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## KOSOVO INDEPENDENCY AND INTERNATIONAL STATUS IN THE 21<sup>ST</sup> CENTURY: ROLE OF POLAND AND CZECH REPUBLIC

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**Abstract.** This article is aimed to describe the process of Kosovo independence recognition, its main stages, chronology, and international status of Kosovo in 21th century under the scope of its economic and political engagement at the global arena through the reports and recommendations of international organization. Compliance of Kosovo state with the international criteria on the independency recognition is also presented in the article through overview of basic recognized legal requirements and approaches. Described the position of the sovereign state acting in accordance with its national interests and important role played by individual states, Poland and Czech Republic in particular, their military and political engagement, and social reaction to the conflict and Kosovo recognition, as well as by non-state, non-governmental and social actors, but also international organizations regarding path and recognition of Kosovo independency. Kosovo domestic state of play with respect to the independency path and international status are also presented for consideration.

**Key words:** Kosovo, European Union, NATO, foreign policy, Poland, Czech Republic, peace missions, Kosovo independency

**Introduction.** The aim of the article is to develop an evidence-based comprehensive study of the contemporary international approach to the conflict in Kosovo by showing and analyzing the key features of the conflict, as well as the main issues of EU countries, namely, Polish and Czech participation in the conflict. The key pillars of both approaches are important for the purposes of this study, i.e. a sovereign state acting in accordance with its national interests and important roles played by individual state agencies, as well as by non-state, non-governmental and social actors, but also international organizations.

Additionally, certain patterns of activity are tracked and identified in this research, taking into account the complexity of the research topic, which differs in its multifaceted, multidimensional nature.

In this respect the author used the following methods: historical (is used to study purposes and main action course of Kosovo authorities towards independency of the state and its recognition), general scientific (is used to chronologically analyse the stages and crucial facts, as well as statistical data related to the Kosovo status in the 21<sup>st</sup> century). The author used “case study” method to describe how particular states, namely Poland and Czech Republic, attitude and reaction to Kosovo independency.

**Declaration of Kosovo independency.** On February 17, 2008, representatives of the Kosovo population gathered in the Kosovo Parliament and declared its as independent, sovereign and democratic state. The restoration of Kosovo's independence happened immediately after this event. Additionally, efforts related to strengthen Kosovo's international position as an independent and sovereign state.

Through the Declaration of Independence, the Republic of Kosovo has taken "the obligation of responsible membership in the international community (Kosovo's Declaration of Independence, Atr.8) and has accepted" the observance of the principles of the United Nations Charter, the Helsinki Final Act, other acts of the Organization for Security and Cooperation in Europe, international legal obligations and the principles of international coexistence that govern relations between countries

(Kosovo's Declaration of Independence, Atr.8). This obligation to honor international terms sends a clear signal that Kosovo is trying to abide by the international instruments and principles that apply to UN members before becoming a member of the United Nations. Moreover, while not a written condition of statehood, it has been argued that, in addition to the Montevideo criteria, the state must demonstrate a clear commitment to meeting international obligations.

According to the declarative theory of statehood, a state is defined as a subject of international law that meets certain structural criteria, regardless of whether that state has been recognized by other states (Montevideo Convention, Art. 3). Even if the actual situation in the state does not meet the statehood requirements of the Montevideo criteria, recognition becomes important evidence of a claim to statehood. Nevertheless, the Montevideo Convention codifies existing legal norms and its principles not only in relation to signatories but also to all subjects of international law as a whole (Montevideo Convention, Art. 3). The European Union follows similar principles and the main statement of its Badinter Committee is in line with the Montevideo Convention in its definition of a state: through ownership of territory, population and political power. The Badinter Committee also found that the existence of states was a matter of fact, while recognition by other states was purely declarative and not a determining factor of statehood (D. J. Harris. 2004:99). Many other countries outside the EU and outside Europe follow the same principle in recognizing the state. In this context, the Republic of Kosovo was no different. Immediately after independence, the major *de jure* powers around the world recognized the new state, and their numbers have grown steadily since then. With state recognition, at least for the time being, one of Kosovo's most important foreign policy goals, many have argued that statehood alone provides evidence of statehood (Digest of United States Practice in International Law 1976:20).

In July 2010, the International Court of Justice rejected Serbia's complaint that the move had violated its territorial integrity and "concluded that the declaration of independence on February 17, 2008 did not violate general international law" (Advisory Opinion of 22 July 2010, International Court of Justice).

In November 2018, 108 UN member states recognized Kosovo's sovereignty. Of these, 23 are members of the European Union and 25 are members of NATO. For a given work, it is essential to present the legal rules for the recognition of Kosovo by Poland and the Czech Republic.

The Government of the Republic of Poland recognized the Republic of Kosovo on February 26, 2008. "Recognizing the independence of the Republic of Kosovo, the Republic of Poland expresses its conviction that in its internal and foreign policy this state will follow the principles of universally recognized democratic norms and respect the models of international law. Recognizing the independence of the Republic of Kosovo, Poland expresses solidarity with other Member States of the European Union and with the international community. As a member of the North Atlantic Alliance and the European Union, Poland is committed to the further peaceful socio-political transformation of the Western Balkan states. The government also hopes that an independent Kosovo will be a good partner in the future to develop mutually beneficial political, economic and social relations"(Resolution on recognition by the Republic of Poland of the Republic of Kosovo from February 26, 2008).

The government of the Czech Republic took a similar position. On May 21, 2008, the government, at the request of the Minister of Foreign Affairs, agreed to establish diplomatic relations with the Republic of Kosovo, thus recognizing it as an independent state. "The policy of the Czech Republic is based on the belief that the recognition of Kosovo's independence will strengthen overall stability in the region, enable a realistic way out of the unsustainable reservation, and direct the efforts of the Western Balkan countries to the challenges of future membership in European and Euro-Atlantic institutions".

**Diplomatic recognition of Kosovo as a part of the state independency recognition.** The question may arise, is diplomatic recognition important for a country to survive? In fact, UN membership

is neither a necessary nor a sufficient condition for statehood to function, but if diplomatic recognition is not the main defining feature of a country, then what? Again, we have different definitions regarding the definition of statehood; government, legitimacy, physical control and the ability to issue documents and establish relationships with other countries do not always coincide with reality on the ground for many UN countries around the world. In this context, Kosovo's foreign policy after the declaration of independence was characterized by increased activity in shaping foreign policy and international cooperation. The Ministry of Foreign Affairs was established immediately after the entry into force of the Constitution of the Republic of Kosovo on June 15, 2008. Soon after, on the basis of Art. 65 sec. 1 of the Constitution of the Republic of Kosovo, the law on the Ministry of Foreign Affairs and the Diplomatic Service in Kosovo was adopted (Constitution of the Republic of Kosovo). Although the President of the Republic retained the highest powers in international affairs, the law regulates the authority and competence of Kosovo's institutions to conduct relations with other states and entities of international law, as well as to promote Kosovo's political and economic relations on the international stage, while respecting citizens' rights under border. For the first time, the Ministry of Foreign Affairs has been given the power to develop and coordinate policy towards other countries and conduct external affairs by expressing and protecting Kosovo's interests in relations with other countries and international organizations. The Ministry has also been given powers to represent Kosovo and its state institutions in foreign countries and intergovernmental international organizations, through embassies, missions or other representations, as well as the power to conclude treaties and other binding international agreements with other states and international intergovernmental organizations.

To this end, capacity building in the Ministry of Foreign Affairs began immediately. Staff working at home and abroad were recruiting, and the main preparations were at the stage of recruiting the first diplomatic corps ready to be sent abroad. The President of the Republic, on the basis of his constitutional powers and Art. 5 sec. 1 of the Law on the Ministry of Foreign Affairs and the Kosovo Diplomatic Service, appointed the first wave of diplomats for Kosovo's diplomatic missions. Initially, ten ambassadors were appointed in strategic countries: USA, Great Britain, Germany, France, Italy, Turkey, Belgium, Austria, Switzerland and Albania. There were only two diplomats working at each embassy; Charge d'Affaires and First Secretary.

The Government of the Republic of Kosovo has defined the following main objectives for the diplomacy: recognition of the state of Kosovo by UN member states and all EU countries, by regional countries and the inclusion of Kosovo as an equal member in all organizations and mechanisms of interregional cooperation; recognition as an Initiative member of the NATO Partnership for Peace; building a professional and effective diplomatic service, as well as opening diplomatic missions of the Republic of Kosovo in countries with regional or global influence. Another goal was to build an effective consular service in countries with a significant number of Kosovars and to provide necessary services to their citizens abroad; promoting Kosovo's economy worldwide by facilitating contacts between Kosovo and non-Kosovar companies and attracting foreign direct investment (Programme and core Objectives of the Ministry of Foreign Affairs).

When analyzing Kosovo's domestic policy, even after more than ten years of independence, the political situation in Kosovo seems fragile and unstable. During the transition period, the transition from the communist system to democracy, corruption is indeed present in all the Balkan countries. Although most of them are over twenty years old in a democracy, they have a serious problem with corruption. Being one of the newest countries in the world, Kosovo, despite the support of international actors, is currently experiencing what other Balkan countries had a few years ago. In addition to corruption, significant high levels of unemployment and slow progress in relations with Euro-Atlantic organizations, the popularity of the two largest parties in Kosovo, the Democratic Party of Kosovo (PDK) and the Democratic League of Kosovo (LDK), has declined. The main goal of both parties -

the PDK and the LDK - is to join the EU and NATO, but the slow progress of these two parties during the coalition rule towards EU and NATO accession significantly reduced the popularity of both sides. Significant population in Kosovo continues to believe in the possibility of unification with Albania, especially most KLA supporters never gave up hope of creating an Ethnic Albania / Greater Albania.

While one of the most important points in Ahtisaari's plan was that Kosovo had no right to reunification with another country, Self-determination never accepted this point and, moreover, never accepted an international presence after independence. In its political agenda, Self-determination emphasized the importance of joining both NATO and the EU, but the accession procedure should proceed in the "normal" way, in the same way as all other countries to date (Piro Rexhepi, 2017).

**State of play of Kosovo economy in the 21<sup>st</sup> century under the international organizations' reports.** Kosovo has the most open economy in the region. The state continues to work with the international community on measures to improve the business environment and attract foreign investment. Even though the Kosovo economy has shown significant progress in transitioning to a market-based system and maintaining macroeconomic stability over the past decade, it is still heavily dependent on the international community and the diaspora for financial and technical assistance. Kosovo's citizens are considered the poorest in Europe with an average annual income per capita of only \$ 4,068.21 (Kosovo GDP per capita, 2020). The level of unemployment is relatively high, around 20.5% of the population are unemployed (Kosovo Unemployment Rate, 2021). This difficult situation causes people to emigrate to different EU countries. More than half of state-owned enterprises had been privatized but knew there was no competitive environment within sectors and companies where there was no significant economic improvement.

According to the Report of the International Monetary Fund (IMF), the underdeveloped private and export sector, widespread informality, reliance on remittances is reflected in high rates of unemployment and inactivity, and a large trade deficit. Tackling these deep-seated challenges through structural reforms of the tax sector, financial sector, products and the labor market remains a priority for the job creation and growth needed to reduce unemployment, outward migration and the still large income gap with the rest of Europe. In a complex political environment, important structural reforms have been halted and pressure to introduce costly populist initiatives has increased (IMF Country Report, 2022). The fiscal rule remains an appropriate basis for fiscal policy and underpins the 2021 budget, although the implementation risks are significant. It includes large pension increases and room for other wage and benefit initiatives, relying on large and uncertain gains from tax administration reforms and war veterans' benefits. While authorities are required to adjust expenditure in case of revenue shortfall, this should be strengthened by reducing non-priority expenditure until the intended gains are achieved. Funding needs to be diversified to reduce the risk of bankruptcy and avoid crowding out private sector lending, while the holdings of government securities will be gradually diminished (Programme and core Objectives of the Ministry of Foreign Affairs).

In addition to political issues, Kosovo shall also respect the economic recommendations proposed by the IMF, as bringing Kosovo's main pillars closer together is crucial for EU membership. In 2008, Kosovo applied for membership of both the IMF and the World Bank, and at the end of June 2009 Kosovo became the 186th member of the IMF (IMF Press Release No. 09/240, 2009) and the newest member of the World Bank group (Press Release No:2009/448/ECA, 2009).

**Conclusion.** The status quo in Kosovo is still unstable. The situation on the ground could be described as a stalemate. De facto, Kosovo is an independent state in many respects, but de jure prospects for independence are cloudy. Kosovar Albanian political leaders believe that both international law and the facts on the ground entitle them to de jure statehood and insist that the international community should provide an unambiguous timetable for independence. At the same time, Serbian political leaders in Serbia proper and in Kosovo insist that they must have a say in determining any future political arrangements for the area, claiming that according to U.N. Security Council Resolution

1244, the territory remains a sovereign part of Serbia. Serbian leaders in Belgrade appear intent on delaying final status consideration for as long as possible, most likely because the Kosovo issue is so loaded internally that no Serbian politician can afford to risk endorsing anything other than the status quo ante.

The granting of independence to Kosovo has greatly divided the countries of the European Union and the world's superpowers. China, Russia and the Orthodox countries recognized that NATO did not have a mandate to shell Serbia and Kosovo in the format it had been done. They were strongly opposed. They also negatively reacted to the decisions of the United States and its allies when Kosovo gained independence. Analyzing the reaction of Poland and the Czech Republic to the recognition of Kosovo's independence, these countries largely differ. Poland turned out to be one of the countries that quickly recognized Kosovo's independence. On February 26, 2008, the Government of the Republic of Poland adopted a resolution recognizing the independence of Kosovo. The Czech Republic, like Poland, was also aware that the attitude it would demonstrate towards the developments in Kosovo would be one of the elements in building the image of the Czech Republic as a state capable of leading the European Union. However, compared to Poland, the government which very clearly supported Kosovo's independence did not attach much importance to the Balkan agenda, and the Kosovo issue was quite cautious. In the Czech Republic, the decision to recognize Kosovo was taken on May 21, 2008.

Additionally, notwithstanding that international organizations' recommendations often conflict with the public interest, Kosovo needs and is working hard to implement them. Also, following the Kosovo Progress Reports, economic indicators and their performance over the years have highlighted major concerns. Even though the transition to the EU, as main intention of Kosovo, is not easy and takes a long time, the Kosovo authorities and government have to work hard to become an official candidate for EU membership. Even if a large number of people consider that the implementation of certain standards is meaningless and contrary to the public interest, the majority of Kosovo's inhabitants (89%) are very enthusiastic about Kosovo and support it to become a member of the EU and agree to go through all the processes and reforms to get there (E.Vucheva, 2008).

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