

A Dangerous Precedent? The Political Implications of Kosovo's Independence on Ethnic Conflicts in South- Eastern Europe and the CIS

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DOI: [10.1163/187502309789192496](https://doi.org/10.1163/187502309789192496)

Introduction: The Kosovo-precedent formula

Kosovo's declaration of independence on 17 February 2008 has re-ignited debates about the interaction among the fundamental international legal principles of self-determination, sovereignty and territorial integrity. The question of conformity with international law was interrelated to scenarios on the political implications of secession and the consequences of the recognition of Kosovo's sovereignty for long-standing autonomist and secessionist conflicts. Western governments and regional organizations that supported Kosovo's demand for independence argued that it is a *sui generis* case. But even within the European Union (EU) this argument was not accepted by all member states and there was no common position among them. Some of them feared the case of Kosovo as a precedent for secessionist conflicts on their own territories.¹ Indeed, the Basque government welcomed the developments in Pristina as a new example of the right for self-determination. In Eastern Europe, especially Russia renounced the *sui generis* argument and hinted at the Kosovo issue as a precedent for unresolved ('frozen') secessionist conflicts in the Countries of Independent States (CIS)-space where Moldova, Georgia and Azerbaijan were involved in conflicts over breakaway regions like Transnistria, Abkhazia, South Ossetia and Nagorno-Karabakh.² And in the direct neighborhood in South-Eastern Europe, most of the states were struggling between external pressure by the EU and the USA to support the independence and fears of creating a precedent which might motivate minority groups and secessionist movements to radicalize. Moreover, Kosovo itself remains a fragile state with separatist movements in the Serb-inhabited area north of the Ibar River and the danger of partition which would create new borders and thus potentially even a new precedent case.

The high danger of destabilization of the international system, which lies in Kosovo's declaration of independence and an eventual partition of the country, is directly connected to the missing consensus of the international community in dealing with questions of secession, self-determination and territorial integrity. The High Commissioner on National Minorities (HCNM), one of the OSCE's most successful conflict prevention instruments in the OSCE area, recognized the risk that the Kosovo declaration as well as the armed conflict in the Caucasus 'could set a dangerous precedent'.³ In October, he issued the 'Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations' with the intention to clarify on how States should pursue their legitimate interest with regard to national minorities. He offered guidelines to states with a high portion of national minorities and to kin-states to prevent the worsening of inter-state relations due to conflict over the rights of national minorities.⁴ Although these recommendations are neither legally nor politically binding, they are a valuable initiative and show the increasing interest of international agencies to deal with such sensible questions.

After more than one year, the following article takes a closer look at the political developments and elaborates on whether the unilateral declaration of independence of Kosovo had a precedent-setting impact in South-Eastern Europe and in CIS respectively, what kind of political implications the question of recognition of this

1 A. Akcakoca, T. Vanhauwaert, R. Whitman and S. Wolff, After Georgia: conflict resolution in the EU's Eastern Neighbourhood, European Policy Centre, April 2009, p. 9.

2 Cf. A. Mitic, Lessons Learned, Transitions Online, 18.03.2008.

3 Organization for Security and Co-operation in Europe/High Commissioner on National Minorities Knut Vollebaek, Statement to the 742nd Plenary Meeting of the OSCE Permanent Council, Vienna, 27 November 2008.

4 Cf. Organization for Security and Co-operation in Europe/High Commissioner on National Minorities Knut Vollebaek, Welcoming remarks at the Launch and Conference of the 'Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations', Bolzano/Bozen, 2 October 2008.

independence had in ethnic conflicts.⁵ Was the Kosovo independence really a dangerous precedent? Were there any domino or imitation effects? In the first part, the article takes a closer look at developments in South- Eastern Europe, especially in the multi-ethnic provinces Transylvania, Vojvodina and South Serbia and the multi-ethnic states Macedonia and Bosnia and Herzegovina. In the second part, Russia and its policy in the CIS come into focus, with an emphasis on the secessionist conflicts in Abkhazia and South Ossetia, where the Kosovo-precedent formula had its biggest impact.

Disintegration on hold: The implications in South-Eastern Europe

The dissolution of Yugoslavia and the regime changes that took place in 1989/1990 left several states struggling with ethnic conflicts or fragile statehood, which are therefore vulnerable to external destabilizing spillover effects. In nearly all multi-ethnic populated regions or states over the past twenty years, ethnic confrontation has resulted in violent conflicts but are more or less regulated today. Territories who are prone to separatist movements due to the large portion of national minorities include the Serb populated areas in Croatia (Eastern Slavonia and the Krajina), the Sandžak, a mostly Bošniak inhabited region in Montenegro and in Serbia, the Transylvania region in Romania, the Vojvodina province and the Preševo-Valley in Serbia. In Sandžak and in the Serb populated areas in Croatia, the Kosovo-declaration of independence had only minor political implications. The small Serb community in Croatia warned its Government against recognition,⁶ but when on 19 March 2008, Croatia finally recognized Kosovo, the Serb party SDSS⁷ opted to stay as junior partner in the coalition Government of prime minister Ivo Sanader to avoid any further deterioration of inter-ethnic relations in Croatia.⁸ Both regions will therefore not be examined in detail. In Transylvania, Vojvodina and the Preševo-Valley the political atmosphere was, for a short term, tense. However, the declaration of independence had no serious destabilizing effect there. Macedonia, with a large portion of ethnic Albanians as well as Bosnia and Herzegovina, with a decentralized constitutional structure including three constituent peoples, were strongly affected by increasing inter-ethnic polarization in 2008 and are still threatened by a risk — though minor— of disintegration. But contrary to expectations, these tensions are to a large extent the result of worsening internal political relations. Rather than for reasons of separatism, the Kosovo-declaration of independence was an opportunity for ethno-political entrepreneurs to profit from a heated political atmosphere. One of the main reasons why rising tensions in the whole region did not result in (violent) conflict escalation was the Europeanization of the region. With its Common Foreign and Security Policy, the Stabilization and Association process and the Enlargement policy, the EU has built up a dense network of conflict regulation instruments, be it Special Representatives or civil and military missions of the European Security and Defense Policy. Even before Kosovo's declaration of independence, the EU unanimously agreed to deploy its largest civilian mission in Kosovo, the EULEX mission, to enforce a multiethnic policy and rule of law in the country. One of the most important moderating factors is the credible membership perspective offered to the SEE countries which has been the most influential reform motivator in the region in the last ten years.

5 The following article does not discuss the question of legality; to this question cf. Ch. Schaller, 'Die Sezession des Kosovo und der völkerrechtliche Status der internationalen Präsenz', in Archiv des Völkerrechts, vol. 46, no. 2, pp. 131-171; or Ch. J. Borgen. 'Kosovo's Declaration of Independence: Self-Determination, Secession and Recognition', in American Society of International Law: ASIL Insight, February 2008, under <http://www.asil.org/insights/2008/02/insights080229.html> (24.05.2009).

6 Catherine Philp, Overseas news: West welcomes a new neighbour as angry Serbs look East for help, The Times, 19.02.2008.

7 Samostalna demokratska srpska stranka - Independent Democratic Serbian Party.

8 P. Jureković *Kroatiens Kosovo-Politik in Südosteuropa*, 2008, vol. 56, no. 3, pp. 429-434.

Transylvania, Vojvodina and Preševo-Valley

Transylvania is a region with a high proportion of ethnic Hungarians in Romania, and a member state of the European Union, has been the most stable ‘conflict- region’ in South-Eastern Europe for years. In March 1990, ethnic tensions escalated into a violent conflict, which was regulated by directive mediation by the international community. With the Democratic Union of Hungarians in Romania (UDMR),⁹ Hungarians received strong political representation. The party has been integrated into coalition Governments in Bucharest since 1996. Nevertheless, the Romanian ruling party worried that the independence of Kosovo could entail negative political developments. The main argument for Bukarest’s refusal to recognize Kosovo as a new state was the concern that Kosovo could serve as a precedent for separatist movements in the country.

Hungarians as well as Romanians became nervous in the course of the declaration of independence and for a short term, tensions rose. The reasons for this noticeable political destabilization can be found in the situation of the ethnic Hungarians on the one hand, but are on the other hand related to power politics and radicalization. On 18 February 2008, the Romanian Parliament passed a resolution stating that the independence of Kosovo cannot be interpreted as a precedent case comparable to the situation of the ethnic Hungarians with a majority of 357 votes against the 27 votes of the Hungarian minority. Congratulations to Kosovo by Hungarian representatives provoked harsh reactions in the Parliament. Only the national-liberal party of Prime Minister Popescu- Tăriceanu spoke out rather cautiously, since the party did not want to put the coalition with UDMR at risk. The UDMR for its part also advanced a rather moderate position: Kosovo should not be understood as a precedent for secession but for the respect of the democratic rights of minorities. It dismissed the parliamentary resolution with reference to the deteriorating situation of ethnic Hungarians since Romania’s accession to the EU. Though the UDMR is a moderate political force, it is increasingly pressured by radical Hungarian forces. The president of the ‘Hungarian National Council of Transylvania’ attacked the UDMR for its moderate position and characterized Kosovo as a clear example for the territorial autonomy of the Székely Land, a part of Transylvania. But in the end, radical forces could not win popular opinion and the victory of the moderate UDMR in local elections in June 2008 calmed the political atmosphere. Thanks also to successful conflict regulation by the international community and Europeanization effects in the longer term, Kosovo could not permanently impact the inter-ethnic relations in Romania.¹⁰

Vojvodina is an autonomous province in the north of Serbia bordering Hungary, Croatia and Romania — states who are guarantors of stability in South- Eastern Europe. A variety of minorities inhabit the region, the largest one being the Hungarian minority with a proportion of around 17% based on the census of 2002. The population in the province is mostly of Serb ethnicity (65%). The most important political issue with a potential of destabilization is autonomy, which was largely restricted by Milošević in 1989/1990 and is still only limited to some economic aspects. The political debate about a new statute for the province has not yet been finalized. Demands by political parties representing the Vojvodian minorities are focused on enhanced autonomy rights and self-government but do not imply territorial reconfigurations. The territorial integrity of the Serbian state is not put into question.¹¹

9 Uniunea Democrată Maghiară din România – UDMR; in Hungarian: Romániai Magyar Demokrata Szövetség, RMDSz.

10 Á. Buzogány, ‘Rumäniens Kosovo-Komplex zwischen doppeltem Präzedenzfall und EU- Verpflichtungen: Siebenbürgen, die Republik Moldau, Transnistrien’ in Südosteuropa, 2008, vol. 56, no. 3, pp. 441-448.

11 Cf. Irena Ristić, ‘Das politische System Serbiens’, in W. Ismayr (ed.), Die politischen Systeme Osteuropas, Wiesbaden, forthcoming.

The declaration of independence of Kosovo had nearly no negative ramifications for the stability of the Vojvodina province. To the contrary, based on the parliamentary and municipal election results in 2008, one could even conclude that the population of Vojvodina is deeply interested in a continuing pro-European and pro-democratic course in Belgrade. The polarized electoral campaign between Kosovo and Europe forced the voters to position themselves clearly. The Serb Radical Party, campaigning against European values, lost votes and was marginalized in the region. Some observers even interpret the electoral victory of pro-European forces in May 2008 as a clear signal that the province is again committed to its traditional civic values after years of political turmoil.¹² Even though this assessment seems to be rather euphemistic, it is extremely unlikely that the status of the Vojvodina region will be changed in the longer run, unless the whole Balkan region drifts apart.¹³

Southern Serbia's Preševo-Valley — for Albanians 'Eastern Kosovo' — is bordering Kosovo and Macedonia and mainly inhabited by Albanians (ca. 60.000). Albeit afflicted with doubts concerning the validity, according to the census 2002, the Albanian proportion is 89% in Preševo, 55% in Bujanovac and 26% in Medvedja, the three municipalities in the valley. The Preševo-Valley is the most vulnerable region for destabilizing effects spilling over from Kosovo. In 2001, a seventeen-month low-grade insurgency by ethnic Albanians was settled by a detailed agreement with goals and timelines for the reform of public institutions and the integration of ethnic Albanians (the so-called Čović-Plan).¹⁴ Since the beginning of the status negotiations of Kosovo, the region was used as bargaining chip by both sides to upgrade their own bargaining position. Though publicly denied, the exchange of territories (the Serb-inhabited north of Kosovo for the Albanian-inhabited south of Serbia) was on the table and still cannot be totally excluded in the mid-term.

The declaration of independence of Kosovo neither caused serious instability nor enforced secession efforts by ethnic Albanians in Preševo-Valley to join Kosovo. This moderate political implication can mainly be attributed to two reasons: Internally, the implementation of the Čović-Plan enforced by the international community led to an end of human rights violations, significant decrease of tensions and progress with the integration of ethnic Albanians in police, judiciary and media. The daily inter-ethnic coexistence is functioning. Though Albanian elites often raise the issue of unification with Kosovo behind closed doors, 'for now, people are resigned to living in Serbia whether they like it or not.'¹⁵ Externally, neither the government in Belgrade nor the one in Pristina are interested in having a powder-keg. Belgrade prioritizes its diplomatic and political efforts to preserve the territorial integrity including Kosovo. Tensions with the ethnic Albanians in the south of Serbia would thus undermine these efforts. Belgrade controls the region with a large security force, which closely cooperates with the NATO Kosovo-Force (KFOR) safeguarding the border area in the neighboring Kosovo. Pristina, for its part, seeks legitimacy and recognition as a new mature state. Separatist movements in an Albanian populated area bordering Kosovo would add fuel to the fire of skeptics criticizing the independence would constitute a dangerous precedent for the region and be the starting point for the unification of all Albanian-populated areas to a Greater Albania. However, much more dangerous than independence is a potential partition of Kosovo which threatens to disrupt the Preševo-Valley.

12 D. Boarov, 'Die Vojvodina – europäische Identität trotz eingeschränkter Autonomie', in *Südosteuropa*, 2008, vol. 56, no. 3, pp. 376-389.

13 T. Judah, Could Balkan break-up continue?, BBC News, 22.02.2008.

14 Concerning the ethnic composition and history of conflict resolution cf. International Crisis Group (ICG), *Southern Serbia: In Kosovo's Shadow*, Europe Briefing No. 43, Belgrade/Pristina/Brussels, 27 June 2006.

15 T. Judah, Could Balkan break-up continue?, BBC News, 22.02.2008.

Macedonia and Bosnia and Herzegovina

Although the independence of Kosovo had a destabilizing effect in Macedonia and Bosnia and Herzegovina (BiH) it was not the cause of internal political tensions. Both countries are constitutionally multi-ethnic with two (Macedonia: Macedonians and Albanians) and three (BiH: Croats, Bosniaks, Serbs) constituent peoples, who predominantly live in a concentrated area, and have a consensus-based political system with power-sharing mechanisms offering spoiler-groups enormous veto-power. In both countries, the unresolved issue of state-building has impeded democratic consolidation.¹⁶ Therefore, in this setting the Kosovo-precedent formula and the question of recognition linked to this offered political entrepreneurs the opportunity to play the nationalist card and to profit from worst case scenarios of a disintegration of their country. In both countries, the international community played a crucial role by negating any precedent and denouncing extremist rhetoric. Especially in BiH, the moderating influence of the international community as an external player was crucial to avoid a vicious circle. But the Kosovo issue continues to influence political developments in both countries. The partition of Kosovo might speed up tendencies of federalization and further disintegration of both countries.

In Macedonia the independence of Kosovo coincided with other internal and external regressive political developments, which — reinforcing each other negatively — raised tensions between ethnic Macedonians and ethnic Albanians in the short term. At the summit of the North Atlantic Treaty Organization (NATO) in Bukarest in spring 2008, Greece vetoed the accession of Macedonia due to an unresolved name dispute. The name dispute and the Kosovo question are two issues which divide the country along ethnic lines and sharpened the polarization. While a large majority of ethnic Albanians would accept a change of the country's name and supported the recognition, a large majority of ethnic Macedonians opposed a change of the name and the recognition.¹⁷ Early parliamentary elections in June 2008 fueled the intra-Albanian power struggle. The elections resulted in violent confrontations and did not fulfill international standards. To make matters worse, the democratization and the EU integration process, which were the best guaranty for the coherence of ethnic groups in the country, have been stagnating since 2006.¹⁸

The Kosovo-declaration of independence caused 'enthusiastic reactions' among the Albanians who immediately demanded the recognition of the new state.¹⁹ The Macedonian governmental party VMRO-DPMNE²⁰ and the President were cornered by internal and external pressure but reacted carefully. As a candidate state for membership, the government will follow the common policy of the EU and NATO, said the then president Branko Crvenkovski in March 2008. However, 'the final decision and the timing will be made

16 Z. Daskalovski, 'The Independence of Kosovo and the Consolidation of Macedonia: A Reason to Worry?', in *Journal of Contemporary European Studies*, vol. 16, no. 2, p. 270.

17 B. Vankovska, 'Kosovo: Macedonia's Perspective', in *Südosteuropa*, 2008, vol. 56, no. 3, p. 414.

18 See for the recent developments International Crisis Group (ICG), *Macedonia's Name: Breaking the Deadlock*, Europe Briefing No. 52, Pristina/Brussels, 12 January 2009; and N. Gaber-Damjanovska and A. Jovevska, *Barometer - Current Events and Political Parties Development in the Republic of Macedonia*, No. 19, Friedrich-Ebert-Foundation Macedonia, Skopje, 2008.

19 N. Gaber-Damjanovska and A. Jovevska, *Barometer - Current Events and Political Parties Development in the Republic of Macedonia*, No. 18, Friedrich-Ebert-Foundation Macedonia, Skopje, 2008, p. 52.

20 Vnatrešna makedonska revolucionerna organizacija - Demokratska partija za makedonsko nacionalno edinstvo; Internal Macedonian Revolutionary Organization - Democratic Party for Macedonian National Unity.

mostly on assessments for protection of the country's national and state interest.²¹ Such a national interest was the swift final border demarcation between Macedonia and Kosovo. The beginning of the demarcation process based on the Ahtisaari plan, for which the only legal basis is Kosovo's declaration of independence, already signaled, in early July 2008, the de-facto-recognition of Kosovo prior to the formal step. In the beginning of October 2008, the Joint Technical Commission for demarcation of the border concluded the process of demarcation was in progress in a constructive spirit. In coordination with the government of Montenegro and as a consequence of the increased US/EU influence, Macedonia's Government finally gave its approval to the recognition of Kosovo.²² But the way of recognition itself reflected the interest of the Gruevski government to avoid any Macedonia-Albanian confrontation. The coalition agreement between the ethnic Macedonian party VMRO-DPMNE and the ethnic Albanian party DUI²³ from June 2008 allegedly already included the agreement to recognize Kosovo, but was never publicly confirmed. The government also delegated its constitutional authority to the parliament, but the parliamentary debate in the run-up to the recognition on the 9th of October was held in an almost empty plenum without the ruling party VMRO-DPMNE taking part.²⁴ The recognition itself has had a 'remarkably positive effect on ethnic Albanians' perception of Macedonia as their state'²⁵ and therefore stabilized the country immediately.

In hindsight, the independence of Kosovo increased the pre-existing inter-ethnic confrontation between ethnic Macedonians and ethnic Albanians. Political developments in Kosovo and in Macedonia will continue to be inter-linked closely in the near future.²⁶ But based on an assessment of the situation in May 2009, it is highly improbable that the polarization will lead to stronger secessionist tendencies in the short- to mid-term. The Albanian minority received comprehensive cultural and participation rights and is in its majority committed to the state. Albanian elites are neither interested in taking up arms to fight for political issues nor in undertaking (para)military activities against the government.²⁷ Inter-ethnic tensions and a risk of instability remain. These are nurtured by Albanians dissatisfaction with the implementation of the Ohrid agreement, by the unresolved name dispute with Greece, by an evanescent EU and NATO perspective and by the uncertainty about Kosovo's partition.²⁸

In Bosnia and Herzegovina, the negative impact of Kosovo's independence was the most evident in South-Eastern Europe. It added momentum to a deteriorating political climate and fueled nationalist rhetoric. However, referring to the regular monitoring by the United Nations Development Programme (UNDP), the worsening political situation did not spillover to inter-ethnic relations, which remained generally positive in

21 As quoted in N. Gaber-Damjanovska and A. Jovevska, Barometer - Current Events and Political Parties Development in the Republic of Macedonia, No. 18, Friedrich-Ebert- Foundation Macedonia, Skopje, 2008, p. 53.

22 Cf. N. Gaber-Damjanovska and A. Jovevska, Barometer - Current Events and Political Parties Development in the Republic of Macedonia, No. 19, Friedrich-Ebert-Foundation Macedonia, Skopje, 2008, p. 36f; and B. Vankovska, 'Kosovo: Macedonia's Perspective', in Südosteuropa, 2008, vol. 56, no. 3, p. 412.

23 Demokratska Unija za Integracija - Democratic Union for Integration.

24 B. Vankovska, 'Kosovo: Macedonia's Perspective', in Südosteuropa, 2008, vol. 56, no. 3, p. 415.

25 International Crisis Group (ICG), Macedonia's Name: Breaking the Deadlock, Europe Briefing No. 52, Pristina/Brussels, 12 January 2009, p. 5.

26 Z. Daskalovski, 'The Independence of Kosovo and the Consolidation of Macedonia: A Reason to Worry?', in Journal of Contemporary European Studies, vol. 16, no. 2, p. 276.

27 Ibid., p. 279.

28 International Crisis Group (ICG), Macedonia's Name: Breaking the Deadlock, Europe Briefing No. 52, Pristina/Brussels, 12 January 2009, p. 5.

2008.²⁹ There has been neither the break-down in government services nor an increase in inter-ethnic violence that many observers had feared.³⁰

The Kosovo-declaration of independence fueled the confrontation between the three constituent peoples (Bošniacs, Croats and Serbs) in their dispute about how the state of Bosnia and Herzegovina should be structured. While the Croats and the Serbs are striving for an even greater degree of federalization, the Bošniacs favor more centralization and are thus, pulling in the opposite direction. The current constitution, which was integrated in the Dayton Peace Agreement as Annex 4 in 1995, gives the three ethnic groups and the two state entities, the Bosnian-Croat Federation (51% of the territory) and the Republika Srpska (RS) (49%), far-reaching veto powers and prerogatives.³¹ Since 2006, the Prime Minister of the RS, Milorad Dodik, has constantly undermined state institutions on the central level and has not tired of demanding more independence of the RS. The independence of Kosovo offered a window of opportunity for RS elites to challenge the statehood of Bosnia and Herzegovina anew. On 26 January 2008, the ruling SNSD³² party adopted a set of conclusions claiming the right to self-determination. After Kosovo's declaration of independence, the President, the President of the parliament and the Prime Minister of the RS condemned the declaration of independence as a violation of international law and announced that they would block any attempt by the Bosnian parliament to recognize Kosovo.³³ At the same time, the RS used the Kosovo precedent to call for a secession of the RS. On 22 February 2008, the RS National Assembly passed a resolution proclaiming 'the right to determine a position on its legal status through ... a referendum'.³⁴ On 26 February 2008, organized protest marches in Banja Luka, the capital of the RS, ended in violence.

However, since these reactions in the RS were expected, they did not result in conflict escalation. As UNDP noted, the mere expectation of the declaration of independence already had a negative impact and raised the political temperature along with awareness in the country.³⁵ Afterwards, the political confrontation between leaders of the RS and the Federation resp. the central-state-level continued 'as usual' throughout 2008. Constant attempts by RS-Prime Minister Milorad Dodik to use the Kosovo-precedent formula for his threats of secession were answered immediately with protest by Bošniak politicians who denounced any link and called to abolish the RS completely. The international community, especially the Office of the High Representative (OHR) and the EU, were negating any link between the status of Kosovo and the status of the RS and tried to 'quiet' the emotions in Bosnia and Herzegovina.³⁶ The decision of the Bosnian Presidency not to recognize Kosovo in the foreseeable future finally contributed to reduce growing tensions.³⁷

29 UNDP Bosnia and Herzegovina, Early Warning System Annual Report 2008 Web Edition, Sarajevo, 2008, p.13.

30 International Crisis Group (ICG), Bosnia's Incomplete Transition: Between Dayton and Europe, Europe Report No. 198, Sarajevo/Brussels, 9 March 2009, p. 3.

31 S. Richter, The End of an Odyssey in Bosnia and Herzegovina: The Police Reform Smooths the Way to a Stabilisation and Association Agreement with the EU but Fails to End Stagnation, SWP Comments 2008/C 19, Berlin, August 2008.

32 Savez Nezavisnih Socijaldemokrata - Alliance of Independent Social Democrats.

33 V. Džihic, 'Bosniens Reaktionen auf die Unabhängigkeit Kosovos: Zuspitzung der Staatskrise', in Südosteuropa, 2008, vol. 46, no. 3, p. 425.

34 As quoted in International Crisis Group (ICG), Bosnia's Incomplete Transition: Between Dayton and Europe, Europe Report No. 198, Sarajevo/Brussels, 9 March 2009, p. 3.

35 UNDP Bosnia and Herzegovina, Early Warning System Annual Report 2008 Web Edition, Sarajevo, 2008, p. 17.

36 International Crisis Group (ICG), Bosnia's Incomplete Transition: Between Dayton and Europe, Europe Report No. 198, Sarajevo/Brussels, 9 March 2009, p. 18.

37 UNDP Bosnia and Herzegovina, Early Warning System Annual Report 2008 Web Edition, Sarajevo, 2008, p.62.

The Kosovo-precedent formula was mainly used by RS elites to consolidate the power of their entity internally. The seriousness of their announcement to realize the threat of an independence referendum is afflicted with doubts but cannot be totally excluded under certain circumstances. Belgrade, whose support the RS needs, plays a pivotal role. The pro-western government has had, thus far, a moderating influence and continues to constrain the RS' room for maneuver.³⁸ But nevertheless, 'the situation in Kosovo will continue to be a source of instability with special echoes in BiH politics.'³⁹

Selective instrumentalization: Russia's use of the precedent-formula in the CIS

Russia made use of the Kosovo-precedent formula selectively, mainly as an instrument of pressure against Georgia and not so much in the case of Azerbaijan's Karabakh conflict and in the Transnistrian conflict.

Transnistria and Karabakh

Russia's involvement in the Karabakh conflict is different from that in Georgia's conflicts with Abkhazia and South Ossetia as well as from Russian politics toward Moldova's conflict with the Dnestr region (Transnistria). In the Karabakh conflict, Russia was much less directly involved and didn't hold a monopolist position as 'peacekeeper' as it did with its peacekeeping troops in Transnistria, Abkhazia and South Ossetia. It holds, together with the United States and France, the co- chairmanship of the Minsk Group within the Organization for Co-operation and Security in Europe (OSCE), which has been the main mediator in this conflict since 1992. Though Russia has a close security relationship to Armenia, it is not putting pressure on Azerbaijan or acting as a 'party to the conflict' as in the case of Georgia, where it clearly supported the separatist governments against the Georgian government.

In the Transnistrian conflict, Moscow also stood on the side of the separatist 'party to the conflict' extending financial and political support to the Transnistrian authorities and keeping its 14th army (currently around 1,200 troops) stationed in the breakaway region. But with the Moldovan government's commitment to neutrality, which marks a relevant difference to the Georgian foreign and security policy, Russia changed its stance and is supporting a peaceful settlement by reuniting the 'parties to the conflict' in a confederation.

Georgia

The Kosovo precedent had its deepest impact on the unresolved secessionist conflicts of Georgia and the bilateral relations between Georgia and Russia. On the way to the August war of 2008, this bilateral relationship and the escalation around Georgia's unresolved regional conflicts on Abkhazia and South Ossetia were overshadowed by two supra-regional developments and topics. One was Kosovo's declaration of independence and its ensuing diplomatic recognition by around fifty states. The other was the NATO procedure for a decision on a Membership Action Plan (MAP) for Georgia (and Ukraine). Both topics constituted challenges for Russia's Weltanschauung in a post-bipolar world as Russia has felt deeply wounded over the years by NATO's continued enlargement. And the dispute on Kosovo's independence brought Russia emotionally back to the year 1999 when it perceived the 'NATO-war in Yugoslavia' as a fundamental challenge to its own position in the international system.

38 Jelena Obradovic, Kosovo: One Year On, ISS Opinion, Paris, February 2009, p. 2

39 Ibid.

In January 2006, President Vladimir Putin called for universal principles to settle the ‘frozen conflicts’ in the CIS. He insisted: ‘We need common principles to these problems for the benefit of all people living in conflict stricken territories...If people believe that Kosovo can be granted full independence, why then should we deny it to Abkhazia and South Ossetia?’⁴⁰ This line of argument became official Russian policy. In June 2006, the Russian Foreign Ministry reacted to Montenegro’s referendum on whether it should end its union with Serbia and to Kosovo’s accelerated movement toward independence: ‘Moscow respects the principle of territorial integrity, but it points out that South Ossetia’s right to self-determination is an equally respected principle in the world community’.⁴¹

Moscow now had to establish that the main arguments the West was citing in favor of Kosovo’s independence also applied to Abkhazia and South Ossetia. The first argument was that the claim to independence was supported by a majority of those territories’ local population. The second was that ‘genocide’ had been committed there by forces of the ‘metropolitan state’. In order to support the second argument, Russian, North Caucasian and South Ossetian deputies held Georgia responsible for ‘genocide’ committed against Ossetians in 1920 and again in the secessionist conflict of 1989-1992.⁴² This line of argument was strongly supported by the first Russian statements on the Georgian artillery offensive on Tskhinvali in August 2008, which was presented as a Georgian ‘genocide’ of Ossetians and cost the lives of 2,000 people. In ensuing weeks, the number of victims of the offensive had to be dramatically revised downward. A few days before the war, the Ossetian news agency ‘Osinform’ had published a ‘genocide’ version according to which Georgia was preparing a war with biological weapons for the annihilation of Ossetians and Abkhazians.⁴³

With Kosovo’s unilateral declaration of independence in February 2008 and its subsequent diplomatic recognition by several states the precedent formula gained strength. A few days later, on March 6, the Russian Foreign Ministry announced that it was lifting all economic sanctions against Abkhazia stipulated by a CIS agreement of 1996. In reality, Russia had begun to circumvent those sanctions as early as 1999. On April 16, President Putin ordered the Russian government to ‘work together with the de facto authorities of Abkhazia and South Ossetia to organize cooperation in the trade, economic, social, scientific-technical, informational, cultural and educational spheres, and also to enlist specific Russian regions in these efforts.’⁴⁴ Russia would now build relations with this de facto state as if it was a fully fledged subject of international law. A few days later President Putin justified these measures, which in international commentaries were characterized as Russian diplomacy’s final departure from recognizing Georgia’s territorial integrity, as ‘exclusively socioeconomic goals, which distinguishes them in principle from a number of countries’ politicized and unlawful decisions to recognize the unilaterally proclaimed independence of Kosovo-decisions which, as has repeatedly stressed, are precedent-setting in nature’.⁴⁵ The ‘presidents’ of Abkhazia and South Ossetia underpinned this formula with statements like ‘We have more political and legal grounds for recognition than Kosovo does’.

40 As quoted in A. Akcakoca, T. Vanhauwaert, R. Whitman and S. Wolff, *After Georgia: conflict resolution in the EU’S Eastern Neighbourhood*, European Policy Centre, April 2009, p. 26.

41 *Nezavisimaja gazeta*, June 6, 2006.

42 The escalation to war in Georgia’s South Ossetia conflict began in January 1991. Urban warfare in Tskhinvali lasted until June 1992. The war resulted in some 1000 dead, 100 missing, extensive destruction of homes and infrastructure and thousands of refugees and IDPs.

43 Quoted in *Caucasus Press*, 05.08.2008.

44 *Vremja Novostej*, April 17, 2006.

45 *Vremja Novostej*, April 22, 2006.

Thus, Russia kept the promise it made immediately after Kosovo declared independence to reassess its relations with unrecognized republics. But again, it made use of this precedent formula highly selectively. It was addressed against Georgia and closely connected to Georgia's NATO ambitions. But even after Kosovo's declaration of independence and the enhancing of Russia's Kosovo precedent formula Russian, Georgian and Western experts did not expect an imminent diplomatic recognition of Abkhazia and South Ossetia by the Kremlin. In one of his commentaries about Kosovo, President Putin had announced that Russia would not repeat the mistake the West made by formally legalizing a case of secession. On the international stage, and especially in Eurasian regional organizations like the Shanghai Organization for Cooperation, Russia strongly opposed separatism and assessed it (together with China) as one of the 'evil forces' challenging global security. Its own case of separatism in Chechnya Russia was suppressed with a maximum of military violence and had refused external criticism in regard to massive violations of human rights in the Chechen wars as interference to its sovereignty. In this context, an official diplomatic recognition of secessionist entities by the Kremlin would appear as a dramatic case of 'double standard' — the pattern of behavior with which Russia was reproaching the West. Georgian analysts believed that Russia was 'trapped' by its own strategy concerning the Georgian conflicts noting that, while Russia had been strongly supporting the separatist governments for over a decade, any move to formally recognize the territories would have far reaching implications for Russia and the neighboring autonomous entities within the Russian Federation.

This restraint finally vanished with the 2008 August war in Georgia. However, even before it officially recognized Abkhazia's and South Ossetia's independence on August 26, Russia had raised the bar so high in cooperation with the unrecognized republics that it would now be incredibly difficult for Georgia to advance any peace initiatives that its breakaway regions would find attractive.⁴⁶ One day after President Putin's ukaz on the close cooperation of Russian authorities with their counterparts in the two de facto states, a Russian newspaper quoted the Abkhaz 'Foreign Minister' Shamba with the following triumphant remarks: 'We can see the ribbon at the finish line on the road to our recognition. And we'll break that ribbon. We're not afraid of any backlash from Tbilisi. We're prepared for the fact that the situation in the conflict zone will heat up; Georgia may instigate that'.⁴⁷ President Saakashvili did instigate that with the offensive against Tskhinvali. He provided Russia with arguments for the completion of its policy toward the Georgian secessionist conflicts which, in Georgia itself, was characterized as 'not peacekeeping, but keeping in pieces'.

While the political developments and the statements by Russia using the precedent formula all too often were well known, the international community failed to prevent the outbreak of violence in Georgia and could only react to the escalation. The French presidency of the European Union assured a quickly orchestrated diplomatic effort and succeeded to deploy a Monitoring Mission. But compared to the Western Balkans where the membership perspective contributed to conflict prevention, the EU's policy towards the Caucasus is characterized by a rather soft stance to Russia and missing influential instruments in the European Neighborhood-Policy towards the CIS.

Secessionist conflicts in the CIS: comparable or sui generis?

Beside the dispute on the precedent for the legalization of separatism among experts of international law the Kosovo case pushed a discussion on the question how far unresolved ('frozen?') conflicts from Transnistria to

46 Mikhail Vignanski in Vremja novostej, April 17, 2008.

47 Quoted by Mikhail Vignansky in Vremja novostej, April 17, 2008, p.1.

Nagorno-Karabakh are comparable or *sui generis* with regard to their historical, ethno-territorial and political contexts.⁴⁸ On the one side, these conflicts share historical and structural roots mainly deriving from the Soviet territorial and nationality policy with its construction of ethno-territorial autonomies on different hierarchical levels. However, on the other side, they are very different in terms of:

- The ethno-demographic composition of the ‘conflict zones’ before the outbreak of the secessionist wars. In Abkhazia, the ‘separatist ethnos’, the Abkhaz population group, constituted a minority of 17.8% before the war of 1992-94 and the expulsion of the largest population group, the ethnic Georgian majority. In Nagorno-Karabakh there was a clear Armenian majority of more than 70% before the conflict became violent and drove the Azeri minority out of the conflict zone.
- The historical depth of conflict: In this regard the conflicts on Karabakh and Abkhazia have a much deeper historical background than the conflicts in South Ossetia and Transnistria.
- The degree of violence in the armed conflict phases: The Karabakh-war of 1991-94 belongs together with the wars in Chechnya (1994-96, 1999-2001) and the fighting in Tajikistan (1992-93) to the most violent conflicts of post-Soviet history with the highest number of victims. It dramatically differs in this regard from the conflict between Moldova and its breakaway Transnistrian region.
- The option of the separatist ‘parties to the conflict’ with regard to their independence as a state on its own or its union with a third state: Here South Ossetia has the clearest option for its integration into the Russian Federation.
- The potential for the independence of de-facto-states: In this regard there is already a clear difference between the two Georgian secessionist conflict cases. Abkhazia has much better economic, political, historical and geographic preconditions for its existence as an independent state than South Ossetia has.
- This list of *sui generis* criteria for each conflict could be continued. Kosovo, with its clear Albanian majority, was hardly transferable to Abkhazia in regard to its ethno-demographic composition. With its experience in ‘ethnic war’ it is not comparable to Transnistria. The Kosovo-precedent formula functioned much more as a political instrument than as a serious comparative method.

Conclusion: Kosovo and the creation of a ‘precedent case’

The Kosovo precedent was used by different actors in the Balkans and the Caucasus, especially by separatist forces in search for international recognition or consolidation of their power. But the most effective use of this precedent was made by a powerful external actor in the unresolved regional conflicts in the post-Soviet space and the wider Black Sea region, i.e. by Russia in its coercive diplomacy against Georgia. Russia at first was strongly opposed to Kosovo’s independence drive and was supported in this stance by all post-Soviet states which had problems with their territorial integrity – including Georgia. With the acceleration of this drive and its support by Western states on the one side and with the deterioration of Russian-Georgian bilateral relations, Moscow increasingly used the Kosovo-precedent formula for threatening Georgia with the

48 See for instance D. Tolksdorf, ‘The Kosovo precedent – applicable in many parts of the world, but not directly in the South Caucasus’, in *Caucasian Review of International Affairs*, 2008, vol. 3, no. 1, pp. 103-107; S. Schaeffer, ‘The Kosovo precedent – directly applicable to Abkhazia and South Ossetia’, in *Caucasian Review of International Affairs*, 2008, vol. 3, no. 1, pp. 108-110.

recognition of the separatist regimes in Abkhazia and South Ossetia. After the diplomatic recognition of these de-facto-states, Russia now assures the governments of Azerbaijan and Moldova that this recognition sets absolutely no precedent for other unresolved secessionist conflicts like those in Karabakh or Transnistria.

In South-Eastern Europe, the Kosovo-precedent formula has had its deepest impact in Bosnia and Herzegovina where it was used by RS-politicians to undermine the territorial integrity of the state with threats of an independence referendum. But in a nutshell, the independence of Kosovo had only minor destabilizing effects in the whole region. The crucial question for stability in the region will be the political future of Kosovo: Will it be able to preserve its territorial integrity? While Kosovo declared its independence and was recognized within the borders it had as a Serbian province and as an entity within Tito's Yugoslavia, the partition of Kosovo would create new borders and might thus constitute the precedent the countries in South-Eastern Europe fear the most. Macedonia, Bosnia and Herzegovina and the Preševo-Valley might be destabilized even more by Kosovo's partition than by Kosovo's independence. Uncertainty about the continuing disintegration of states keeps nationalist and separatist movements alive and hampers the consolidation of states in the region. Thus, the potential for further destabilizing effects of Kosovo's independence upon the region continues to constitute a risk. In view of this, external actors, who have so far been able to exert a moderating influence, play an important role. The promised EU-perspective is thus far the main guarantor of stability and the reform motor but is increasingly vanishing due to an enlargement fatigue and the constitutional debate. But the EU's internal political crisis weakens its capacity to positively influence the political path of these countries. This raises the importance of other conflict prevention mechanisms once again, and one will see if the Bolzano's recommendations of the HCNM may have a significant impact on the interstate and interethnic relations not only in South-Eastern Europe, but in the CIS as well.



This article was first published with Brill | Nijhoff publishers, and was featured on the Security and Human Rights Monitor (SHRM) website.

Security and Human Rights (formerly Helsinki Monitor) is a journal devoted to issues inspired by the work and principles of the Organization for Security and Cooperation in Europe (OSCE). It looks at the challenge of building security through cooperation across the northern hemisphere, from Vancouver to Vladivostok, as well as how this experience can be applied to other parts of the world. It aims to stimulate thinking on the question of protecting and promoting human rights in a world faced with serious threats to security.

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