Kosovo's foreign policy: why recognitions are important: [presentation given March 2011]

Prindon S. Sadriu

Follow this and additional works at: http://scholarworks.rit.edu/theses

Recommended Citation
Project Title: Kosovo’s foreign policy; why recognitions are important

Candidate: Prindon S. Sadriu
Candidate Bio:

► Professional:
- Head, Department for Bilateral Relations and International Organizations, MFA, Republic of Kosovo (2009-present)
- Director, Office of Bilateral Relations, International Organizations and Security Affairs, MFA, Republic of Kosovo (2008-2009)
- Mounted/Dismounted Calvary Unit, Commonwealth of Australia, Department of Defence - Australian Army Reserves (2004-2007)
- Assistant, United States House of Representatives- Office of Congressman Hon. Dana ROHRABACHER (R-CA, 46th District), Washington DC, USA (2005-2006)

► Academic:
- Master of Science in Diplomacy leading to PhD, European Center for Peace and Development (ECPD)
- Master of Science in Professional Studies, Rochester Institute of Technology (RIT), (2008-2011)
- Graduate School of International and European Studies, the Diplomatic Academy of Vienna, Executive Education, (Nov-Dec 2010)
- Harvard University - Kennedy School of Government, Executive Education, (June 2009)
- PhD candidate, admitted in 2006 to PhD Program in Arts; International Relations (offer not taken)
- Honours in International Relations (2006): Flinders University, Adelaide, Australia
- Bachelor of International Studies (2003 - 2006): Flinders University, Adelaide, Australia
The Republic of Kosovo declared its independence on February 17th, 2008 and to date it has been recognized by 75 countries worldwide. This project will assess the following:

- Important guidance principles for recognition;
- Historical overview of foreign policy-making in Kosovo and lobbying through strategic partnerships; and
- Kosovo’s approach towards the uncommon position of the EU member states
Survey results; priorities of foreign policy-making in the Republic of Kosovo

- Lobbying five member countries of EU have not yet recognized Kosovo (Spain, Cyprus, Romania, Slovakia, Greece) - 60%
- Entering into contractual relations with the EU - 8%
- Membership in International Organizations - 7%
- Appointment of Special Envoys for particular regions - 5%
- Lobbying countries with regional influence (such as Egypt, Brazil, etc.) - 20%
- Membership in International Organizations - 7%

- Membership in International Organizations - 7%
Important guidance principles for recognition

- Recognition of states and reasons behind decisions to recognize a state remains an understudied topic.

- Emergence of new states in international system has increased constantly throughout 20th and 21st century.

- There are political and legal justifications and motivations behind decisions for recognition i.e. *sui generis* nature, statehood capacities, the will of the people, the right to self-determination, exhaustion of negotiation, only viable solution possible, accordance with international law, regional stability, gross violation of human rights, EU perspective, domestic politics of recognizing state, geostrategic considerations, economic interests, cultural, racial and religious affinities, etc.

- In practice and despite positive ICJ opinion, most countries base their recognition on political grounds rather than legal and *vice-versa*.

- Recognition does not necessary follow clear rule or guidelines, rather they are based on the national interest of a given country.
World schematic map of recognition of Kosovo
Legal Criteria

- **Customary International Law**

- The basic legal criteria for recognition remains the Montevideo Convention (1933), followed by the Badinter Committee, which stipulate that in order for a country to be considered as such they must have the following:
  - a permanent population
  - a defined territory
  - a government exercising control over the territory, and
  - capacity to enter in relations with other states

- **Other International Law criteria include;**
  - *Uti Posseditis Juris*
  - *Right to Self-Determination*
  - *Territorial integrity*
  - UN Charter and UNSC and UNGA resolutions
Historical Context

- 1974 Constitution of Yugoslavia
- 1989 unconstitutional abolishment of Kosovo’s autonomy by the Milosevic regime
- 1991 Dissolution of Yugoslavia into eight integral units, including Kosovo
- 1999 NATO-led intervention and establishment of UN Interim Administration (UNMIK) under UNSCR 1244
- 2008 Declaration of Independence
- 2008 Entering into force of the Constitution of the Republic of Kosovo
- 2008- Establishment of state apparatus; *inter alia*; Ministry of Foreign Affairs, Ministry of Kosovo Security Force, Ministry of European Integration, Kosovo Intelligence Agency, Kosovo Security Force, Kosovo Security Council and many other state agencies
- 2010 International Court of Justice Advisory Opinion on legality of Kosovo’s declaration of Independence ruled in favour of Kosovo on all counts
contd. Historical Context: Kosovo’s Foreign Policy 1989-1999

► 1989-1999 The Epoch of President Ibrahim Rugova and peaceful resistance movement;

► Establishment of Government-in exile led by PM Bujar Bukoshi;

► The special relations with the United States and EU countries promoted by Rugova led to an overall understanding among the citizens of Kosovo that their cause can ultimately be supported only if they have allies among the democratic countries of the world.

► Kosovo under the leadership of President Rugova possessed no instrument that states usually posses in accomplishing their foreign policy objectives, but he still managed to get his vision and the vision of his people heard and recognized under extreme circumstances of systematic gross human rights violations.

► President Rugova promoted peace in an environment where gunfire was heard constantly.
Contd. Historical Context Kosovo’s Foreign Policy under UNMIK administration

- UNMIK established in Kosovo by means of UNSCR 1244 (1999) and administered Kosovo until 2008.

- UNMIK had most competencies in governing areas, including foreign policy.

- The Constitutional Framework of Kosovo, which set the main legal basis for the establishment and functioning of the PISG provided that foreign policy remains within the “reserved powers” of UNMIK, which means that Kosovo authorities, did not have an authority to act on most matters related to international relations.

- However, the President represented Kosovo in many meetings, forums, initiatives and conferences abroad, as well as in meetings with international leaders that took place in Kosovo.
Uncommon position of the EU member states towards Kosovo

► Five non-recognizers; Spain, Greece, Romania, Slovakia and Cyprus

► Almost three years since the independence of Kosovo, EU institutions remain divided on this issue

► Most of them base their decision on legal grounds, the reality shows the opposite

► Spain: domestic politics and secessionist movements. Despite its devotion to promote regional stability Spain, so far, has maintained a very rigid position towards Kosovo, however they participated in KFOR and EULEX missions

► Greece: regional cooperation. Greece’s position has been “all but recognition” towards Kosovo. Greece has recognized all documentation issues by Republic of Kosovo and has an Ambassador in charge of its Liaison Office in Prishtina. Public opinion in Greece and brotherly relations with Cyprus are other reasons for the delay on the decision of recognition.
Slovakia: domestic minority fears, however more constructive towards Kosovo. It has submitted written statement before ICJ (as did Spain, Cyprus and Romania) to argue against its independence. Fear of precedent with its Hungarian minority. Cultural and religious affinities also play a role

Romania: domestic minority as Slovakia, pointing to the principle of territorial integrity. Fear of precedent with regards to Hungarian Minority. President Basescu’s firm control on Romania’s Foreign Affairs has often put Romania at odds with its European allies. Moldova and Transdnistria also contribute to Romania’s position vis-à-vis Kosovo

Cyprus: fears of secession and unresolved conflict with the Turkish Republic of Northern Cyprus (an internationally unrecognized state). Its strong reliance on International Law due to its size, military power and the fact that Cyprus is not a member of NATO are obsolete after the ICJ ruled in favour of Kosovo. Cyprus’s position is the most difficult one towards Kosovo. Cyprus doesn’t not participate in any EU or NATO missions or related programs in Kosovo
Blue – Recognizing State
Red – Non-recognizing State
Green – Kosovo
Conclusion

► Kosovo’s case is unique (sui generis) considering its history, legal considerations, international administration, international supervision etc.

► ICJ has provided a solid legal argument for hesitating states towards recognition

► The act of recognition remains a political act with legal implications and not vice-versa

► Reasons behind why countries recognize other countries remain an understudied topic in the fields of Political Sciences, International Law and International Relations, however they are manifold. National and domestic interests prevail above any other reason to recognize a state

► Recognition remains an important factor in determining the extent to which new states exercise their statehood within the international community (including international organizations) and has very significant consequences for the entity and its relations with others
Conclusion

Withholding recognition can have a number of negative effects such as destabilization of peace and security in the concerned state and/or the broader region, military provocation due to political rhetoric, economical isolation of the newly independent country and the risk of becoming a failed state due to the lack of security and investments.
My advice for future candidates

► Focus on the end point (the light at the end of the tunnel) and rely on family, friends, conveners and supervisor for support

► Face challenges head on and consult with other fellows if necessary

► Make a personal impact in your workplace
Acknowledgements

► This report could not have been completed without the early assistance of my conveners who spent their valuable time with my drafts in order to best capture the vision of my thoughts

► No thesis would ever reach completion without the experience, critique and encouragement of a supervisor, Dr. Brian Bowen, has given me all three in abundance

► Without the support of my family, I would not have shown these results and achievements or even contemplated undertaking this candidature

► Finally, my friends and colleagues who have provided valuable insight and at times distraction throughout the past year. Their support, fellow suffering and humor have helped me through

► I thank you all!

Bellamy, Alex J., Kosovo and International Society, Palgrave, New York 2002


Crawford James, (2007), The Creation of States in International Law, 2nd ed., Oxford University Press.


Franks, J., and Richmond, O., (2008), Co-opting Liberal Peace-building Untying the Gordian Knot in Kosovo, Cooperation and Conflict; 43; 81


Mertus, Julie, Kosovo: How Myths and Truths Started a War, University of California Press, Berkeley, 1999


Thank you!