involvement; an internationally-drafted plan for independence with extensive protections for minority Serbs; and most importantly, the fact that there simply was no viable alternative to independence." (Joseph, 2013, p. 1).

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<sup>3</sup> Massacres before the NATO intervention: Likoshane massacre, February 28, 1998, 14 members of the Ahmeti family; February 28 and March 1, 1998, the Sejdiu family killed; Prekaz massacre, March 5, 1998, Yugoslav forces killed Adem Jashari, KLA Commander and 45 members of his family; Obri e Epërme massacre, September 28, 1998, Special Forces entered the village and executed 21 members of the Delijaj family; Reqak massacre, January 15, 1999, a Serb Special Anti-Terrorist Unit killed 45 people in village Reqak; Rogovo massacre, January 29, 1999, Serb police-officers executed 24 Albanians. During the NATO humanitarian intervention, Serbian military, police and paramilitary forces killed thousands of Albanians. At the time of NATO intervention massacres were bloodiest, as that of Meja, 27 April 1999, in which Serbian army and paramilitary killed 377 Albanians.

#### **4. Non-recognition policy by the 5 EU countries - Challenge to Integration/Peace-Building processes in Kosovo**

In the context of foreign policy, national policies of member states overlap or replace those of EU. On the policies such as trade, free movement, or labor, member countries are willing to give up sovereignty, but not to those of sensitive areas such as the issue of recognizing of the new states or of national security, giving veto power to each EU member. This EU choice is sign of differences among organization constituents, making EU organization less pragmatic than are the US.

Lauterpacht, embraced the constitutive theory in the sense that the new state did not exist until recognized, but he also insisted on the declaratory theory in the sense that existing states did not have discretion to refuse to recognize a new state (Worster, 2009, p. 123). "There is no rule of international law which forbids secession from an existing state; nor is there any rule which forbids the mother state from crushing the secessionary movements if it can. Whatever the outcome of the struggle, it will be accepted as legal in the eyes of international law." (Malanczuk, 2006, p. 79). "We all have in mind to bring the direct and concrete benefits to all people in Serbia and in Kosovo who wish to advance on their European path", said Mogherini, following the last EU- facilitated Kosovo-Serbia dialogue (Mogherini, 2016). Such direct and concrete benefits are set up in the recently signed the Stabilization Association Agreement, SAA, as "a milestone in EU-Kosovo relations and of critical importance for the future of Kosovo and the Western Balkans" (Hahn, 2016), helping Kosovo to create legal framework toward gradual approximation with EU laws and standards. The EU was the major contributor to postwar Kosovo institution-building, state-building and economic recovery. "The EU will continue to support Kosovo's socio-economic development as part of its European reform agenda, including through financial and technical assistance" (Council Conclusions, 2015). On the other hand, there is a kind of paradox as the EU offers integration perspectives but at the same time creates obstacles with non-recognizing policy by 5 EU members. EU foreign policy toward Kosovo independence was un-harmonized, with ambiguities, and appears to be merely obstructive on Kosovo's path towards EU integration, excluding promises coming from EU forums of open doors. Since 1999 the U.S. "delegated" to the EU the responsibility for the developments in Kosovo and the future of the whole region on its path

to EU integration, which came to limit U.S. aid to 15% of the total amount pledged by all countries for reconstruction in Kosovo<sup>4</sup>, but with strong political and moral influence in the region, especially in Kosovo case.

### **5. Hesitation by 5 EU member countries-confuse common EU foreign policy**

History shows that secession and unilateral declarations of independence have been methods of creating the new States and are not contrary to the international law. Slovenia, Croatia, and Bosnia and Herzegovina did the same in the region. This practice was used in the Kosovo case and affirmed by the opinion of the ICJ in 2010. Kosovo, however, began the new era of establishing sustainable peace and searched for reconciliation with Serbia, despite the fact that the state of Serbia started four wars in the end of last millennium. The inter-ethnic relations in Kosovo, as a precondition for EU integration became more relaxed, and the predicted “doom for the majority of Serbs who now live under Albanian majority rule in the south of Kosovo” did not materialized (Joseph, 2013, p. 1).

Non-recognized state stance on the Kosovo issue, especially that of Spain, followed by Cyprus, Greece, Romania and Slovakia is mainly due to concerns about the implications for their own domestic politic agenda and possible ethnic secessionist challenges, and not because of the antagonism with international law, which was their main policy argument for non-recognition. All of them have strong minorities within their own borders and fear they might seek independence. A shared history with Serbia of resistance against the Ottoman Empire<sup>5</sup>, fear of materializing the Great

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<sup>4</sup> The June and November 1999 donors’ conferences for Kosovo, almost entirely focusing on reconstruction and development concerns, raised \$1.5 billion in pledges. One issue for Congress is the level of aid to be provided and the proportionality of U.S. assistance vis-a-vis European donors. Both the FY2000 and FY2001 appropriations limited U.S. contributions to 15% of the total (P.L. 106-429 on November 6) as a sign that the US “delegated” the responsibility for Kosovo to the EU (Tarnoff 2001).

<sup>5</sup> Even such an argument is not binding as Islamic countries did not recognize Kosovo. Perceptions by some of non-recognizer countries that the chosen policy is in line with a shared history of resistance against (mostly Ottoman) invaders, as defenders of Christianity and the West is wrong, because Gjergj Kastrioti-Scanderbeg, the most popular Albanian hero, was among the first to fight against the Ottomans. Not only Romanians, Slovaks, Greeks “are acutely aware of their kinship with Serbs through religion, traditions

Albania, or to some extent relying at individual sympathies serving as diplomats in Belgrade could not be the policy of EU non-recognizing countries. The fear that Kosovo's independence might be used as a precedent should be inexistent for them, as the Kosovo case is qualified as *sui generis* and cannot be applied to others. Chancellor Angela Merkel described Kosovo as "sui generis" - an isolated case not comparable to separatist movements in other countries" (News 24, 2008). "I don't want to try to judge the motives, but we've been very clear that Kosovo is *sui generis* and that is because of the special circumstances out of which the breakup of Yugoslavia came. The special circumstances of the aggression of the Milosevic forces against Kosovars, particularly Albanian Kosovars, and it's a special circumstance", stated the US Secretary of State Condoleezza Rice in 2008 (Civil. Ge, 2008). The analogical sentence is reused in the Council of the European Union document called Council Conclusions on Kosovo: in view of the conflict of 1999 and the extended period of international administration under Security Council Resolution 1244, Kosovo constitutes a *sui generis* case which does not call into question these principles and resolutions (Council of the EU, 2008). The same statement was declared by the German Foreign Minister, Mr. Westerwelle, stressing that "Kosovo was an individual case, under specific historical conditions, and that no precedent had been set". Divisions on Kosovo issue within UN SC member states influenced the same to the European Union, forcing to leave it up to each member state to decide whether to recognize Kosovo's independence.

The recognition by more than half of the world's countries and Western democracies, the establishment of democracy, membership of international and regional organization within only eight years of existence appear as successful outcomes when compared to other secessionist cases such as those of Abkhazia, Nagorno-Karabakh, the Turkish Republic of Northern Cyprus, South Ossetia, or even the Palestinian case, recently recognized by the Vatican.

Why remaining five states took contrary position of that of 23 EU members? Are majority of EU states breaching international order? Have they settled to being the guardians of international law through non-recognition of Kosovo as a state? Or, is there a mistake done by Kosovo

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and history" (Popescu, 2011), but also the Albanians share the same religion, traditions and history of being occupied, except for the fact that they are not Slavs (like the Serbs).

politicians that they misperceived the role of some small EU countries on their readiness to follow the decisions of EU main powers and US, not outreaching them diplomatically? How it is that NATO members, participating in bombing campaign against Serbia, did not recognize Kosovo independence?

Spain's participation in the Balkans has been in line with the general framework of the international community's intervention for maintenance of peace. Spain has also participated actively in peace operations in Kosovo for ten years, after the NATO intervention. Spain had a military personnel with 600-800 soldiers deployed in Kosovo, but lacking to present diplomatically. Spanish Foreign Minister Moratinos stated on 18<sup>th</sup> February 2008 that "the Spanish government will not recognize the unilateral act proclaimed yesterday by the Kosovar assembly, and it will not recognize it because we do not believe it respects international legality... The Spanish government has always defended respect for international legality. It defended it when it decided to withdraw troops from Iraq, and it defends it again now when talking about the secession of a state... If you examine the nations who are against this recognition, they are the countries that know best and are the most similar to the West Balkans." (Global Security). When Russian leader Putin accused EU for application of double standards related to Kosovo and Spain where "people do not want to live under the same state", Spain Vice-president, de la Vega, replied that the situation "is no way comparable to that of Spain", recognizing the different circumstances (i Fanes 2011: 11). According to Spain officials, Kosovo's independence would be legal if brought about by a new UNSCR or by a negotiated agreement between the parties, and that Spain wished to uphold the international principle of territorial integrity (Global Security org.). The distinguishing factors between Spain and recognizer countries are domestic politics, including the existence of secessionist challenges faced by Spain and the proximity of a particularly tight election contest, commitment to international law, Europeanism, and a certain distance from everyday events in the Balkans (Fanes, 2011, p. 13). But, not all in Spain share official fillings or considers the Kosovo case differently than that official one, as are nationalist parties in the Basque and Catalonia which with sympathies look at Kosovo independence. Professor of international law at the University of Barcelona, Jaume Saura recognizes that "Catalonia and the Basque Country are completely different cases to Kosovo.

Official Slovak policy, declared back in February 2008, doesn't recognize the independence of Kosovo. This policy course has not changed even after opinion by The International Court of Justice in the Hague on 22 July 2010, according to which the declaration of independence of Kosovo was not in breach of international law. "The position of Slovak Republic is based upon the declaration of the Parliament of Slovak Republic from 28 March 2007. Slovak Republic believes that the principle of territorial integrity of the state forms the basic principle of international law, on which international community is built and operates according to" (Slovak Ministry of Foreign Affairs, 2010). The only parliamentary party supported Kosovo's independence in February 2008 was that of Hungarian minority in Slovakia. Within Slovakian opinion is spread lurking filing that Hungarian minority living in the south is threat to state interests, as they still plan to break away and become part of Hungary. This minority makes up at least 10% of the total population of Slovakia, with some areas in the south of Slovakia that have more than 40% of their population who are of Hungarian ethnicity. Elected President of Slovakia, 2014, Andrej Kiska believes, contrary to his predecessor Robert Fico that his country should change direction and recognize the independence of Kosovo (De Gauna, 2014).

According to official Romanian un-recognizer stance to Kosovo independence, there are two main reasons behind, Kosovo within Romanian foreign policy and Romania's domestic political situation, linked with the internal and external interest of the state (Popescu, 2011, p. 53), as shared history of resistance against invaders, shared orthodox religion, sympathy towards the Serbs, relatively friendly border relations with Serbia comparing with other neighbors... Fear that 1.3 million (census 2011) Hungarians concentrated in Transylvania will take the same path as Albanians in Kosovo is determining Romanian not-recognition policy. The same policy followed also after the ICJ delivered its opinion on regularity of independence declaration, against which Romanian foreign policy was engaged during testimony at the ICJ.

Greece opinion on Kosovo developments even during the NATO campaign was that of negative stereotypes, as it was to US, NATO, the EU, contrary to the view toward the Serbs. (Armakolas and Karabairis, 2011, p. 95). Official position by Greece was complex, between pro Serbian populism and possible marginalization from the belonging organizations, EU and NATO, in case of being associated with Serbia. In such

environment, Greece facilitated and to some degree participated at NATO operations, opened air space, ports and other facilitation for military use and actively engaged at humanitarian endeavors, including hosting refugees. As to other EU non-recognizers, the fear that the same model will be applied to the Cyprus, Greece refusal to recognize Kosovo has remained intact, but developed significant and constructive relations, including diplomatic ones. The interrelated arguments not to recognize an independent Kosovo, "can be divided into those that plead for respect of international law and those which express concern about setting a precedent for other unilateral acts, and the potential implications these might have on global security." (Armakolas and Karabairis, 2011, p. 114).

Contrary to Greece, Cyprus has neither formal nor informal relations with Kosovo, attitude based on political, historical, cultural and economic considerations (Kentas, 2011, p. 124). The policy of non-recognition by Cyprus of Kosovo is based on the possible implications related to Turkish population whom declared independence in 1993 at the northern part of the Cyprus Island, although noting that those two issues are different.<sup>6</sup>

Remaining states would have to recognize Kosovo in order to avoid fragmenting the European and NATO unanimous voice or it would have to stand as a dividing factor in a crucial issue for organizations. If divided European policy toward recognition of Kosovo continues, the new country will suffer achieving EU economic and political standards. Policy of keeping close eyes on the Kosovo developments by five EU members will exclude most of them from the process of decision making in the Balkans region. Dissonant voices weakens EUs approach, makes its efforts in the region less effective, represent the democracy deficit within the EU as a supranational organization through a nationalization (vetoing) of the European politics, instead of the contrary, the Europeanization of national politics. Kosovo and regional prosperity should be subjected to minimum required standards and not to a higher threshold or barriers. Taking in consideration the geopolitical circumstances, UE Foreign Policy should accelerate with the policy of integration of the whole Balkan region, because of possible implications by Russia.

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<sup>6</sup> Statement of the Cyprus MFA concerning the Advisory Opinion of the ICJ on the unilateral declaration of independence by Provisional Institutions of Self-Government of Kosovo, July 22, 2010.

The majority of Kosovo's people are aware that radical solutions of being together with Albania might be provoking new turbulences in the region. Kosovo's society and institutions are working very hard to reach high standards for minorities, and every attempt towards unification with Albania will be counter effective. In this context, the solution of an independent Kosovo is not the best one, but a rational and pragmatic one. This is in line with the answers to a survey conducted the by author, who asked 442 students from different Kosovo universities about the rational options for the future of Kosovo. 66.5% of them were in favor of the integration of Kosovo within the EU, rather than for unification with Albania, as responded by 22.2% (Dalipi, 2014, p. 12). Recently, ex US Ambassador to Albania, C. Hill, stated that "I worked in Albania and later when I talked with Kosovo negotiator, I realized one thing better than others; Albania did not want to be a country with Kosovo; I realized that there were two countries with their own future. I never worry as other foreigners on the creation of Greater Albania" (Koha Ditore, 2016).

The further postponement of the recognition of Kosovo and accession process to the Euro-Atlantic organizations will produce a wave of discontent among the Kosovo Albanian population. In this case, they will try to be accommodated mostly within the Albanian speaking environment in the Balkans, as an alternative to EU integration and in good relations with other countries. Frequent protests by Kosovo citizens are not only a sign of discontent with the government performance, but also with the EU's lack of coherence regarding the Kosovo issue..."efforts to keep Kosovo status in balance are a recipe for further instability, stagnation, and ethnic divisions in Kosovo and in the region. Only when Kosovo's independence is declared and recognized will the necessary conditions be put in place for achieving broader regional stability necessary for progress towards the EU accession" (Grgic, B. 2005).

No state in Europe can survive in isolation, as is Kosovo today. Alternatives such as partition or decentralization with any form of decisive involvement by the Serbian government within Kosovo will protract and not solve the existing disputes. The insistence of EU policy on prioritizing Serbia's ambiguity towards both the East and West contribute to the deepening of ethnic cleavages between the Serb and Albanian communities in Kosovo. "There is no doubt that enlargement fatigue threatens our societies with patience fatigue [...] Albanians are not dreaming of Great Albania, but we are dreaming of big Europe that will include all Albanian

territories" (Zëri, 2014), said Albanian Prime-Minister Rama during his visit in Belgrade, sixty-eight years after the last visit (1946) by ex-Albanian leader Enver Hoxha.

Incidents during the interrupted football match between Serbia and Albania (2014), the declaration by the Serbian minister in the Kosovo Government referring to missing people's mothers as "savages" are signs of the still existing negative stereotypes among the two peoples and of the unfinished task on settling the peace in the region (Reuters, 2015). Peace cannot be built on extreme feelings, activities and expressions, but on the contrary, through a moderate and tolerant approach to the common future by all ethnicities in the region. **Continuation of the non-recognition policy is going to send a series of possible messages to both Albanian and Serb political and religious radicals and to other non-recognizing countries in the world, such as:**

- The possibility of returning Kosovo under Serbian rule, stimulating ignorance over the existence of Kosovo institutions and the will of the majority of its population;
- The idea that Albanians are not accepted by the Europeans because of their main religion, as the Serbian Ambassador Darko Tanaskovic called for a "wider Christian front" to oppose Kosovo's membership to UNESCO (Hashim Thaci, UNSC);
- Kosovo should not be oriented toward the West democracies but policies based on Islam to which faith most of the Albanians belong;
- The idea that the war is not yet finished and they must prepare to continue the war for the unification of Kosovo with Albania as the EU is not interested in them; and,
- The different attitude by EU countries toward Kosovo's independence will discourage the hesitant states in the world to decide recognize Kosovo's independence.

While Kosovo is fully determined toward EU integration, other Balkan countries policy<sup>7</sup>, are oscillating. Serbia, Bosnia and Herzegovina and

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<sup>7</sup> The participation of high rank politicians from Serbia (President Nikolic), Macedonia (President Ivanov) at the anniversary of the end of World War II in Moscow, protests against NATO in Belgrade on March 2016, determined pro Russian policy by M. Dodig, through Referendum at Republika Srpska... are signs of their uncertain policy toward Western democracies. Serbia is an observer at the Collective Security Treaty Organization (CSTO) led by the Russian Federation. (<http://www.odkb-csto.org/news/detail.php?>

Macedonia's foreign policies are two-folds: stretched between their intentions to join the EU and thus harmonize their foreign policy with the Common Foreign and Security Policy of the European Union on one hand, and on the other, to avoid disruption of existing relations with the Russian Federation (Đukanović, 2014). There is a paradox: Kosovo is unequivocally a pro-Western and pro-Euro-Atlantic country as recently shown by Kosovo government reactions against annexation of Crimea and applying the sanctions against Russian Federation (Ministry of Foreign Affairs, Prishtina, 2014a), but EU is moving slowly in fulfilling the will of Kosovars. As Gautam wrote "Radicals may play on the sentiment that the West simply does not want Kosovo, while highlighting the sense of belonging and involvement that comes from participation in ISIL." (Gautam, 2016). For this reason, continued efforts at integration would prove useful in thwarting the growth of radicalization and recruitment in Kosovo. The policy of stricter standards and additional requirements for Kosovo (not for others, such is condition for visa liberalization the border demarcation with M. Negro) will produce a certain level of discontent within the majority in the country and a growing radicalism. Radicalism among Kosovo Albanians and the Serbs will produce a growth of the radical movements in the region with interethnic relations and social cohesion deficit, destabilizing it, and returning to the situation of the pre-war period. Hence, the peace-building efforts and achievements will be affected. Finally, the policy of not recognizing Kosovo's independence by five EU remaining countries is not fully beneficial even for the Serbian people and policymakers, who will face difficulties in the process of EU integration. On the contrary, they will understand that they cannot run alone against integration processes and geopolitical circumstances.

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ELEMENT\_ID=1776). Macedonia's behavior in the name dispute with Greece and its internal politics, especially towards the Albanians, who make up around 30% of the population, are producing a fragile situation in the Balkans. High rank political positions distribution among nationalities in Macedonia and implementation of Ohrid Agreement should contribute to sustainable peacebuilding. The constitutional and practical equality of Macedonians and Albanians in Macedonia are guarantees for the prosperity of the country.

## 6. Conclusion

The final process of secession of Kosovo from Serbia seems to be challenging for both countries. The key factors in the achievement of Kosovo's independence were its political coherence and close relationship with the West democracies since the end of Cold War, exercise of extreme violation acts by Serbia, and both, peaceful and military resistance by Kosovo people. After passing the international supervision phase in September 2012, Kosovo continues to develop a close cooperation with international actors in order to achieve a consolidated / mature statehood. As argued in the article, the non-recognition of the new state continues to be motivated by internal issues of respective states, interpreting international law differently with those whom recognized Kosovo.

Decades of rule from Yugoslavia/Serbia and establishment of international administration in Kosovo; the negotiation process led by the Special Envoy of the Secretary-General; the transition phase marked by the standards set by the international community with significant achievements; were additional points on which the international community based their recognition of Kosovo. Achievements on the state-building, establishment of democratic institutions, its close cooperation and compliance with the proposal offered by the UN special envoy and its inclusion in Kosovo's Constitution, the developing of the process of decentralization and the issue of respecting and cultivating the cultural heritage and human rights are the reasons on which Kosovo bases its call for more recognitions.

Kosovo's independence is accepted by the majority of its population as a compromise between being part of Serbia and the union with Albania, as rational one, contributing to regional stability. The EU must facilitate the process of recognition of Kosovo and speed up Kosovo's integration into Euro-Atlantic organizations/mechanisms to prevent interferences and interests from outside of Europe. As starting steps by the non-recognizers may be the opening of channels of contacts between civil societies, academia, media coverage of the Kosovo issue, public diplomacy activism, opening the offices which will coordinate cultural or (and) economic ties, recognize Kosovo travel documents. The admission in the regional political, economic, education, health, cultural and sporting events or organizations will impact on increasing tolerance.

The uniqueness of the Kosovo case could be accepted and settled through EU integration, which will contribute to real peace in the Kosovo-Serbian relations as well as EU and regional security. The course of EU foreign policy toward Kosovo should be that of a long-term peace-building solution.

Ignoring the existence and not recognizing Kosovo's statehood by the rest of EU countries and the remaining UN members are increasing potential for further destabilization of the region, undesirable for the Albanian majority population in Kosovo. At the same time, a policy of ambiguity and maintaining the hopes for returning Kosovo into Serbia are counterproductive. Talks facilitated by EU and determination not to block each other's progress on their EU and other organization membership are promising.

Refusing of Kosovo's earned sovereignty will raise the chances for Russian impact and for religious-affiliated organizations to take as much as possible ground in the fragile Balkan region, reorienting the process of peace-building in the wrong direction. This policy is sending wrong message to political and religious radicals looking for other solutions rather than being part of the EU. Dissonant voices on the Kosovo issue coming from the EU indicate a lacking unified foreign policy within complex supranational organization democracy. Domestic ethnic claims within non-recognizing countries prevail over the issue of recognizing Kosovo, and respect for international law is only rhetorical justification.

Also, the non-recognition policy of five EU member states cannot help Serbia's integration path and does not amount to concern for the people of Serbia. Kosovo's and Serbia's interdependent integration course and prosperity should not be a victim of such un-harmonized voices within the EU. Kosovo is showing matured capacity entering into international relations. It depends to the willingness of 5 EU non-recognized countries if the new European state could grow within a democratic environment or be a victim of antidemocratic ideologies and policies coming from the East.

To almost absolute ethnic Albanian homogeneity in Kosovo, comprising 95 per cent of its population, the highest in the region, should be allowed to determine their own destiny. Ethnic cleansing and atrocities by Serbia did not leave alternatives for the Kosovo people other than that of independence, as a logical result of the end of the Cold War in this part of Europe. It is the time that myths and legends must not lead modern development policies that Kosovo is special case and its independence

should be treated as a last resort. Kosovo is a State, because it meets all the international legal criteria for statehood, even functioning under internal and external pressures and challenges. Further postponing of 5 EU States' willingness to enter into official relations with a new created State of Kosovo may produce presented negative outcomes.

### List of References

- Armakolas, I. Karabairis, A. (2011). Greece - Kosovo A complex relationship, European, Kosovo Calling, *Kosovo Foundation for Open Society and British Council*. 2012. "Kosovo Calling". Available at: <http://kfos.org/wp-content/uploads/2012/04/Kosovo-Calling-ENG.pdf> [accessed 12 April 2015].
- Civil Ge. (2008). "U.S Rules Out Recognising S. Ossetia", 6 March. Available at: <http://www.civil.ge/eng/article.php?id=17273> [accessed 25 August 2015].
- Council of the European Union. 2015. ENLARGEMENT AND STABILISATION AND ASSOCIATION PROCESS – Council conclusions, Available at: <http://data.consilium.europa.eu/doc/document/ST-15356-2015-INIT/en/pdf>, [accessed 12 February 2015].
- Crawford, J. (2010). *The Creation of States in International Law*. Online version, <http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780199228423.001.0001/acprof-9780199228423>, [accessed 12 February 2016].
- Crawford, J. (2006). *The Creation of States in International Law*, Oxford: Oxford University Press, 2nd edition.
- Dalipi, S. et al. (2014). "A Unique Complex Peace-Building Process in Kosovo", at ed. Dalipi S. and Luzha B. "15 Years of Peacebuilding in Kosovo, Lessons Learned for the Region and Beyond", p. 12. Iliria College and Friedrich Ebert Stiftung-Prishtina.
- De Gauna, R. H. (2014). Slovak President-elect favours Kosovo recognition. Available at: <http://www.nationalia.info/new/10231/slovak-president-elect-favours-kosovo-recognition> [accessed 12 December 2016].
- Gautam, B. (2016). From Pristina to Damascus – understanding Kosovo's fighters in Syria, *Transconflict*, available at: <http://www.transconflict.com/2016/09/from-pristina-to-damascus-understanding-kosovos-fighters-in-syria-269/> [accessed 7 October 2016].

- Fanes, J. V. (2011). *Spain's Position on Kosovo, Kosovo Calling*, KFOS & British Council.
- Hahn, J. (2016). *Stabilization and Association Agreement with Kosovo - Remarks by Johannes Hahn on behalf of the HR/VP at the EP Plenary, Strasbourg, 20 January 2016*. Available at: [http://europa.eu/rapid/press-release\\_SPEECH-16-122\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-16-122_en.htm), [Accessed 12 February 2016].
- Hehir, A. (2009). *Independence, Intervention and Great Power Patronage: Kosovo, Georgia and the Contemporary Self-Determination Penumbra*. *Amsterdam Law Forum*, [S.l.], v. 1, n. 2, p. 88-100, jan. 2009. ISSN 1876-8156. Available at: <http://amsterdamlawforum.org/article/view/65/121>>. [accessed 13 February 2016]. 31.
- Global Security Org. *Spain - Foreign relations*. Available at: <http://www.globalsecurity.org/military/world/europe/es-forrel.htm> [accessed 12 February 2016].
- Đukanović, D. (2014). *The Process of Institutionalization of the EU's CFSP in the Western Balkan Countries during the Ukraine Crisis*. CIRR XXI (72) 2015, 81-106. Available at: [file:///C:/Users/Pentium-com/Downloads/CIRR\\_21\\_72\\_2015\\_Dukanovic.pdf](file:///C:/Users/Pentium-com/Downloads/CIRR_21_72_2015_Dukanovic.pdf) [accessed 3 August 2015].
- Eckert, E. A. *Constructing States: The Role of the International Community in the Creation of New States*, Available at: <https://www.princeton.edu/jpia/past-issues-1/2002/2.pdf> [accessed 10 March 2016].
- "Fjalimi i plotë i Ramës dhe përgjigjet që ia dha gazetarëve", 2014. *Zëri*. 10 November. Available at: <http://zeri.info/aktuale/6303/ja-fjalimi-i-plote-i-rames-dhe-pergjigjet-qe-ia-dha-gazetareve-video/> [accessed 10 May 2015].
- Joseph, E. P. (2013). *"Kosovo's Independence and Secessionist Movements: Dire Consequences or Benign Impact?" Secession Redux: Lessons for the EU'*. Available at: [http://www.utexas.edu/cola/centers/european\\_studies/\\_files/PDF/Secession%20Paper%20Joseph.pdf](http://www.utexas.edu/cola/centers/european_studies/_files/PDF/Secession%20Paper%20Joseph.pdf) [accessed 12 March 2015].
- Kentas, G. (2011). *Position Paper on Kosovo, Kosovo Calling*. *Kosovo Foundation for Open Society and British Council*. 2012. *"Kosovo Calling"*. Available at: <http://kfos.org/wp-content/uploads/2012/04/Kosovo-Calling-ENG.pdf> [accessed 12 April 2015].

- Malanczuk, P. *Akehurst's Modern Introduction to International Law*, London: Routledge 2006, p. 79.
- Ministry of Foreign Affairs, Prishtina, 2014a. Government of the Republic of Kosovo imposes sanctions on Russian Federation. Available at: <http://www.kryeministri-ks.net/?page=2,9,4452> [accessed 19 October 2015].
- Mogherini, Federica (2016). Statement by High Representative/Vice-President Federica Mogherini following the meeting of the EU-facilitated dialogue, Brussels, 27/01/2016, 160127\_02\_en. Available at: [http://eeas.europa.eu/statements-eeas/2016/160127\\_02\\_en.htm](http://eeas.europa.eu/statements-eeas/2016/160127_02_en.htm), [accessed 11 February 2015].
- Oppenheim, F. L. (1912). *International Law. A Treatise. Volume I. Sec. Ed.* Gutenberg Ebook. (2010).
- Popescu, O. (2011). "The Current State of Relations Between Romania and Kosovo and Prospects For Evolution", *Global Focus*, Bucharest, 2011, At *Kosovo Calling*, 2012. Available at: <http://kfos.org/wp-content/uploads/2012/04/Kosovo-Calling-ENG.pdf> [accessed 15 September 2015].
- Recognition, Stanford Encyclopedia of Philosophy, (2013), available at: <http://plato.stanford.edu/entries/recognition/>, [accessed 18 march 2016].
- Slovak Ministry of Foreign Affairs, (2010). "MZV SR on the opinion on Kosovo's independence "Ministry of Foreign Affairs of Slovak Republic, 22 July 2010; <http://www.mzv.sk/App/WCM/main.nsf?Open>.
- Sebastián, S. (2010). *Spanish Foreign Policy in the Balkans: Wasted Potential*. FRIDE.
- Security Council Report. (2015). Speech at UNSC 7510 meeting, p.12/30. Available at: [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_pv\\_7510.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_pv_7510.pdf) [accessed 15 September 2015].
- Weller, M. (2008). "Negotiation the Final Status on Kosovo". *Chaillot Paper*, no. 114. Available at: <http://www.iss.europa.eu/uploads/media/cp114.pdf> [accessed 21 April 2015].
- Wilde, R. (2010). *Recognition of States: the Consequences of Recognition or Non-Recognition in UK and International Law*, Chatham House.

Worster, W. T. (2009). Law, Politics, and the Conception of the State in State Recognition Theory, *Boston University International Law Journal*, Vol. 27:115, 2009.

