Kosovo and South Ossetia: Similar or Different?
Consequences for International Law

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1. Introduction
The 17th of February 2008 will remain in the history of international law for a long time since, as it had been expected, the controversy over the legality of the events in Kosovo could produce a real danger to the stability of the contemporary international legal order.

At first glance, there was nothing new in the attempt of the Kosovo Albanians to formally secede from Serbia, issuing the Declaration of Independence of Kosovo. As it is well known already 18 years before this, on 22 September 1991, the Albanians in one of the regions of Yugoslavia proclaimed Independence of Kosovo, confirmed by a referendum, with an overwhelming majority favouring the independence.¹

At that time the international community of States and particularly the Euro-Atlantic States had ignored this claim since the conflict over Kosovo was considered as one of several ones going on in territories of the former Socialist Federal Republic of Yugoslavia (hereinafter – SFRY) and the Union of Soviet Socialist Republics (hereinafter – USSR) being in the process of dissolution.

Even more, the European Union (hereinafter – EU) issued a very firm and meaningful for international law statement: “[F]rontiers can only be changed by peaceful means and [the EC member States] remind the inhabitants of Kosovo that

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their legitimate quest for autonomy should be dealt within the framework of the EC Peace Conference.”

Completely different events ensued following the second attempt to proclaim independence of Kosovo. On the very next day, namely on 18 February 2008 the United States (hereinafter – US) recognised the independence of Kosovo which was followed by an enormous wave of recognitions by member States of the North Atlantic Treaty Organization (hereinafter – NATO), EU, Organization for Security and Co-operation in Europe (hereinafter – OSCE), Council of Europe (hereinafter – CoE), and the United Nations (hereinafter – UN). After around two months following the proclamation of independence the predominant majority of member States of the above listed international organisations, including the United States of America, United Kingdom (hereinafter – UK), France, Germany, and others recognised the independence of Kosovo. By the end of October 2011 more than 80 States had recognised the independence of Kosovo while some great powers (Russian Federation, China) along with over 110 States continued to hold a negative position understanding this issue as a flagrant violation of fundamental principles of international law, particularly of the inviolability of territorial integrity and sovereignty of member States of the UN.

Starting from a statement made by the US Secretary of State Condoleeza Rice, underlining the unique character of the Kosovo case and that it cannot be considered as a precedent, all the following statements of the governments and leaders of recognizing States have been repeating this reservation closely:

The unusual combination of factors found in Kosovo situation – including the context of Yugoslavia’s breakup, the history of ethnic cleansing and crimes against civilians in Kosovo, and the extended period of the UN administration – are not found elsewhere and therefore make Kosovo a special case. Kosovo cannot be seen as precedent for any other situation in the world today.

In this context it is apt to cite some statements by the leaders of the Russian Federation after the Declaration of Independence of Kosovo had been proclaimed.

In his interview with journalists from the G-8 countries, on 1 July 2008 President D. Medvedev stated:

3 <www.peach.dreab.com/p-International_recognition_of_Kosovo#States_which_formally_recognise_Kosovo_as_independent>.